

Learning from the Jo Phoenix case
What universities and their regulators
need to know and do

Sex Matters is a human-rights charity

We campaign for clarity about sex in law, policy and language

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Summary

The case

Professor Jo Phoenix became the target of a campaign of harassment from her colleagues at the Open University (OU) in 2019 when she asked questions about a conference cancellation. The harassment ramped up in 2021, after she co-founded the Gender Critical Research Network (GCRN). Colleagues circulated an open letter calling for the OU to withdraw support from the network, with false allegations that she and her co-founders were hostile to trans people's human rights.

An employment tribunal found the OU liable for more than 25 counts of belief discrimination and harassment, leading to unlawful constructive dismissal.

Legal lessons

- The “gender-critical” belief that sex matters is covered by the Equality Act. People with gender-critical beliefs have the same rights and protections as people with other beliefs.
- Feeling offended or even “unsafe” does not necessarily mean that a person is being harassed.
- The idea that you can hold gender-critical beliefs but not manifest them is wrong in law. Employers are not free to discriminate because someone is openly gender-critical.
- If employers equate gender-critical views with transphobia and bigotry, this is direct discrimination, as it is based on negative assumptions.

Institutional lessons

- The case exposes the hostile environment for gender-critical staff and students across higher education.
- Universities are particularly vulnerable to groupthink that enables organised group harassment known as “mobbing”.¹
- Ideologically motivated equality, diversity and inclusion (EDI) policies that misunderstand the Equality Act make this situation worse, and become a weapon for harassment.

¹ See Ian Pace (2024). *Academic mobbing: what university management needs to know*, Sex Matters.

Discriminatory schemes

Those attacking Phoenix often did so in the mistaken belief that the Equality Act was on their side.

This belief has been fostered because many universities are members of benchmarking schemes that misstate the law and promote discrimination. These include:

- Stonewall's Diversity Champions and Workplace Equality Index (WEI) schemes
- the Athena Swan Charter
- the UK Medical Schools Charter "on So-Called LGBTQ+ 'Conversion Therapy'."

Universities have been resistant to reconsidering their position in relation to benchmarking schemes. Promoting negative attitudes towards those who express gender-critical views therefore remains part of most universities' official policy and incentive structure.

Recommendations

University senior management teams should take the lead

- Make a strong commitment to intellectual diversity and institutional neutrality on controversial issues (the Kalven Principle).²
- Consult with gender-critical staff and students to understand their experiences.
- Withdraw from benchmarking schemes promoted by lobby groups and review involvement in charter schemes within the university, such as Athena Swan.
- Review policies and make sure they are in line with the law, revise EDI training and create a culture of evidence-based discussion.
- Understand the phenomenon of mobbing and include it in training.
- Be brave and stand up to bullying.

The Office for Students should review benchmarking schemes

- Review whether involvement with the Stonewall Diversity Champions/WEI, Athena Swan and the GLADD Charter is compatible with academic freedom.

² Academics For Academic Freedom (2024). ['Universities Should Adopt the Kalven Principle of Institutional Neutrality'](#).

The Equality and Human Rights Commission should use its powers to work with universities to address the problem

- Invite universities to engage in a **Section 23 agreement** to address gender-critical discrimination and harassment, and to unwind discriminatory policies.
- Develop a set of model policies compatible with the Equality Act to replace Stonewall-promoted policies (including on data collection and on transition at work).

Research funding bodies should review their practices

- Review whether incentives and policies linked to the Athena Swan and Stonewall conceptions of gender identity undermine academic freedom.
- Consider the quality of research they have funded that is informed by gender-identity ideology or about issues of sex and gender identity.

Introduction

“The OU failed to protect me because of fear of being seen to support gender-critical beliefs. This is a message to all universities: you cannot stand back and allow gender-critical academics to be hounded out of their jobs.”

