London Universities' Council for Academic Freedom
Alumni for Free Speech
Academics For Academic Freedom
Committee for Academic Freedom
Pharos Foundation
Student Academics For Academic Freedom
Best Free Speech Practice
and the other campaigners named below

TO:
All Vice-Chancellors and other senior officers, UK universities
Cc Chairs of Council (or other governing body, by whatever name)

16 April 2025

Dear University Leaders,

Institutional neutrality at your university: a key to risk reduction

We are writing, as campaigners for free speech and academic freedom, to urge your institution to adopt a policy of institutional neutrality on social and political issues that do not directly concern core academic matters or institutional operations.

In recent years, universities have increasingly taken official stances on contentious social and political issues. This trend has contributed to the politicisation of higher education and created an untenable expectation that universities must weigh in on every major political or social debate. Most critically, such institutional positions risk establishing an orthodox view on campus, thereby threatening the pursuit of truth and knowledge—the very purpose for which universities exist.

When a university takes sides on a controversial issue, it necessarily formally sets itself against the other position. This creates a chilling effect on people who hold that other viewpoint, and also fosters an environment where attacking people for their viewpoints becomes acceptable. To ensure that all members of the academic community feel free to express their ideas without fear of repercussion, universities must remain neutral on matters of polarising public debate.

As the Kalven report from the University of Chicago eloquently states:

> *The university is the home and sponsor of critics; it is not itself the critic. It is, to go back once again to the classic phrase, a community of scholars. To perform its mission in the society, a university must sustain an extraordinary environment of freedom of inquiry and maintain an independence from political fashions, passions, and pressures. A university, if it is to be true to its faith in intellectual inquiry, must embrace, be hospitable to, and encourage the widest diversity of views within its own community. It is a community but only for the limited, albeit great, purposes of teaching and research. It is not a club, it is not a trade association, it is not a lobby.*

The same report argues that the neutrality of the university arises not from a lack of courage nor out of indifference and insensitivity. It arises out of respect for free inquiry and the obligation to cherish a diversity of viewpoints.

What institutional neutrality entails

A commitment to institutional neutrality means that universities should formally adopt a statement of neutrality in their governing documents or core policies, as many institutions worldwide have already done, and should refrain from:

- Adopting or enforcing particular political, social or ideological viewpoints or agendas (**Relevant Agendas**) unless they are legally required of them or directly affect their core functions.
- Issuing official statements on political, social, cultural, religious and moral issues that do not directly affect their core functions or institutional operations.
- Requiring or pressuring staff or students to promote or support particular Relevant Agendas, unless legally required of them.
- Adopting political symbols or flying flags that signal alignment with specific political or social movements.
- Endorsing or affiliating with external organisations promoting particular Relevant Agendas, except as legally required of them.

For these purposes, the **core functions** of a university comprise education, research, and the pursuit of its charitable objects as defined in its charter. The above principles apply to the university and its component parts and to any person or body authorised or purporting to speak on behalf of the university or any of its component parts.

In sum: institutional neutrality means that if a higher education institution is *not required* to adopt a position in order to fulfil its mission of education and research, it is *required not* to adopt a position. However, institutional neutrality **does not:**

- Restrict individual academics, including those in senior positions, from expressing their own views on social and political issues—provided they do not do so on behalf of the institution.
- Mean neutrality on the university's fundamental commitment to free inquiry.
- Stop universities from stating a position on issues directly relevant to institutional operations (including financial decisions).

It simply ensures that the university itself, as an institution, does not take sides on the contested political and moral issues of the day that do not directly affect its core functions, precisely in order to make space for scholars and students to weigh in on those issues as individuals.

We do not seek to prescribe the precise wording of an institutional neutrality policy. In the appendix to this letter, we have included some examples from other universities that have adopted such policies.

