



Sent by email to:

Vice Chancellor - Professor Irene Tracy
Head of the Vice-Chancellor's Office - Elizabeth Botwright
Members of Council, c/o Council Secretariat - Head of Governance - Lara McCarthy
The senior and Junior Proctors – Professor Andrew Farmery and Professor Caroline Warman
Registrar - Gill Aitkin
Senior Assistant Registrar - Sarah Cowburn
Director of Legal Services and General Counsel - Andrew Mackie
Head of Risk and Resilience - Neil Unsworth

CC: The Rt Hon Lord Hague of Richmond, Chancellor

11 June 2026

Dear Officers

Apparent legal and regulatory failures by the University of Oxford (“University”) to protect the free speech of Dr Michael Foran: need for rapid and firm action

Alumni For Free Speech (“AFFS”) is a non-partisan organisation which encourages high standards of compliance with institutions’ obligations to protect the freedom of speech of their students, staff and visiting speakers. More information about AFFS can be found at www.affs.uk.

Our associated campaign, Best Free Speech Practice (“BFSP”) (www.bfsp.uk), is working to clarify and publicise what the legal requirements and their implications in practice at UK universities and other higher education providers (“HEPs”) actually are. There appears to be widespread misunderstanding, which predates the coming into force of the Higher Education (Freedom of Speech) Act 2023 (“HEFSA”), of how onerous HEPs’ obligations are and, as a result, there are widespread compliance failures. BFSP has produced various detailed Statements for UK HEPs about the requirements and their implications in practice. These can be found at <https://bfsp.uk/universities-higher-education>.

Relevant events

We are writing about events relating to Dr Foran, with which you will be familiar. If the facts as set out below (which were derived from publicly available sources) are correct, it appears to AFFS that the University is highly likely to have acted unlawfully as well having committed regulatory failures.

- Dr Foran has recently published a book titled Sex, Gender Identity and the Law. He has organised a series of public lectures covering the themes of this book at Keble College.

First lecture (29 May)

- A protest occurred at the first such lecture, which it appears had been approved to happen by the Proctor's Office. Two activists walked to the front of the lecture hall as Dr Foran prepared to begin, and addressed the audience in front of his lectern. The protester who spoke (who is reported to have been a student at the University) interrupted the beginning of the lecture, refusing to stop. He said:
 - that Dr Foran "masks his transphobia in the thin veneer of academia"; and
 - (to the audience): "If you are here in a critical capacity to challenge his ideas [...] that is not the same as refusing to platform him. [...] Please join me in walking out and refusing to platform this bigot."
- It appears that this protest was highly obstructive and intended to shame students and other attendees into leaving the event, thus effectively deplatforming Dr Foran. Audience members asked the protesters to leave. It appears that the protesters were allowed to finish before being told to leave.
- It is reported that the Proctors' Office gave permission for the protests to go ahead (such permission is required as discussed below).

Complaint and allowing second protest to proceed

- We understand that student attendees stated that they made complaints to the Proctors about the disruptive and intimidating nature of the demonstration at the first lecture.
- A key question is: how did it happen that, despite evidence of the nature of the protests at the first lecture, the protest was approved for the second lecture, in the knowledge of the form it was likely to take?

Second lecture (5 June)

- It is reported that the same two protestors (then two further protesters who had joined the audience) disrupted several minutes of this lecture, leading to heated confrontations between protesters and attendees. Similar pressure to the first incident was applied to attendees, included attempts to shame students into deplatforming the event.
- It is reported that Dr Foran has decided to cancel his remaining two lectures, and has said "This is deeply lamentable, but the disruption has undermined the academic nature of this series. Students shouldn't face bullying or harassment when attending academic events." "It is unfortunate that these protesters have chosen disruption over genuine intellectual engagement grounded in academic charity and rigour. In attempting to shame students

into deplatforming these lectures, they manifest the antithesis of what a university stands for.”

- We understand that a student who was present has said: “I found it very intimidating. The attacks were pretty personal.”
- A spokesman of the University is reported to have said: “Freedom of speech and academic freedom are fundamental to the University of Oxford. ‘Members of our academic community must be able to teach, research, speak and debate within the law, including on issues that are controversial or strongly contested. Equally, we support the right to lawful protest and civil disagreement. [...] The university remains committed to freedom of speech, academic freedom and respectful debate.”

Evidence of a toxic online environment

We cite two X posts below as evidence of the sort of environment surrounding these issues and the lectures. They could be evidence of a concerted campaign of intimidation against Dr Foran and others.

“Excellent. The good people of Oxford have told the vile bigot Michael Foran he has no place in our communities.

Shame them, disrupt them, never debate them.”

“Record every single one of the bigots, especially students attending these events, and make sure to go after them too.”

If you consider that any of the facts as stated above are materially incorrect or incomplete, we ask that you inform us and explain why, as this could affect the analysis below.

Relevant legal and regulatory requirements

The following legal and other obligations are relevant to these circumstances (we do not address any potential pure employment law issues, which are beyond the scope of AFFS’s particular concerns). The University appears to have failed to comply with some (perhaps, all) of them. These issues are discussed in further depth in BFSP’s general *Statement about the legal requirements and their implications*, which can be found at <https://bfsp.uk/universities-higher-education>.

Possible criminal offences: Protection from Harassment Act

We mention this issue first, as it appears there is a real likelihood of criminality having occurred on the University’s watch.

Under the Protection from Harassment Act 1997 (the “**PHA**”), a person must not pursue a course of conduct which amounts to, and which he knows or ought to know¹ amounts to, harassment of another person. Harassment in this context includes alarming a person or causing a person distress. The PHA may give rise to both civil and criminal liability. Intent does not have to be proved, although criminal harassment will be subject to a higher standard of proof.² The course of conduct must comprise at least two occasions, and the fewer the occasions and the wider they are spread, the less likely it is reasonable to find that a course of conduct amounts to harassment.³ We should say that this widely-drafted offence is rightly used sparingly in practice: it is widely perceived as a risk of (for instance) inappropriate use by activists (on all sides). But, while it should be approached with caution, it is the law and has to be addressed.

Comment: we ask the University: in what way does what has happened not fall within the PHA?

There are many ways in which illegal activity by staff or students “on its watch” can harm an HEP: from reputational damage, to regulatory/compliance failures, to unlawfulness and liability on its own part. Illegal activity condoned by an HEP will cause it acute problems. If an HEP discovers that illegal activity has or may have occurred, it will need to act promptly and carefully. This will likely involve taking and following timely legal advice.

HERA/Secure Duty

The University’s obligations under the Higher Education and Research Act 2017 (“**HERA**”), which requires (in Section A1(1)) 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 speech (within the law) for the staff, members and students (“**Participants**”) of, and visiting speakers at, the HEP. This is often referred to as the “**Secure Duty**”. This is a broad and demanding requirement and requires active, positive steps to be taken. It is stated in objective terms, giving no discretion to an HEP: if a step is reasonable (construed objectively rather than purely subjectively), it must be taken.