Professor Jo Phoenix

People with gender-critical beliefs think that there are two sexes – male and female – and that a person’s sex is immutable and often important. Such beliefs were until recently uncontroversial, and remain the majority view in the UK.³

These beliefs reflect both basic biology and common law. There really are two sexes in nature: female and male. Every human baby comes from an egg supplied by a woman combined with a sperm supplied by a man. Sex is often important, including in law, policy and healthcare. As such, it is directly relevant to many university disciplines and fields of study.

Recognising this basic reality does not require that people conform to traditional gendered clothing, appearance or behaviours. Nor does it preclude finding ways for society to accommodate people who identify as transgender.

Yet in recent years people who have expressed the view that sex matters, particularly in universities, have been accused of “transphobia”, bullied and harassed in an effort to silence them. Their institutions have failed to stand up for them in the face of vexatious complaints and public harassment campaigns, but have instead joined in with the bullies.

In 2021 the Employment Appeal Tribunal in the case of *Forstater v CGD* found that gender-critical beliefs are “worthy of respect in a democratic society”. This means the Equality Act 2010 protects employees, students and service-users from being discriminated against or harassed because they hold or express this belief.⁴

In February 2024 the Open University (OU) was found liable for more than 25 counts of belief discrimination and harassment against Phoenix.⁵ These are set out in the section below, **The judgment** (page 21).

The case exposed the hostile environment for gender-critical staff and students across higher education. Although Phoenix’s case was against the Open University, her story also involved Essex University, University College London (UCL), the London School of Economics and the University of London School of Oriental and African Studies. Moreover, staff at other

³ More in Common (2022). *Britons and Gender Identity: Navigating Common Ground and Division*.

⁴ *Forstater v CGD [2021] EAT*.

⁵ *J Phoenix v The Open University and others [2024] UKET 3322700/2021*.

universities have had similar experiences. Prominent examples include the hounding of Professor Kathleen Stock from Sussex University, threats of violence towards academics at Cardiff University and lack of support for gender-critical academics at Edinburgh University.⁶ Judith Suissa and Alice Sullivan of UCL catalogue the blacklisting, harassment and smear campaigns, no-platforming, disinvitations, event cancellation and suppression of research.⁷ Sex Matters has collected many public examples of gender-critical academics targeted for harassment,⁸ and the GCRN published a series of anonymous testimonies in 2021.⁹

In other words, what happened at the OU was not solely the OU's problem, and it was not solely about Phoenix.

This briefing tells the story of the case based on the findings of the employment tribunal, and sets out lessons for the university sector and for its regulators.

Acknowledgements

With thanks to Jo Phoenix, John Armstrong, Alice Sullivan, Edward Skidelsky and Shereen Benjamin for comments.

⁶ Ann Henderson (2021). '[Reflections on the University of Edinburgh](#)', *Woman's Place UK*.

⁷ Judith Suissa and Alice Sullivan (2022). '[How can universities promote academic freedom? Insights from the front line of the gender wars](#)', *Impact*, 2022: 2–61.

⁸ Sex Matters (2023). '[Log of academics targeted](#)'.

⁹ Collective of Early-career Feminist Academics (2021). '[Gender Critical Academia Network Archive](#)'.

What happened?

Professor Jo Phoenix was the Chair of Criminology at the Open University. She is a lesbian, a feminist and a survivor of male sexual violence. Her academic research concerns women in the criminal justice system.

As both a survivor of rape and a criminologist, she is acutely aware of the importance of single-sex spaces and services for women:

“When you are a victim of rape, you know that bodies, the size and strength of them, matter, and you know physical differences between men and women. There is no way of unknowing that.”

Phoenix became involved in the academic and public debate on the treatment of gender identity in law and policy in 2018, when the UK government was consulting on whether to reform the law on “gender recognition” to bring in a system of legal self-identification. Phoenix began researching policies on transgender prisoners. She quickly became a target of bullying and harassment both within and outside her university.