The global trend toward institutional neutrality

A growing number of universities worldwide have adopted institutional neutrality policies. In the United States, over 140 universities have formally committed to such policies. In the UK, institutions such as Queen Mary University of London and Imperial College London have formally embraced neutrality as a safeguard for academic freedom. By doing so, they affirm their commitment to open debate, intellectual diversity, and the unfettered pursuit of knowledge. They also protect themselves

from accusations of political bias and reduce external pressures to take positions on complex political issues.

Legal considerations: neutrality is necessary to reduce legal risks

Beyond fostering pluralism and academic freedom, institutional neutrality offers one of the most effective ways to limit legal risks under existing legislation and regulatory requirements protecting freedom of speech and belief, in particular under:

- The **Equality Act 2010**, which protects against discrimination and harassment based on belief and other protected characteristics.
- The **Education (No. 2) Act 1986** (**Section 43**), which mandates universities to secure free speech, and which will shortly be replaced and expanded pursuant to the **Higher Education (Freedom of Speech) Act 2023 (HEFSA)**, which strengthens protections for speech on campus—introducing much-needed accountability and a new legal duty to promote the importance of freedom of speech.
- The **Human Rights Act 1998**, which safeguards freedom of expression.

Several now well-known free speech controversies have reportedly cost the universities involved upwards of £1 million each.

Further, universities are required by their conditions of registration to have governing documents that uphold (and to have in place adequate and effective management and governance arrangements to deliver in practice) the public interest governance principles relating to securing freedom of speech and academic freedom. The Office for Students has recently fined the University of Sussex £585,000 for compliance failures caused by uncritically adopting a template provided by an external provider. Had Sussex remained neutral on what is a contested subject, it would have been much more likely to have ensured that its policy was compliant with its registration conditions, and it would have avoided this fine and accompanying reputational damage.

We explain the legal risks, and why institutional neutrality is the only effective way of minimising them, in Appendix 2 to this letter.

A call to action

To ensure clarity and preparedness in implementing an institutional neutrality policy, we urge you and your university's governing body to publicly commit to such a policy by the beginning of the 2025-26 academic year.

By doing so, your institution will not only protect its core mission of education and research but also demonstrate leadership in upholding the principles of free inquiry, academic freedom, and intellectual diversity. It will also be taking important steps to minimise risks of compliance failures.

We look forward to your response and to seeing your institution take a principled stand in favour of open and fearless intellectual engagement.

Yours faithfully,

Professor Abhishek Saha (QMUL), Professor Ian Pace (City St George's), Professor Alice Sullivan (UCL), Professor Lucinda Platt (LSE), Professor Stephen Warren (ICL), Dr John Armstrong (KCL) and Michelle Shipworth (UCL), Founder Members of the London Universities' Council for Academic Freedom

William Mackesy and Andrew Neish KC, Founders, Alumni for Free Speech

Professor Dennis Hayes, Director, Academics For Academic Freedom

Dr Edward Skidelsky, Director, the Committee for Academic Freedom

Professor David Abulafia CBE FBA, University of Cambridge, President, Pharos Foundation

Jaiden Long, Convenor, https://www.afaf.org.uk/student-academics-for-academic-freedom-safaf/

Andrew Neish KC and William Mackesy, Founders, Best Free Speech Practice

Professor Peter Ramsay, Co-Chair, LSE Academic Freedom

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The Rt Hon. Lord Biggar of Castle Douglas, CBE

Lord Young of Acton

Sir Niall Ferguson, Milbank Family Senior Fellow, Hoover Institution, Stanford; Founding Trustee, University of Austin; Visiting Professor, London School of Economics

David Palfreyman OBE, Fellow, New College Oxford, co-author of 'The Law of Higher Education'

Professor Jo Phoenix, Professor of Criminology, School of Law, University of Reading

Professor John Marenbon FBA, Senior Research Fellow, Trinity College, University of Cambridge

Professor Steven Greer, Emeritus Professor, University of Bristol Law School; Research Director, Oxford Institute for British Islam

Professor Doug Stokes, Professor in International Security and Strategy, Exeter University

Dr James Orr, Associate Professor of Philosophy of Religion, University of Cambridge

Dr Michael Biggs, Associate Professor of Sociology, University of Oxford

Appendix 1: examples of institutional neutrality statements

Queen Mary University of London (November 2023)

"5.3 Except where expressly agreed by the Council in line with advancing the University's charitable objects (as defined in the University Charter), the University does not take an institutional position on political, cultural and religious debates to ensure that individuals are not discouraged from expressing themselves freely within the law."