A member of staff being discriminated against/harassed/abused/severely personally attacked for expressing their lawful views is highly detrimental to them. It is usually reasonably practicable to take steps to prevent or stop such actions and attacks by staff and students, including defending their right to express their views and publicly, actively intervening (if appropriate including by bringing disciplinary proceedings) to stop such attacks.

¹ There is an objective element to this.

² PHA sections 1, 2, 3 and 7.

³ OfS Guidance (see below), paragraph 47.

HEPs must take all reasonably practicable steps (including where appropriate the initiation of disciplinary measures) in order to secure compliance with their Codes of Practice on Freedom of Speech (“**FS Codes**”)⁴.

The Office for Students (“**OfS**”) has produced guidance (“**OfS Guidance**”) about HEPs’ duties under HERA as amended by HEFSA.⁵ The OfS Guidance reflects both the requirements under HERA and what appear to be the OfS’s own expectations for HEP actions for compliance.

The OfS Guidance contains extensive information about HEP compliance requirements, including about meetings and protests.

Meetings and Protests

BFSP’s statement [*Meetings at English HEPs: Free speech requirements and risks*](#) sets out detailed information about the requirements relating to meetings.

HEPs must take all reasonably practicable steps to secure that the use of their premises is not denied to any individual or body on the grounds of their ideas, beliefs or views; and the terms on which those premises are provided must not be based on such grounds.

HEPs should have contingency plans and decision-making structures in place (e.g. in relation to access to sources of additional security), so issues can be responded to promptly and effectively and risks of cancellation of meetings or events reduced.

Protests and demonstrations at HEPs raise peculiarly complex and difficult issues for them to negotiate.

- Peaceful protest is itself a protected form of expression, and HEPs must take the steps required of them to protect the lawful free speech of the protesters and demonstrators.
- However, the Secure Duty clearly requires that an HEP takes all reasonably practicable steps to secure that a protest is not allowed to shut down debate⁶ or unjustifiably infringe the rights of others both to attend and to hear what is said, for instance by disrupting events through the “heckler’s veto”. Further: “It is [...] unlikely to be reasonably practicable for [an HEP] to permit without restriction speech or protest that itself disrupts speaker events [...] Similarly, it is unlikely to be a reasonably practicable step to allow incessant shouting in [...] a lecture that prevents anyone else from speaking or being heard in the lecture theatre, thereby preventing teaching and learning.”⁷

⁴ HERA Section A2(4).

⁵ Published as *Regulatory advice 24: Guidance related to freedom of speech*: <https://www.officeforstudents.org.uk/publications/regulatory-advice-24-guidance-related-to-freedom-of-speech/>

⁶ See OfS Guidance, paragraphs 180d, and 202.

⁷ OfS Guidance, paragraph 111.

- HEPs need to ensure the physical safety of their Participants and prevent harassment and intimidation which are unlawful or contrary to their own FS Code and other requirements in this regard, for instance with excessive abuse, threats and the like, thus deterring people from attending or expressing their views. The OfS expects HEPs to remain vigilant to identify unlawful harassment, or other speech or expression outside the law, and to take specified steps if this is identified.⁸
- HERA requires HEPs to secure compliance with their FS Code, including where appropriate the initiation of disciplinary measures.⁹ They need to be ready to act quickly and effectively if a problem develops.

This can involve difficult negotiation of apparently competing requirements.

To the extent that protesters' speech prevents an HEP's essential functions of teaching, learning, research, and the administration necessary for these three things from taking place, it is likely that HEPs can compliantly restrict the protesters' protest rights (and thus arguably, speech). To be compliant, HEPs must restrict the protesters' speech no more than is necessary for this purpose.

Restrictions on protesters' speech should focus on the time, place and manner of that speech. This will require narrowly tailoring any restrictions on speech to ensure that they extend no further than is legally justifiable. A requirement that protestors should not intrude into classrooms, or attempt to shut down debate and discussion, is an obvious requirement.¹⁰

Equality Act

The University has obligations under the Equality Act 2010 ("**Equality Act**") not to discriminate against or harass people with the protected characteristic of philosophical belief (as defined). As is now well known, various viewpoints on currently contested issues have been ruled to be protected philosophical beliefs under the Equality Act. These include "gender-critical" viewpoints, and there is a high likelihood that Dr Foran and various of the attendees held views which would be deemed protected under the Equality Act if this came to a trial. Employers and education providers need to avoid discrimination against and

⁸ The OfS issued guidance on protests concerning the events in the Middle East in 2024, in a letter dated 10th May 2024: <https://www.officeforstudents.org.uk/publications/protests-on-campus-tackling-harassment-and-securing-freedom-of-speech/>. The OfS states that HEPs should adhere to relevant policies and procedures in reporting unlawful harassment and other potentially unlawful conduct to the police and other relevant authorities as a matter of urgency where appropriate; take timely and appropriate action, again in accordance with agreed policies and procedures, to support students or staff affected by unlawful conduct; and, in the context of unlawful harassment, have in place clear policies so that students and staff understand how they can raise issues, and how they can expect these issues to be handled.

⁹ Expressly in sub-section A2(4), as well as pursuant to the Secure Duty in Section A1.

¹⁰ Which is expressly referred to in Example 12 of the OfS Guidance.

harassment of people with such viewpoints in certain specified contexts.

“*Discrimination*” occurs where a person (A) treats another person less favourably than A treats or would treat others because of a protected characteristic, including holding a protected viewpoint.¹¹

“*Harassment*” means (in summary) unwanted conduct related to a relevant “protected characteristic” which has the purpose or effect of violating a person’s dignity, or creating an intimidating, hostile, degrading, humiliating, or offensive environment. The question of whether there has been such an “effect” has an objective element.¹² This definition has very wide implications, with many consequent detailed requirements for protecting the free speech rights of those with protected viewpoints.

Employers are liable for discrimination and harassment committed by their employees in the course of their employment, unless they can show that they took all reasonable steps to prevent this happening¹³.

Other than pursuant to their PSED (as discussed below), HEPs have very limited duties under the Equality Act in respect of the behaviour of staff when acting in capacities which do not give rise to such responsibilities on the HEP’s part; and their students.

The Public Sector Equality Duty (“**PSED**”) requires most HEPs, in the exercise of their functions, “to have due regard to” the need to eliminate unlawful discrimination and harassment (and other unlawful acts) under the Equality Act, including against people who hold or express a protected viewpoint [...] and to foster good relations between persons who share a relevant protected characteristic (e.g. a protected viewpoint) and persons who do not share it. The PSED is very specifically worded. It is a duty to “have due regard”, i.e. to think and give appropriate weight in context: it is not a duty to take any specific action. Positive duties, such as those imposed under HERA, are likely to override it.

HRA/Convention

The University’s obligations under the Human Rights Act 1998 (“**HRA**”) to respect Dr Foran’s right to freedom of speech and academic freedom. The free thought and speech rights of academics and students are protected under the European Convention on Human Rights (the “**Convention**”), as enacted in the UK by the HRA¹⁴. These freedoms include the freedom to

¹¹ See Section 13.

¹² See Section 26. In deciding whether conduct has this effect, the perception of the person claiming harassment, the other circumstances of the case and whether it is “reasonable” for it to have had such effect, must all be taken into account. This question thus has an objective element, and subjective perceptions of offence (while relevant) are not on their own sufficient for conduct to constitute harassment.