In September 2018 it was revealed that the transgender academic Dr Natascha Kennedy of Goldsmiths, University of London had asked members of a closed Facebook group called Trans Rights UK to draw up a list of academics who had expressed views deemed “transphobic”. The group discussed plans to make complaints. Referring to Professor Kathleen Stock at Sussex University, one group member said: “File a hate crime report against her, and then the chairman and vice-chair...Drag them over the f***ing coals.”¹⁰ Phoenix’s name, together with that of Richard Garside, Director of the Centre for Crime and Justice Studies (CCJS), appeared on the list, as did those of Professor Rosa Freedman of Reading University, Stock and dozens of others.

The Guardian letter

In October 2018, Phoenix, Garside and over 50 other gender-critical academics signed a letter that was published in *The Guardian*.¹¹ They expressed concern about the suppression of academic analysis and discussion “of the social phenomenon of transgenderism, and its multiple causes and effects”. They complained that gender-critical academics were facing

¹⁰ Lucy Bannerman (2018). ‘[Trans Goldsmiths lecturer Natacha Kennedy behind smear campaign against academics](#)’, *The Times*.

¹¹ ‘[Academics are being harassed over their research into transgender issues](#)’, *The Guardian* (16th October 2018).

campus protests, calls for their dismissal, no-platforming and attempts to censor research. They highlighted the influence of activist organisations and argued that:

“Definitions used by these organisations of what counts as ‘transphobic’ can be dangerously all-encompassing and go well beyond what a reasonable law would describe.”

This caused disquiet, particularly among four of Phoenix’s colleagues: senior lecturer and academic lead for EDI Dr Julia Leigh Downes, deputy head of department Professor Louise Westmarland, head of department Dr Deborah Drake and Dr Chris Williams.

Williams said that he would talk to the local LGBT centre to try to stop Phoenix undertaking research “on children and transgenderism”, even though she was not doing or planning to do any research in that area.

Separately, Downes emailed all staff in the department about the broader debates on gender identity, portraying opposition to gender self-ID as “anti-trans” and associated with the far right. Another colleague, Dr Avi Boukli, responded: “It is really concerning to see this wider anti-trans movement.”

Conference cancellation

The OU and CCJS were planning a conference together on prison abolition to celebrate the career of Professor Joe Sim, an eminent criminologist academic who had a long-term relationship with the OU.

But in February 2019 Garside developed and published a CCJS statement on prison policy which said that male prisoners who identify as women should be accommodated separately from female prisoners.¹² This was unconnected with the topic of the OU-CCJS conference, but some activists and academics nevertheless threatened to boycott or protest against the event. Instead of undertaking a risk assessment and considering whether it could go ahead with alternative speakers to replace those who were boycotting it, the organisers pulled the OU out of the conference and it ended up being cancelled.¹³

Senior OU managers became aware of the cancellation and launched an investigation. Meanwhile Phoenix asked questions within her department about the breach of academic freedom.

¹² Centre for Crime and Justice Studies (2019). ‘[Statement on transgender prisoners](#)’.

¹³ Jack Grove (2019). ‘[University Calls Off Conference Amid Protests From Transgender Activists](#)’, *Times Higher Education*.

She also talked about the conference cancellation in a speech at an event hosted by Woman's Place UK (WPUK), a grassroots group that had been established to enable women to meet and discuss proposed changes to the Gender Recognition Act.¹⁴ This raised hackles within her department. Downes watched a video of Phoenix's talk and said it made her cry. Another colleague wrote: "I can hardly bear to open it."

In June 2019, Phoenix and other academics signed a second letter, published in *The Times*, raising concerns over the relationship between UK universities and Stonewall, a charity formerly dedicated to campaigning for gay rights that now promotes gender-identity ideology.¹⁵ Many universities in the UK are members of the Stonewall Diversity Champions Scheme, and many have committed to embedding Stonewall's definition of "transphobia" into training, monitoring, staff networks, internal communications and workplace culture.