Imperial College London (July 2024)

"1.8 Except where expressly agreed by the Council in line with advancing the University's charitable objects (as defined in the University Charter), the University does not take an institutional position on political, cultural and religious debates to ensure that individuals are not discouraged from expressing themselves freely within the law."

Harvard University (May 2024)

"The university and its leaders should not, however, issue official statements about public matters that do not directly affect the university's core function… Individuals within the university, exercising their academic freedom, sometimes make statements that occasion strong disagreement. When this happens, the university should clarify that they do not speak for the university and that no one is authorized to speak on behalf of the university except the university's leadership… the university is not a neutral institution. It values open inquiry, expertise, and diverse points of view, for these are the means through which it pursues truth. The policy of speaking officially only on matters directly related to the university's core function, not beyond, serves those values."

London Principles of Academic Freedom (March 2024)

"The university (and its departments and formal units) must refrain from taking substantive positions in contested political debates. To do so would undermine its vital function as a forum for constructive disagreement. To protect the university as a pluralistic space, one must make a distinction between, on the one hand, supporting the rights and dignity of all students and workers within the university, and, on the other, taking institutional political, ideological or ontological positions. It is not possible to combine support for individual freedom of conscience with the imposition of a collective ideology. Taking a political stance includes not only overt statements but also the imposition of training for staff or students espousing particular ideological viewpoints, the adoption of political symbols and the flying of flags. Universities should not promote as a matter of official policy any political agenda or affiliate themselves with organisations promoting such agendas. In sum: if an academic institution is not required to adopt a position in order to fulfil its mission of education and research, it is required not to adopt a position."

Appendix 2 – Why institutional neutrality is an effective legal requirement

Relevant legal and regulatory requirements

There are three main sources of legal requirements

Section 43 and codes/rules relating to free speech

Section 43(1) requires every individual and body of persons concerned in the government of any university to take "such steps as are reasonably practicable" to ensure that freedom of speech (within the law) is secured for the members, students and employees ("**Participants**") of, and visiting speakers to, the university. This is a demanding requirement (stated in objective terms) and requires active, positive steps to be taken. Free speech obligations override other considerations, subject only to the relevant speech being lawful, and universities only being required to take the steps that are reasonably practicable for them to take.

Section 43 requires universities to have compliant free speech codes and requirements that staff and students comply with their codes.

The new duties under HEFSA (expected to be in effect from 1 August) will replace and strengthen the Section 43 duties, including through the duty to take reasonably practicable steps to secure free speech involving "having particular regard to the importance of freedom of speech", explicit protections for academic freedom for members of academic staff, and a duty to promote the importance of free speech.

Equality Act 2010

Discrimination by a university against, and harassment by it of, people with "protected characteristics", including belief, are unlawful in a range of circumstances specified in the Equality Act. Holding gender-critical views has been held to be a protected belief, as have views which challenged aspects of critical race theory and anti-Zionist views[1]. It is highly likely that advocacy for free speech and human rights, and opinions (whether religiously or philosophically based) in respect of other currently contested areas, will, in time, also be confirmed as protected beliefs.

Section 109(1) of the Equality Act provides that anything done by an employee in the course of their employment, or an agent on behalf of their principal, must be treated as also being done by their employer or principal; it does not matter whether that thing is done with the employer's or principal's knowledge or approval. An employer has a defence (the "**Section 109(4) Defence**") if it can show that it took all reasonable steps to prevent an employee from doing the alleged act or anything of that description.

We give below examples of liability for employers for failing to protect people's viewpoints under the Equality Act.