¹³ See Section 109.

¹⁴ Under Articles 9 and 10. Under Article 10(2), the right to free speech is subject to the qualification that the “exercise of these freedoms, since it carries with it duties and responsibilities, may be subject

offend, shock and disturb. Compelled thought and speech are unlawful. Political expression (in a wide sense rather than a narrow party-political one) attracts the highest degree of protection, as does academic free expression. The HRA imposes positive obligations to act, and not just negative ones (to avoid infringements).

While the relevant Convention rights are primarily worded as negative obligations, i.e. not to interfere with freedom of thought or expression unless that is justified, HEPs are also under a positive obligation to "create a favourable environment for participation in public debates for all concerned, allowing them to express their opinions and ideas without fear, even if these opinions and ideas are contrary to those defended by the official authorities or by a large part of public opinion, or even if those opinions and ideas are irritating or offensive to the public".¹⁵

Regulatory requirements

It is a condition of registration (E2) with the OfS to have in place adequate and effective management and governance arrangements to deliver principles relating to free speech in practice. These include principles relating to securing freedom of speech and academic freedom.

Condition of registration E6, relating to harassment and sexual misconduct regarding students, requires HEPs to maintain, and operate in accordance with and comply with, a single comprehensive source of information which sets out policies and procedures on subject matter relating to incidents of (inter alia) harassment. This will extend to acting to prevent harassment against students for their viewpoints, and to stop it when it is happening. Condition E6 emphasises the need, in the context of creating and implementing their harassment policies, for HEPs to have particular regard to, and place significant weight on, the importance of freedom of speech within the law, academic freedom and tolerance for controversial views in an educational context or environment.

The University's Free Speech Code

The University's Code of Practice on Freedom of Speech states the following.

4.1 [...] In accordance with its [Harassment Policy](#), the University does not tolerate any form of harassment or victimisation and expects all members of the University community, its visitors and contractors to treat each other with respect, courtesy and consideration.

Comment: what is the University going to do about the harassment/bullying that occurred at the lectures? The obvious step is disciplinary action.

to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society" for various specified purposes, including for the protection of the rights of others, although this is subject to a "proportionality" test. This qualification does not appear especially relevant in these circumstances.

¹⁵ *Dink v. Turkey*, judgement of 14 September 2010 in French only, at 137.

4.3 Peaceful protest is a legitimate expression of freedom of speech. However, such protest must not cause substantial disruption to University activities. The respect which the University expects all members of the University community to demonstrate towards each other is particularly important where it comprises respect for the right of others to speak freely and exercise their academic freedom. Staff, students and members of the University wishing to protest either on University Premises or on non-University premises in a manner which may disrupt University activities, must seek permission in advance by referring the matter under the procedures for University Meetings and Events set out in section 6 of this Code. Carrying out such protests without permission may lead to disciplinary action under the relevant procedures (as set out in paragraph 4.4). [...]

Comment: This was not a peaceful protest, and singularly lacked the expected “respect”. So, what is the University going to do about this breach? The obvious step is disciplinary action.

6.2 A member, student or staff member of the University who is organising a meeting or event (including those that take place online) or is responsible for administering external bookings of University Premises (the “Organiser”) is responsible for assessing those meetings and events in the context of this Code and other University policies. The Organiser must follow the procedures outlined in Annex A to this Code in any of the following circumstances:

- (b) the event is a protest which is intended to take place on University premises and/or in a manner which may disrupt University activities, including by any person¹⁰ occupying, sleeping at, residing on or setting up a camp on University premises;
- (c) the event could involve the use of University Premises for any purpose or in a manner that may cause damage to University premises; loss or damage to any person or put the University in breach of any law or obligation (contractual or otherwise) to any person;

Comment: The University needs to clarify whether the protest was organised in accordance with these requirements, including by adequate disclosure of the detailed plans. If not, the obvious step is disciplinary action.

The University's harassment policy

The University's harassment policy states the following.

1. The University does not tolerate any form of harassment or victimisation and expects all members of the University community, its visitors and contractors to treat each other with respect, courtesy and consideration.

7. A person subjects another to harassment by engaging in unwanted and unwarranted conduct which has the purpose or effect of:

- violating another person's dignity, or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for another person.

8. Freedom of speech and academic freedom are protected by law though these rights must be exercised within the law. Vigorous academic debate will not amount to harassment when it is conducted respectfully and without violating the dignity of others or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

15. Examples of behaviour which may amount to harassment under this Policy include (but are not limited to) the following:

[...]

- open hostility [...]
- insulting, abusive [...] behaviour or comments, humiliating, intimidating, and/or demeaning criticism
- persistently shouting at, insulting, threatening, disparaging or intimidating an individual

Comment: It is obvious to AFFS that the protesters' behaviour contravened the harassment policy. (Does the University believe that this is not so? On what grounds?) If so, what is the University going to do about the harassment/bullying that occurred at the lectures? The obvious step is disciplinary action.

Obviously, there are potential employment law issues relating to the relevant events. These are beyond the scope of this letter.

Unlawful/non-compliant actions/omissions by the University

The following are some introductory comments/questions before we turn to the likely legal and regulatory failures on the University's part.

- We are amazed that the Proctor's Office can possibly have thought it appropriate to allow a protest inside the lecture theatre, or indeed inside the relevant building. While it is impossible to stop people emerging from an audience to disrupt a talk (and it is thus standard practice to have security ready to deal with such disruptions), not allowing protesters inside a lecture theatre is surely common sense, as well as a legal obligation reflected in the OfS Guidance (Example 12).
- It is even more extraordinary that, after the disruption at the first lecture and the subsequent complaints, the Proctor's Office did not consider its actions and the requirements carefully, including escalation and taking legal advice, and get its compliance right the second time round by keeping the protests out of the lecture theatre/building.
- Key questions of fact to resolve are: was there any focus on the content/manner of the protests, or were they permitted without much enquiry? What was done, and who took the decisions at this stage, and why the Proctor's Office proceeded the way it did. In

particular: was there any collusion between staff of the office and the protesters, or was the view taken influenced by personal views of the staff involved; and, if not, was the Proctor's Office misled by the protesters (and why, if it was, it let itself be misled twice).

- How often has the Proctor's Office given permission in (say) the last 5 years for protests to take place inside the room in which a meeting/event was to happen?
 - We assume never, in which case: what were the special factors in this case that militated towards the Proctor's Office breaking with what must be near universal practice across the UK?
 - If the University does regularly grant permission for protests inside a meeting room, how can it have evolved such an extraordinary policy, when this is so at odds with free speech protection and is clearly stated as being inappropriate in the OfS Guidance?

Harassment

There was likely harassment of Dr Foran and those attendees of his lectures who held views contrary to those of the protesters, under several heads.

PHA – criminal offence?