Drake responded to this with another email to a colleague, calling it "problematic/scary/interesting" and raising the presence of non-binary and trans academics on staff. She called it "embarrassing and unsettling" that OU academics had signed the letter and said many in her team were upset.

Hostility from colleagues

At that time, Phoenix began to feel frozen out at the OU. Downes sought a punitive response to the letter in *The Times*, saying that disagreeing with Stonewall "contradicts our institutional commitment to equality and diversity". The deputy head of department, Professor Louise Westmarland, thought that Phoenix was causing tension and called her into a meeting where she told Phoenix that having her in the department "was like having a racist uncle at the Christmas dinner table". Drake later likened Phoenix to Charles Murray (a sociologist who argues that racial inequality is partly attributable to biological differences between races). Phoenix felt increasingly ostracised and isolated.

Blacklisting by the University of Essex

In December 2019 Phoenix was preparing to give a seminar at the University of Essex's Centre for Criminology on the subject of "Trans rights, imprisonment and the criminal justice system". The day before the seminar, allegations started circulating on social media that she was a "transphobe" who was likely to engage in "hate speech". Evidence for this included that she had signed the letter in *The Guardian* and spoken at the WPUK meeting.

¹⁴ Jo Phoenix (2019). '[A Woman's Place is Made to Last](#)', *Woman's Place UK*.

¹⁵ '[Letters to the Editor](#)', *The Times* (16th June 2019).

The University of Essex LGBTQ Forum & Allies peppered administrators with emails accusing Phoenix of such wrongdoing as being “a vocal member of the transphobic lobby that has emerged in academia”. A flyer was circulated which bore a violent image and the words “SHUT THE FUCK UP, TERF” (TERF stands for trans-exclusionary radical feminist; it is used as a term of abuse). There was a credible threat that students would barricade the room and the university cancelled the event. The organisers initially told Phoenix that her talk would be rescheduled, but a few days later they told her she would not be invited back.

Phoenix shared her upset at the threat, cancellation and blacklisting in a departmental meeting at the OU, expecting support. But she was met with silence. A few days later she was told not to discuss the incident or her research on transgender prisoners in departmental meetings. Drake told her it was too challenging for other members of the department.

The LGBT Forum at Essex University sent an open letter to Essex University’s vice-chancellor calling for “a preventative strategy” against inviting speakers such as Phoenix in future. It stated that there should be no place in academia for discussion or debate on “the existence of Trans/nonbinary communities and identities”. The letter said this debate in itself was discriminatory and created an offensive and unsafe environment for those who are trans or non-binary.

A month later, in January 2020, Freedman was due to take part in a roundtable discussion on antisemitism as part of the Holocaust Memorial Week at Essex University. Gender identity was not a topic of that event, but Freedman had previously spoken at several events, including one organised by WPUK, about how to reconcile the human rights of transgender people and those of women and girls.¹⁶ Essex University again received complaints about “TERF viewpoints” and “hate speech” and Freedman was disinvited. The university later added her back to the panel, denying that her gender-critical views were the reason for her having been dropped.

Women’s Place UK conference at UCL

WPUK announced that it would be holding a major one-day conference in February 2020 at UCL, together with UCL’s “Women’s Liberation” special interest group.

The conference for 1,000 participants was planned to mark the 50-year anniversary of the first women’s liberation conference in the UK and to bring together academics, policy makers, practitioners, journalists and activists to discuss a wide range of women’s-rights issues. It was organised with Southall Black Sisters; the feminist charity FiLiA; the National Assembly

¹⁶ Rosa Freedman (2019). [‘Written notes from quest speakers on 31st January 2019’](#), *For Women Scotland*.

of Women; and the Centre for Women's Justice. WPUK asked Phoenix to lead a session on women in prison with Francis Crook, at the time the chief executive of the Howard League for Penal Reform.