[1] Pursuant to the *Forstater*, *Corby* and *Miller/Bristol* cases. See BFSP's statement ***Protected viewpoints under the Equality Act: Risks and necessary actions for employers and others*** for information on these cases and more widely on protections for free speech under the Equality Act.

Human Rights Act and compelled thought

The free thought and speech rights of academics and students are protected under the European Convention on Human Rights ("**Convention**"), as enacted into UK law by the Human Rights Act 1998 (the "**HRA**"). These freedoms include the freedom to 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.

Any interference by a university with the holding or expression of opinions and academic freedom of its academics and students will therefore require justification that complies with the requirements of the HRA.

Regulatory requirements and risks

Universities are required by their conditions of registration with the Office for Students (**OfS**) to have governing documents that uphold (condition E1), and to have in place adequate and effective management and governance arrangements to deliver in practice (condition E2), the public interest governance principles that apply to them. These include principles relating to securing freedom of speech and academic freedom. "Governing documents" are defined widely for these purposes.

Financial and reputational risks

Recent cases under the Equality Act demonstrate the risks of not maintaining neutrality on contested subjects. We give two examples here.

In the *Meade* case,[2] an employer and a regulatory body were found guilty of discrimination and harassment as a result of inappropriate disciplinary action against an employee for expressing dissenting views on a matter of controversy. In particular, both had subjected the employee to harassment related to her gender critical beliefs as a result of the following conduct:

- The regulator subjected the employee to a prolonged investigation into her gender-critical beliefs and to "fitness to practise" proceedings before sanctioning her for professional misconduct. The Tribunal stated that the regulator's "failure to check if [the complainant] could be malicious, and not checking his previous social media history, is indicative of […] an apparent willingness to accept a complaint from one side of the gender self-identification/gender critical debate without appropriate objective balance of the potential validity of different views in what is a highly polarised debate."

- The employer subjected the employee to a disciplinary process; suspended her on charges of gross misconduct; issued an investigation report which was hostile in tone and content; and issued a final written warning. Importantly, the Tribunal ruled that the employer's implied continuing disapproval of her conduct itself constituted harassment; and that a staff member conducting the disciplinary process "labelling [Ms Meade's] Facebook posts as being transphobic was …sufficient…to constitute harassment."

[2] *Meade v Westminster City Council and Social Work England* (2024: Case No: 2201792/2022 & 2211483/2022).

In the *Phoenix/Open University* case,[3] personal attacks on a senior member of academic staff for her gender-critical viewpoints, including an aggressive open letter and an online pile-on, were held to be unlawful harassment and/or discrimination for which the Open University ("**OU**") was found to be legally liable. There were more than 25 counts of discrimination and harassment and more than 395 individual events of harassment as a result of individuals signing the open letter being found to be harassment.

It is useful to list some of the things that were held to constitute harassment: as in the *Meade* case, equating gender-critical views with transphobia, calling the OU's Gender Critical Research Network a "hate group"; a senior colleague telling Professor Phoenix that having her in the department was like having a racist uncle at the Christmas dinner table; an open letter signed by 368 people (almost all of whom were found to have harassed Professor Phoenix by so doing).

The OU did very little to stop these attacks, so could not qualify for the Section 109(4) defence. Furthermore, leaving a hostile statement on the OU's website, despite requests to remove it, itself constituted a separate act of harassment by the OU from the issuing of the statement itself.

The Dandridge Review[4] is a report, published in September 2024, of an independent review which was commissioned by the OU following the *Phoenix* case. (See BFSP's detailed analysis of the Review at https://bfsp.uk/universities-and-free-speech.) The Dandridge Review (and BFSP's analysis) make sobering reading. A key relevant finding of the Dandridge Review was that universities need to adopt institutional neutrality as a guiding principle.

All of the above lead to what should be an obvious point: how can you possibly avoid compliance failures, and handle disputes dispassionately and successfully, navigating a complex interaction of facts and requirements, if your starting position is hostile to one of the viewpoints in dispute?

See BFSP's statement ***Protected viewpoints under the Equality Act: Risks and necessary actions for employers and others*** for information on these cases and more widely on protections for free speech under the Equality Act.