As discussed above, it appears there is a real likelihood of criminality under the PHA having occurred on the University's watch. Were it to transpire that illegal activity was condoned or facilitated by the University's staff, this will be an acute problem for it. It will need to act promptly and carefully to establish what really happened. This will likely involve taking and following timely legal advice. As noted above, the OfS states that HEPs should adhere to relevant policies and procedures in reporting unlawful harassment to the police as a matter of urgency where appropriate.

Secure Duty

An obvious obligation in practice under the Secure Duty was not to harass (or authorise or collude in harassment of) Dr Foran or the relevant attendees in connection with their lawful viewpoints, and to take all reasonably practicable steps to prevent their staff and students from doing so. There is no specific definition of harassment for these purposes, but the University's harassment policy will be an appropriate reference point (see above and below).

In this case, if it is correct that the protesters' behaviour constituted harassment, the University appears to have at the least authorised and effectively facilitated harassing protests in the lecture theatre (albeit one hopes unintentionally), especially in respect of the second lecture. Whether this conduct was in connection with their viewpoints will depend on whether the relevant employees knew that the attacks and intimidation were indeed going to be made on Dr Foran and relevant audience members because of their views. This may be hard to argue wasn't the case in respect of the second lecture, given the complaints made.

The University clearly failed to take reasonably practicable steps to prevent its staff and students from harassing (if that is what it was) Dr Foran and relevant audience members,

especially in respect of the second lecture. The harassment was unarguably in connection with their lawful viewpoints.

Equality Act

An obvious requirement under the Equality Act is not to harass Dr Foran or the relevant attendees, or authorise or collude in harassment against them, because of their protected viewpoints; and to take all reasonable steps to prevent their employees from doing so.

Key questions in this regard are:

- Did the University, by authorising and/or effectively facilitating the protests, especially the second time when it knew the form they were likely to take, engaged in “unwanted conduct related to a relevant protected characteristic which has the [...] effect of violating a person’s dignity, or creating an intimidating, hostile, degrading, humiliating, or offensive environment”. It would appear so. Whether the requirement that this conduct be (as regards the University) because of their protected viewpoint is met will depend on whether it was actually the case that relevant employees knew that the attacks and intimidation were indeed going to be made on Dr Foran and relevant audience members because of their gender-critical views. This may be hard to argue wasn’t the case in respect of the second lecture, given the complaints made. It is uncertain whether a court/tribunal would find that the University had indeed harassed the victims, but the recent line of cases relevant indicates that is at significant risk.
- Did any of the University’s employees actually collude (effectively collude?) with the protesters in harassing Dr Foran and relevant attendees, for instance by authorising and/or effectively facilitating the protests in the form they took? If so, it may well be liable for their behaviour as discussed above.

The University needs to seek information regarding the above urgently and take urgent action to set matters right if it does turn out to have committed harassment under the Equality Act.

The University’s harassment policy

It is obvious to AFFS that the protesters’ behaviour contravened the harassment policy. (Does the University believe that this is not so?) If so, what is the University going to do about the harassment/bullying that occurred at the lectures? The obvious step is disciplinary action.

Discrimination

Secure Duty

An obvious obligation in practice under the Secure Duty is not to subject Dr Foran or the relevant attendees to a detriment (i.e., discriminate against them), or authorise, facilitate or collude in discrimination against them, in connection with their lawful viewpoints; and to take all reasonably practicable steps to prevent their staff and students from doing so.

In this case, the University appears to have subjected them to the detriment of authorising (albeit one hopes unintentionally) and/or effectively facilitating the harassing protests in the

lecture theatre, especially the second time, when its staff knew the form they were likely to take. Whether this conduct was in connection with their viewpoints will depend on whether the relevant employees knew that the attacks and intimidation were indeed going to be made on Dr Foran and relevant audience members because of their views. This may be hard to argue wasn't the case in respect of the second lecture, given the complaints that had been made.

The University clearly failed to take reasonably practicable steps to prevent its staff and students from subjecting Dr Foran and relevant audience members to the detriment of the attacks and intimidation and planned attempt to deplatform Dr Foran, especially in respect of the second lecture. These actions were unarguably in connection with their lawful viewpoints.

Equality Act

An obvious requirement under the Equality Act is not to subject Dr Foran or the relevant attendees to a detriment (i.e., discriminate against them), or authorise or collude in discrimination against them, because of their protected viewpoints; and to take all reasonable steps to prevent their employees from doing so.

Key questions in this regard are:

- Did the University, by authorising and/or effectively facilitating the protests, especially the second time when it knew the form they were likely to take, subject Dr Foran or the relevant attendees to a detriment. It would appear so. Whether the requirement that this conduct be (as regards the University) because of their protected viewpoint is met will depend on whether it was actually the case that relevant employees knew that the attacks and intimidation were indeed going to be made on Dr Foran and relevant audience members because of their gender-critical views. This may be hard to argue wasn't the case in respect of the second lecture, given the complaints that had been made.
- Did any of the University's employees actually collude (effectively collude?) with the protesters in the attacks and intimidation, for instance by authorising and/or effectively facilitating the protests in the form they took? If so, it may well be liable for their behaviour as discussed above.

The University needs to seek information regarding the above urgently, and take urgent action to set matters right if it does turn out to have committed discrimination under the Equality Act.

Failure to intervene actively was a compliance failure

The University should have recognised that there were severe problems after the first lecture and the receipt of complaints, and intervened actively, taking the steps described herein.

Active intervention was required to secure compliance with the Secure Duty, HERA Section A2(4) (re compliance with its own Free Speech Code); probably also to qualify for protection under Equality Act Section 109(4), if relevant; and so as to secure compliance with its own harassment policy pursuant to condition of registration E6 and as indicated in its own Free Speech Code.

Chilling effect

This issue is relevant for several of the legal requirements for free speech protection.

Creating a situation where people think they need visibly not to dissent from, or even demonstrate adherence to, certain agendas, beliefs and values which contain aspects they do not necessarily agree with, reduces people's willingness to hold or express certain viewpoints, and thus creates a "chilling effect" on people's freedom of thought and speech.¹⁶ Creating or allowing a situation where people are subject to a chilling effect 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 viewpoints; and
- contrary to the HRA.

The actions of the protesters created a chilling effect, as vividly shown by Dr Foran cancelling his remaining lectures and students reporting intimidation – and were evidently intended to do just that. The University facilitated this by consenting to the protests occurring in the lecture theatre, and continuing with this even when the highly adverse effects were known to it. It is highly likely that the University failed to comply with its obligations not to create or allow a chilling effect.

Failure to create a favourable environment for all for participation in public debates

HEPs are under a positive obligation under the Convention to "create a favourable environment for participation in public debates for all concerned, allowing them to express their opinions and ideas without fear, even if these opinions and ideas are contrary to those defended by the official authorities or by a large part of public opinion, or even if those opinions and ideas are irritating or offensive to the public".¹⁷

Taking material steps to achieve this must also be a "reasonably practicable step" for the purposes of the Secure Duty, and would make a significant difference to free speech protection.¹⁸

¹⁶ 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.

¹⁷ *Dink V Turkey*, judgement of 14 September 2010 in French only, at 137.

¹⁸ Paragraph 94 of the OfS Guidance supports this.