As soon as the conference was announced, academics and students started organising to try to get it cancelled. One contributor wrote on a UCL student Facebook forum: "A bunch of UCL academics are planning to host an extremely transphobic group for a day long conference." Some felt that it was "absolutely disgraceful that UCL allows hate speech and anti-minority groups on campus," while others wanted to know whether they could take action to "shut this conference down". A group of UCL staff and student networks prepared a letter and started to collect signatures.¹⁷

This open letter was eventually signed by six vice-deans of EDI from across UCL and by several UCL academics. It said that WPUK's "gender critical" views "are transphobic and discriminator,... go against everything that UCL has been trying to do in promoting equality, diversity and inclusion, and are in direct contradiction to Stonewall's UK Workplace Equality Index". They argued that letting the conference go ahead would "result in a huge backlash from staff and students, and cause considerable reputational damage to the university. It will also cause emotional damage to trans colleagues and students."¹⁸

The UCL Students' Union published a statement strongly objecting to the conference. They said: "Freedom of Expression is not a valid argument to protect people who discriminate against or harass others and in the case of WPUK, by reference to someone's gender."¹⁹

These attacks created substantial difficulties for the conference organisers, who were asked to pay for security in every room, which would have made the event prohibitively expensive. They did not know whether the conference would be allowed to proceed right up until the morning of the date it was being held.²⁰ In the event it did, with a small protest outside.²¹

LGBT+ History Month

In February 2021, during LGBT+ History Month, the OU's Faculty of Arts and Social Sciences internal newsletter featured news items written by the LGBT+ Staff Network Committee.

¹⁷ Pi Media (2020). '[UCL hosting A Woman's Place UK conference sparks concern](#)'.

¹⁸ E (2022). '[Letter from EDI Vice Deans](#)', Professor Alice Sullivan.

¹⁹ Students' Union UCL (2020). '[Our statement on the WPUK conference](#)'.

²⁰ Alice Sullivan (2021). '[Speeches to UCL Academic Board Meeting on Stonewall Membership, 10th December 2021](#)', Professor Alice Sullivan.

²¹ Pi Media (2020). '[Students' Union UCL host trans solidarity demonstration and workshop at IoE](#)'.

These were strongly partisan towards gender ideology (the view that gender identity is more important than biological sex) with no recognition that other points of view could be legitimate. Phoenix and other gender-critical colleagues were concerned that the faculty was taking a particular perspective on the issues.

They sent emails raising this concern. One said:

“Much of the content of the newsletter seems less a celebration of LGBT and more weighted towards an uncritical promotion of unevidenced beliefs about ‘gender’ as well as prescriptions for staff to behave in certain ways.”

It went on:

“By all means, staff should be free to identify as they wish, dress, and behave as they like, within the law. I have always respected my colleagues’ personal identities, and they can of course request to others to use pronouns of their choosing. But we are in an uncomfortable area if we exhort staff to comply with others’ personal beliefs including that they are the opposite sex.”

The Reindorf report

Essex University, meanwhile, was facing complaints about its treatment of two gender-critical academics, Professor Phoenix and Professor Freedman. Vice-chancellor Anthony Forster realised he had a problem and commissioned Akua Reindorf, a barrister at Cloisters Chambers, to investigate.

Reindorf interviewed staff and students. She found a “culture of fear” among those whose views on gender identity deviated from gender ideology. Reindorf found that:

- **There was no risk that Professor Phoenix’s seminar might amount to “hate speech”,** nor any reasonable basis for thinking that either Professor Phoenix or Professor Freedman might engage in harassment or any other unlawful speech.
- **There was no reasonable basis for thinking that harassment or discrimination would be perpetrated** against trans or non-binary people.
- **The university was in breach of its statutory duties** to ensure freedom of speech for visiting speakers, its duties under charity law and potentially the public-sector equality duty, and had potentially committed sex discrimination and belief discrimination against gender-critical members of the university.