Conditions of registration: Sussex fines for free speech governance failures

The OfS fined the University of Sussex £585,000 in March 2025 for non-compliance with its conditions of registration. In respect of condition E1, this was because its "Trans and Non-Binary Equality Policy Statement" (inter alia) required academics to "positively represent trans people and trans lives", and contained prohibitions against (undefined) "stereotypical assumptions about trans people" and "transphobic propaganda".

This non-compliant policy occurred for a fundamental reason: the University uncritically adopted a template provided by an external activist provider. Had it been neutral on what is a bitterly contested subject, it would have been warier and much more likely to have ensured that its policy was compliantly (which requires neutrally) drafted and avoided this fine and accompanying reputational damage.

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[3] *Phoenix v The Open University* (2024) ET Case No: 3322700/2021 & 3323841/2021.

[4] See: https://www.open.ac.uk/blogs/news/wp-content/uploads/2024/10/Indpendent-Review-N-Dandridge-09.09.24.pdf

Key necessary actions to minimise the risks of liability: 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 (i.e. discriminating against) or creating a hostile environment for (i.e. harassing) 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), including those cited above, 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.

To avoid liability, universities need to take a number of crucial actions, which will be very difficult if the university is not itself neutral about contested issues.

Having appropriate requirements prohibiting extreme personal vituperation and other actions (such as online pile-ons in particular) against people for their viewpoints, and actually enforcing them when a mobbing develops, possibly against people who managers personally agree with. This is the essence of institutional neutrality, and is necessary to come within the Section 109(4) Defence.

Not allowing its complaints and disciplinary functions to become instruments of free speech suppression. A university should not instigate formal investigations into a Participant following complaints which relate to their lawful expression of a viewpoint. A university must treat all complaints arising from or relating to holding or stating lawful opinions and viewpoints with considerable caution. Its starting should be that it is likely that such complaints are likely not be justified. How can it achieve this if it is not itself intuitionally neutral on contested issues?

Not allowing inappropriate official endorsement (or effective enforcement) of controversial agendas; the curriculum; research**:** In recent years, some universities have endorsed or promoted certain viewpoints and agendas in respect of areas which are the subject of debate or controversy.

- Whenever such endorsement or promotion (directly or indirectly) 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 primary requirements under Section 43, unless a university's actions are legally justifiable.

- Such taking of sides also risks creating a hostile environment which constitutes harassment under the Equality Act and also risks a breach of free speech rights under the HRA.

- An institution's continued disapproval of expression of a particular lawful viewpoint has already been held to be sufficient to constitute harassment (in the *Meade* case), and another institution's trans equality policy statement that chilled lawful speech led to the OfS' fine on Sussex described above.

- If an institution endorses a particular viewpoint on a controversial issue, it risk bringing in unlawful policies and requirements, as happened in the Sussex case, and enforcing them inappropriately.

Universities must therefore avoid imposing or enforcing controversial programmes and agendas. How can they achieve this if they are not intuitionally neutral on contested issues?

The above requirements and risks lead to an unavoidable need for universities to maintain sufficient 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 university and, in an extreme case, risks breaching the university 's legal and/or regulatory obligations and itself amounting to discrimination or harassment under the Equality Act. This will need to apply to significant employees and other representatives, whenever representing their university as an institution (for instance, when acting as a university spokesperson or a member of management), as opposed to when acting in their capacity as academics or clearly in their private capacities.

Achieving appropriate institutional neutrality on a piecemeal basis will be difficult, and will involve risk and a lot of time from senior staff – and, perhaps inevitably, expensive legal advice. A general policy of maintaining institutional neutrality on controversial issues is therefore the only realistic way forward, and indeed it is being adopted by various institutions[5]. This is also the effective expectation of the OfS: its draft Guidance on the effects of HEFSA once implemented has several examples of the consequences of failures of neutrality.[6]

[5] See Appendix 1.

[6] Examples 4, 5, 6, 7, 9, 10, 14, 22, 23, 28, 29 and 30.