The University appears to have failed in this obligation by effectively facilitating the protests through consenting to them occurring in the lecture theatre, and continuing with this even when the highly adverse effects were known to it.

Other failures under HERA: Free Speech Code

We discuss above the principal likely failures under the Secure Duty and HERA more widely. The most dramatic failure was through permitting the protests to occur inside the lecture theatre, even after the nature of the protests and their implications were known and had been complained about.

The University may well have contravened the Secure Duty and HERA Section A2(4) in other ways: time has not allowed us to research further, but we recommend that the University seeks specialist legal advice to secure that any wider failures do not recur.

Continuing requirement: need to enforce Free Speech Code and harassment policy: disciplinary action

It is, further, obvious to AFFS that the protesters' behaviour contravened the University's Free Speech Code. The University likewise appears to have failed to comply with its Free Speech Code through authorising these protests and not acting effectively to protect the free speech of Dr Foran and relevant attendees (see paragraphs 3 and 4.1). Has it taken any steps to enforce its Free Speech Code as required under HERA Section A2(4)?

The University needs to enforce its Free Speech Code and harassment policy actively and effectively – and urgently. This includes through disciplinary measures, in order to comply with the Secure Duty and HERA Section A2(4).

HRA/Convention

We discuss above the likely failures regarding the chilling effect and the duty to create a favourable environment for all for participation in public debates. The University may well have contravened the HRA/Convention in other ways: time has not allowed us to research further, but we recommend that the University seeks specialist legal advice to secure that any wider failures do not recur.

PSED

It appears that the University may well have failed to comply with the PSED as regards Dr Foran and relevant audience members as holders of protected beliefs under the Equality Act. We ask, did the University conducted any assessment under the PSED in respect of the issues and risks at hand? Has it considered conducting any such assessment?

The University's entire meeting/protest management and free speech compliance functions appear wholly inadequate

How could the Proctor's Office have made such a mess of this issue, particularly with its giving permission for the protests to occur inside the lecture hall, especially after the problems and complaints regarding the first lecture? They appear not to have:

- been aware of the OfS Guidance, and in particular that it makes clear that protests should not be allowed in the room where a meeting happens;
- considered any of the legal and compliance factors and risks mentioned above (were they even aware of them?);
- taken the problems and complaints after the first lecture seriously from a free speech perspective (maybe this was because of the above factors); or
- indeed, considered that there was anything wrong with the apparent harassment and attempted deplatforming etc. at the first lecture. If they had, they would not have repeated the permission for the protest in the same form and would have intervened actively regarding, for instance, breaches of Oxford's Free Speech Code and harassment policy and so as to secure compliance with the Secure Duty in respect of the second lecture.

One possible explanation for the above is that staff buckled under pressure from activists and inappropriately authorised the protests in the form they took. Whether this is the case needs investigating – see below.

These failures have to be highly likely to be contrary to the Secure Duty. Moreover, they indicate a highly likely failure to have effective governance structures to deliver in practice academic freedom and freedom of speech, constituting a breach of condition of registration E2.

Necessary actions

The University needs to take prompt and effective action to set matters right, urgently and appropriately. Necessary steps include the following.

- Publicly acknowledge the mistakes that have been made, with a full apology to the victims, with a resolution to take action regarding any wrongdoers and to work to ensure free speech is better protected and events of this nature do not recur. This will do a lot to reduce both internal and wider public disgust at these events; indeed, to reduce the hostile atmosphere that clearly exists at the University for people with relevant views (indeed protected beliefs under the Equality Act).
- Clearly and publicly acknowledge Dr. Foran's free speech rights and that he behaved entirely reasonably.
- Ensure that Dr. Foran is able to give the remaining lectures without further incidents, including through the provision of appropriate security.
- Publicly remind staff and students of the requirements of its Free Speech Code, and state that attacking, personally and severely, staff or students and/or taking other actions to them, because of their lawful viewpoints, might lead to breaches of relevant legal obligations and may be contrary to the Free Speech Code and/or harassment policy, and must stop; and that people who have done this or do this in future are likely to be subject to disciplinary action; while noting that people are entitled to criticise and argue against

others' expressed views in ways that are compliant, and in particular do not constitute bullying or harassment.

- Investigate the likely breaches of its Free Speech Code and harassment policy which have occurred and take disciplinary action against the perpetrators, where appropriate.
- Monitor its channels of communication to ensure that inappropriate and possibly unlawful communications, in particular communications of the sort we have shared above, are prevented. This includes, in particular, forms of harassment and pile-on, and incitements for actions which will cause free speech compliance failures. Warn staff and students against such actions using non-University channels.

Investigate what went wrong and why

The Proctor's Office

The Proctor's Office was at the heart of the problem. The University needs to investigate what went wrong and why; and restructure it so that it protects free speech effectively and robustly.

Questions that will need answering will include the following.

- What actually happened, when? Who was responsible for what, and who did what, when?
- How senior/junior, experienced, appropriately trained, robust and non-conflicted were relevant staff?
- Did relevant staff understand the relevant legal/regulatory requirements? Were the relatively overriding importance of free speech and the nature of the risks to it understood? They were apparently unaware of the requirements, under the Secure Duty, as set out in the OfS Guidance. Did they know the relevant sections of the OfS Guidance? Did they consider harassment, and the chilling effect? If not, why not?
- Who (inside or outside the Proctor's Office) was responsible for securing free speech in this context? The University recently admitted to AFFS in a reply to a freedom of information request that it does not have a specific senior officer with responsibility for ensuring that the HEP complies with its legal/regulatory obligations and follows and enforces its own rules appropriately.
- How and why did the key (and incomprehensible) decisions to permit the protests inside the lecture theatre get taken? Was there any focus on the "manner" (including effectively content) of the protests, or were they permitted without much enquiry? What information was sought and provided? Did the protesters mislead the staff? Were the staff gullible?
- Were protesters warned not to stray into harassment and other actions contrary to the Free Speech Code, and to keep to what they had told the Proctor's Office they would do and say?
- Were the arrangements regarding security appropriate, including having appropriately empowered, trained and briefed staff who will be able to deal with issues effectively? Were the staff present appropriate in numbers and in robustness and effectiveness to deal

with the problems when they arose? What did they do or fail to do that could be improved for the future?

- Why did the relevant staff in the Proctor's Office give permission for the protest to take place in the lecture a second time, *after* they had received complaints and information to the effect that the protest had been disruptive and involved harassment?
- Were personnel in the Proctor's Office themselves pressurised by the protesters and campaigners more widely? If so: what form did this take? Judging by the social media mentioned above, the environment around the relevant issues and these lectures was toxic. Were staff intimidated/bullied/harassed by activists? Pressure on staff to perform their duties in certain ways is wholly inappropriate and should be treated as a serious disciplinary offence; even more so if it involved harassment. Express prohibitions need to be created and staff and students need to be told about them.
- Did the personnel in the Proctor's Office rely on any sources of information on the university's legal requirements which might have caused them to act erroneously? For instance, guidance or advice provided by external organisations.
- Whether staff buckled to pressure and did not take enforcement action against that pressure needs to be investigated. If this did happen, appropriate action needs to be taken, which is likely to include creating more robust structures and systems and upgrading and/or training relevant personnel.

In respect of the general state of preparation of the Proctor's Office:

- How well had they addressed, understood and implemented the major amendments to the free speech regulatory regime in 2025?
- What were the governance and staffing arrangements to ensure the office has sufficient expertise, focus and commitment to implement the new regime, noting that the University does not have an officer with focused responsibilities for free speech (see below)?
- Did they take specialist legal advice about the new regime and its implementation?
- Do they have appropriate processes and practices for making compliant decisions on meetings and protests?
- Are concerns such as harassment and discrimination sufficiently understood and appropriately woven into the office's processes and practices?

The Proctor's Office must not mark its own homework

As discussed above, something went very wrong with the Proctor's Office's handling of these protests. These point to systemic issues.

What went wrong and why, and what is necessary in order to ensure that free speech is properly protected and compliance secured, need careful work by sufficiently senior, experienced, knowledgeable and dispassionate staff, who do not have conflicts of interest, for

instance by their or their colleagues having been involved in the relevant issues and mistakes made.

This means appropriate people who are not in the Proctor's Office and otherwise not subject to conflicts of interest.

Create effective and robust structures and processes to protect free speech

The above failures reveal quite how defective the University's current free speech protection structures are; and give an impression of profound institutional complacency.

The University needs to:

- identify what is currently defective with the University's structures, governance, processes, practices, requirements and personnel regarding free speech protection (and event/protest management); and
- take appropriate steps to remedy the defects and create strong, effective and compliant free speech protection structures etc.

We have set out in the Appendix the requirements in practice pursuant to the applicable legal and regulatory requirement for free speech protection. The steps that are relevant to this case will (or in some cases are recommended to) include the following. For more detail about these steps, see the Appendix.

- Ensure that it will not discriminate or harass in connection with viewpoints: The University appears to have failed in its key general obligation not to discriminate against or harass people in connection with their lawful viewpoints and to take all reasonably practicable steps to prevent their staff and students from doing so. Better governance and protection structures will be essential to remedy this.
- Appropriate governance. This will include: taking requirements relating to free speech seriously at senior levels; putting in place and following delegation arrangements setting out explicitly which committees or individuals are authorised to make decisions which may affect free speech compliance; having robust decision-making arrangements and including appropriate checks and balances to ensure compliance.
- Ensure that its policies, practices and requirements are appropriate in the context of the relevant requirements. This has two key aspects.
 - First, ensuring that it does not have policies, practices or requirements which unjustifiably prevent or restrict lawful free speech, for instance, through mis-stating or exaggerating legal obligations on them which may conflict with the Secure Duty.
 - Second, creating policies and requirements to ensure compliance with the relevant legal and regulatory requirements, including securing compliance with its Free Speech Code.
- Appointing a free speech officer to be an internal advocate for free speech and academic freedom, with responsibility for ensuring that the HEP complies with its legal obligations

and follows and enforces its own rules appropriately. Given the demanding nature of the relevant requirements, how will the University comply without an appropriate focused officer? The officer should be appropriately senior (sufficiently so to participate in governing body meetings where relevant to their role), empowered and resourced, available (although this does not necessarily have to be a full-time position), experienced and trained, and non-conflicted.

- Ensure that adequate induction and training is available to staff and students about protection of free speech and academic freedom, and that they understand the nature of the University requirements for free speech protection.
- Have appropriate and effective free speech reporting and complaints systems. It appears the complaints about the protests in this case were inappropriately handled: were they even dealt with as free speech complaints? Does the University have an effective system staffed to be able to deal with free speech complaints promptly and effectively, and in particular to review and address free speech problems in accordance with the applicable requirements? Relevant staff will need to be thoroughly trained about what the law in fact requires and how to operate the system effectively.
- Improve meetings/protests structures. The failures in this case largely arose from defective structures for managing meetings and protests.
- Working to create a favourable environment for all for participation in public debates, as discussed above.
- Work to avoid and reduce an oppressive/hostile atmosphere for people with non-orthodox views: such an atmosphere, and creating or enhancing it through the protests, and the University's role in facilitating it, are key factors in its compliance failures in the case at hand.
- Sufficient institutional neutrality. If an institution takes sides, in an area of passionate and polarised debate, with one contested position, it necessarily formally sets itself against the other position. This gives rise to a very obvious risk of disadvantaging or creating a hostile environment for people who hold that other viewpoint, and creating or tolerating environments in which attacking people for their viewpoints is acceptable. A number of recent public failures (with unlawful harassment and discrimination found by tribunals) have largely arisen as a result of an underlying failure of objectivity and endorsing and enforcing (or not preventing the unlawful enforcement of) one side of a bitterly contested debate. Universities therefore need to maintain sufficient institutional neutrality on matters of polarised public debate. By this we mean that they should take care to avoid actions, statements and language which by, taking a side in relation to publicly contested issues, risks suppressing free speech and, in an extreme case risks breaching applicable legal and/or regulatory obligations. The University needs to ask itself whether a failure in neutrality contributed to the disaster that has occurred, and in any event to adopt neutrality in order to help avoid a recurrence of issues such as this.

Given the compliance disaster that has occurred, we urge that the best way to secure future compliance is to appoint an external expert (with appropriate levels of specialist knowledge) to conduct a full review of all the issues raised above, to identify what went wrong and why (not just in the Proctor's Office, but in the University more widely), and to make recommendations for changes so as to secure future compliance. The Open University did this after their disaster re: Professor Jo Phoenix, appointing Dame Nicola Dandridge to conduct her now-seminal review. This was greatly to its credit and helped improve perceptions about its seriousness about addressing problems with free speech. We hope that Oxford has the integrity and sense to do likewise.

At the very least, the University needs to take external specialist legal advice in order to review these issues and set its compliance right.

A final comment:

- We appreciated that it is easy for campaigners with specialist knowledge such as AFFS to criticise from the sidelines armed with hindsight. Securing free speech in the current sometimes toxic environment is not always straightforward.
- Our greatest concern is that universities take their obligations to secure free speech very seriously, and do their best to achieve this in practice. We keep in mind the need to be realistic and moderate when institutions that give every appearance of taking their free speech obligations seriously get their compliance wrong in particular difficult circumstances, especially where staff have to make rapid judgement calls.
- The University does not, however, appear to fall into that category. It badly needs to.

We will be observing developments with interest. We will be happy to recognise good free speech protection, if it occurs. Our alumni love their universities, and we are happier providing positive support than creating difficulties, although we will not shrink from the latter.

Finally, we ask that you confirm receipt.

Yours faithfully

Alumni for Free Speech

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

Appendix - Requirements and implications in practice

Compliance with applicable legal and regulatory requirements (“**Relevant FS Requirements**”) requires HEPs to take the following steps.

A. Key general obligations

- **Not to discriminate or harass in connection with viewpoints:** A key general obligation, which underlies many of the other obligations in practice below, is not to discriminate against or harass Participants or visiting speakers in connection with their lawful viewpoints (especially Protected Viewpoints under the Equality Act), and to take all reasonably practicable steps to prevent their Participants from doing so.
- **Take sufficient steps to satisfy its duty to promote free speech.** This duty requires HEPs to work to achieve a positive official attitude and general atmosphere within the HEP towards free speech. It requires HEPs to ensure that free speech is described in positive terms in all its documentation, and in its training in particular. An HEP must not allow free speech to be presented in a negative light in its documents and official pronouncements, and needs to commit time to ensuring this is carried out appropriately in practice.

B. Rules, policies, governance and training

- **Have an appropriate FS Code.** The FS Code must contain the information explained at Part 2A above; and regularly provide specified information to Participants about relevant free speech requirements and the HEP’s own obligations in relation to free speech. Detailed information on best practice regarding FS Codes is contained in the OfS Guidance.¹⁹
- **Ensure that its policies, practices and requirements are appropriate in the context of the Relevant FS Requirements.** This has two key aspects. First, ensuring that it does not have policies, practices or requirements which unjustifiably prevent or restrict lawful free speech, for instance, through mis-stating or exaggerating legal obligations on them which may conflict with the Secure Duty. Second, creating policies and requirements to ensure compliance with the Relevant FS Requirements, including securing compliance with its FS Code. Such rules should expressly prohibit certain material actions by Participants against people in respect of their viewpoints, such as harassment and severe personal attacks, online pile-ons, making inappropriate complaints and allegations, and the use of the “heckler’s veto” to prevent others’ speech. These restrictions will themselves need to be written in a way that is compliant with the free speech rights of Participants who may wish to attack their colleagues for their viewpoints, a complex area. HEPs will need to have appropriate and effective processes for curtailing and remedying activity which is

¹⁹ Paragraphs 168-169.

contrary to free speech related requirements and appropriate disciplinary processes in order to secure compliance with free speech rules.

- **Appropriate governance.** This will include: taking the steps necessary to comply with its conditions of registration; taking requirements relating to free speech seriously at senior levels; putting in place and following delegation arrangements setting out explicitly which committees or individuals are authorised to make decisions which may affect free speech compliance; having robust decision-making arrangements, including appropriate checks and balances to ensure compliance, ensuring that the terms of reference of all committees that could affect compliance with free speech duties expressly provide for consideration of this impact; and ensuring that its risk officers are aware of relevant risks and take them seriously.
- **Appointing a free speech officer** to be an internal advocate for free speech and academic freedom, with responsibility for ensuring that the HEP complies with its legal obligations and follows and enforces its own rules appropriately. Given the demanding nature of the Relevant FS Requirements, how will an HEP comply without an appropriate focused officer? The officer should be appropriately senior (sufficiently so to participate in governing body meetings where relevant to their role), empowered and resourced, available (although this does not necessarily have to be a full-time position), experienced and trained, and non-conflicted.
- **Ensure that adequate induction and training is available to Participants** about protection of free speech and academic freedom, and that they understand the nature of the HEP's requirements for free speech protection.

C. Action required to protect free speech and stop suppression of viewpoints

- **Take prompt, active and effective action to ensure that it and its Participants comply** with applicable obligations, including its FS Code and related rules, and enforcing compliance with disciplinary action where appropriate.
- **Deal with controversies effectively; protect Participants; resist pressure:** take prompt, active and effective action to defuse a controversy and ensure that it and its Participants comply with the Relevant FS Requirements. This can include reminding their staff and students of the HEP's requirements, in particular regarding free speech and anti-bullying and harassment; where appropriate, warning them of the consequences of contravention; where appropriate, enforcing their rules, including through disciplinary measures; and taking such other action as is likely to help remedy the situation.
- **Have appropriate and effective reporting and complaints procedures and systems in respect of free speech issues and complaints.** Ensure that its systems are structured and staffed to be able to deal with free speech complaints promptly and effectively, and in particular to review and address free speech problems in accordance with the Relevant FS Requirement. Relevant staff will need to be thoroughly trained about what the law in fact requires and how to operate the system effectively, and to be suitably independent from the object of the complaints.

- **Not allow its complaints and disciplinary functions to become instruments of free speech suppression, contrary to the Relevant FS Requirements.** Every complaints process should include a fair, objective and rapid early triage process so as to ensure the early rejection of vexatious or obviously unmeritorious complaints relating to a Participant's lawful viewpoints. An HEP should not pursue such complaints and should be extremely careful about instigating a formal investigation into a Participant following complaints which relate to their lawful expression of a viewpoint (especially a Protected Viewpoint).
- **Not allow inappropriate official endorsement (or effective enforcement) of controversial agendas or suppression of dissent; the curriculum; research.** Whenever endorsement or promotion (directly or indirectly) of viewpoints requires or exerts pressure for the endorsement of or acquiescence to those viewpoints, or suppresses the expression of lawful dissenting viewpoints, there will be a clear breach of the Secure Duty, unless an HEPs' actions are legally justifiable. Further, HEPs must not impose any ideologies, viewpoints or agendas (such as a "decolonisation" agenda) as part of the curriculum, in a manner that, or to the extent that to do so, would compel the expression of certain views or otherwise contravene their obligations under the Relevant FS Requirements or their obligations as charities.
- **Research.** Participants should be free to undertake academic research within the law. This freedom should not be restricted or compromised in any way: because of a perceived or actual tension between any conclusions that the research may reach or has reached or the viewpoint it supports, and the organisation's policies or values; or because of any external pressure connected with those conclusions. If funding bodies exert pressure on researchers to reach or to avoid particular results, amending or terminating these funding arrangements is likely to be a reasonably practicable step for providers and constituent institutions to take.
- **Sufficient institutional neutrality.** If an institution takes sides, in an area of passionate and polarised debate, with one contested position, it necessarily formally sets itself against the other position. This gives rise to a very obvious risk of disadvantaging or creating a hostile environment for people who hold that other viewpoint, and creating or tolerating environments in which attacking people for their viewpoints is acceptable. A number of recent public failures (with unlawful harassment and discrimination found by tribunals) have largely arisen as a result of an underlying failure of objectivity and endorsing and enforcing (or not preventing the unlawful enforcement of) one side of a bitterly contested debate. HEPs therefore need to maintain sufficient institutional neutrality on matters of polarised public debate. By this we mean that they should take care to avoid actions, statements and language which by, taking a side in relation to publicly contested issues, risks suppressing free speech at the HEP and, in an extreme case risks breaching the HEPs legal and/or regulatory obligations.
- **Work to create a favourable environment for all for participation in public debates:** HEPs are under a positive obligation under the Convention to "create a favourable

environment for participation in public debates for all concerned, allowing them to express their opinions and ideas without fear, even if these opinions and ideas are contrary to those defended by the official authorities or by a large part of public opinion, or even if those opinions and ideas are irritating or offensive to the public”.²⁰ Taking material steps to achieve this must also be a “reasonably practicable step” for the purposes of the Secure Duty, and would make a significant difference to free speech protection.²¹

- **Avoid and reduce an oppressive atmosphere; cultures of conformity:** Related to the above, research strongly evidences that an atmosphere exists at many HEPs in which many Participants feel intimidated about expressing their opinions. Given that such an atmosphere would give rise to obvious risks of self-censorship and very harmful effects on free speech at HEPs, HEPs are required by the Secure Duty to take all reasonably practicable steps which might stop such an atmosphere developing in the first place or persisting if it already has. Qualifying for the Section 109(4) Defence under the Equality Act can also require this. It will involve HEPs being vigilant to prevent, identify and stop free speech transgressions; firmly enforcing its code of conduct and rules; and taking the other steps such as promoting the importance and value of free speech set out elsewhere in this Part 3.
- **Ensure that any staff or student courses, “tests” or “training”,** for instance induction for new arrivals, do not wrongly inhibit or suppress free speech, for instance by presenting one viewpoint as the only legitimate one, ensuring that negative consequences arise for people who disagree with viewpoints promoted at the training, and/or requiring “tests” to be answered in certain way to have “passed”. Making such training mandatory can also be a problem.
- **Avoid or restructure any association or relationship with any organisation which creates free speech compliance risks: risks with externally sourced materials.** Where a relationship with an external organisation requires an HEP to take sides in relation to contested issues, or requires or encourages it to suppress the expression of views which dissent from the agenda being promoted by any such organisation, or results in it failing to maintain a sufficient level of institutional neutrality on contested issues, as discussed above, this creates profound compliance risks for that HEP.
- **Not implement any accreditation arrangement in a way that disproportionately interferes with freedom of expression.** Many HEPs operate courses that lead to professional qualifications because of their accreditation by PSRBs (Professional, Statutory and Regulatory Bodies), or other accrediting bodies. HEPs which provide accredited courses may be required, by the conditions of their accreditation, to enforce professional standards, for instance through ‘fitness to practice’ procedures. While professional standards may legitimately impose some restrictions upon lawful expression, any

²⁰ *Dink V Turkey*, judgement of 14 September 2010 in French only, at 137.

²¹ Paragraph 94 of the OfS Guidance supports this.

restrictions must be proportionate. In practice, the number of proportionate restrictions will be very small.

D. Management, staffing and training re free speech protection; the EDI function

- **Have appropriate systems and structures:** HEPs must have sufficient systems and structures to ensure that it complies with the Relevant FS Requirements, and in particular effectively promote free speech, intervene proactively to protect participants at risk of harassment or formal punishment for their views, and prevent the suppression of speech. That structure must be separate from the EDI function, which is a key consequence of the Dandridge Review, because of the insuperable conflicts between the desire (indeed it being a person's job) to promote and enforce EDI agendas and the need to protect dissent from aspects of those agendas. Free speech systems and structures must be staffed by individuals who are of appropriate seniority and experience, appropriately trained, have available time, and are even-handed and neutral in their handling of problems. They will need to act consistently and leave their own viewpoints "at the door".
- **Reduce the risk of the EDI function being a source of free speech problems:** The conflicts between agendas promoted under the EDI banner and the rights of dissidents from those agendas frequently results in the EDI function being a source of free speech problems²². Preventing compliance risks requires: an understanding within the EDI function of the distinction between those relatively narrow aspects of most HEPs' EDI programmes which reflect legal obligations, and wider programmes and agendas, which are effectively optional, and that free speech requirements include the right to dissent from EDI policies without negative consequences; and having the right structures, systems, requirements, personnel and training in place, including free speech structures and systems separate from the EDI function, to ensure that EDI agendas are managed so as not to infringe the Relevant FS Requirements.

E. Meetings and events; protests and demonstrations

- **Meetings and events:** Taking all reasonably practicable steps to ensure that the use of any premises of the HEP (including those used by its students' union) is not denied to any person or body because of their viewpoints, policies or objectives. HEPs will need to be actively involved in monitoring and supervising security issues and assisting often inexperienced organisers to arrange appropriate security. Save in exceptional circumstances, HEPs must not require the organiser of an event to bear any of the costs of security relating to the event.
- **Protect the right to protest, prevent protests from restricting speech.** HEPs must take the steps required of them to protect the free speech of the protesters, prevent protesters from restricting others' speech (for instance, through blocking the entrances to venues, or through the use of the "heckler's veto"), prevent excessive and unreasonable disruption of the activities of the HEP and its Participants, and ensure the physical safety of their

²² As recognised by both the Dandridge Review and a recent Advance HE document relating to this subject.

Participants and prevent actions that are unlawful or contrary to their (compliantly written) harassment policies. See BFSP's statement [*Protests at English universities: free speech requirements and risks*](#) for further details on this difficult subject.

F. Appointments, promotions and termination: employment; requiring commitments to values

- **No consideration of viewpoints.** An HEP must not make decisions on the basis of a person's lawful viewpoints in appointments or promotions. It must not require applicants to give evidence of commitment to values or ideas, or seek information about their ideas and values, or require its staff to commit to values or ideas. This includes not requiring commitment to EDI. See BFSP's statement [*EDI considerations and inquiries in the recruitment process at English universities: Free speech compliance issues*](#).
- **Records:** An appointment, promotion, disciplinary or dismissal process should include a sufficiently detailed record of all decisions connected with a Participant's viewpoints or expression of them. Where relevant, this record should include evidence that the relevant process did not penalise a candidate or member of staff in connection with their viewpoints or for their exercise of free speech or academic freedom.
- **Requirements for FS compliance:** Including requirements to comply with the HEP's free speech requirements in all relevant employment or appointment contracts and in the job specification for all appointments of senior staff and in the HEP's contracts with students.

G. Obligations of HEPs relating to CIs and students' unions: enforcing own requirements

- **Obligations of HEPs:** See a discussion of this complex topic in Part 3 of the Principal Statement. The Secure Duty requires HEPs to take their own steps, to the extent reasonably practicable, given the nature of their structures and relationships, to ensure that their CIs and students' unions take sufficient steps to secure the free speech/academic freedom of the HEP's Participants. There are many limitations in practice on HEPs' ability to do this.
- **Governmental plans and expectations:** The Government has stated that it will amend HERA to require HEPs to take reasonably practicable steps to ensure that their students' unions follow their FS Code in both premises owned by HEPs, and premises not owned by HEPs but which are occupied by their students' unions.²³ The Government has stated that it expects, and HEPs would do well to take reasonably practicable steps voluntarily now to enforce their FS Codes on the premises of Students' Unions not owned by them.

H. Information on free speech implications for various topics

[BFSP's website](#) provides detailed information on free speech compliance requirements in various contexts, including the following:

²³ DfE publication of June 2025 *The future of the Higher Education (Freedom of Speech) Act 2023*. Note that it appears that this is an effective requirement of the Secure Duty anyway.

- Protected viewpoints under the Equality Act: Risks and necessary actions for employers and others.
- The Dandridge Review re the Open University/Jo Phoenix: What all universities need to know – and do.
- Governance requirements re free speech at English universities: Severe consequences of failure: the Sussex Case.
- Open letter from free speech campaigns re adopting Institutional Neutrality.
- Know your free speech rights.
- Free speech codes: compliance checklist.
- Meetings at English HEPs: Free speech requirements and risks.
- Managing protests and demonstrations: free speech and other issues.
- EDI and similar courses, training and tests: Free speech requirements and risks for English universities.