In her report Reindorf highlighted the role of Stonewall-influenced policies in creating this environment.²²

In May 2021 the University of Essex published Reindorf's report and issued open apologies to Phoenix and Freedman.²³ The vice-chancellor admitted that the university had made serious mistakes and vowed to do his "very best to learn from these and to ensure they are not repeated".

For the 18 months between her cancellation by Essex and the publication of the apology, Phoenix had lived under a cloud of suspicion. Invitations to speak at other universities dried up, and she received no support from the OU. The Reindorf report vindicated her, but it did not lead to any greater understanding within her department or from the OU, which made no attempt to apply any of the lessons of the review.

Gender Critical Research Network

On 16 June 2021, Phoenix and five other gender-critical academics at the OU launched the **OU Gender Critical Research Network** (GCRN). Their aim was to do something productive to build knowledge and help solve public-policy problems across different academic disciplines.

They had been given courage by the Reindorf report and the recent Employment Appeal Tribunal decision in the Forstater case that gender-critical beliefs are "worthy of respect in a democratic society".²⁴

It was a low-key launch during lockdown. They published a page on the OU website, launched a Twitter account and held a webinar. Their website featured an interview that Phoenix had done with an independent podcast called *Savage Minds* after the Reindorf report:²⁵ she had discussed her experience of life as a lesbian, her cancellation by the University of Essex and Stonewall's representation of lesbians over the years.

Within hours of the launch the GCRN was being publicly attacked as being "anti-trans". The university's Knowledge Media Institute, which hosted the website, started to get complaints as activists mobilised on sites such as Reddit.

²² Akua Reindorf (2020). [Review of the circumstances...](#)

²³ Professor Anthony Forster (2021). '[Review of two events involving external speakers](#)', University of Essex.

²⁴ [Forstater v CGD \[2021\] EAT](#).

²⁵ Savage Minds (2021). [Jo Phoenix](#).

Bullying letters

In the week that followed, a series of statements and open letters were published and promoted by staff at OU and other universities calling on the OU to withdraw its support from the network.

The first one came from a group of Phoenix's colleagues. It was published as a Google document and circulated on social media and internal forums to gather signatures.²⁶ The letter called on the OU's vice-chancellor to withdraw support for the GCRN and to commit to developing a plan of action for supporting and affirming trans students and staff "in this trans-hostile external and internal environment". It stated that gender-critical feminism was "fundamentally hostile to the rights of trans, non-binary, and genderqueer people" and that the OU's decision to approve and promote the network was in conflict with its obligations under the Equality Act 2010.

Over 3,000 tweets about the GCRN were posted between 17th June and 21st June 2021, both positive and negative. Phoenix received hundreds of hostile, intimidating and offensive tweets, including 14 from colleagues. They referred to the GCRN as a "transphobic/TERF/GC campaign network". Members of the network were accused of "working against the rights of marginalised communities in this case Trans & non binary people". Another tweet referred to the "openly transphobic @openuniversity Gender Critical Research Network".

Downes tweeted a link to an article about the GCRN purportedly written by an OU student, which described gender-critical beliefs as "transphobic" and "bigotry" and used the word "TERF". It said that:

["We have the Equality Act 2010, which means you can fuck right off with all this transphobic bullshit."](#)

The LGBT+ staff network published a statement on the staff network Yammer, stating that the announcement of the network "without warning, as well as its presence on OU websites and implied association with the OU brand, has caused significant concern and distress for trans, non-binary and gender non-conforming staff and students".

The Department for Gender Studies at the London School of Economics (LSE) published a statement of solidarity with those criticising the GCRN. The statement called the GCRN "an explicitly anti-intellectual attack on Gender Studies, trans, nonbinary, and gender-nonconforming people, and inclusive, intersectional feminist politics" and said the network was "openly opposed to recognising trans people's rightful and valid claims to their

²⁶ Open University (2021). '[Open letter from OU staff and postgraduate research students – response to the launch of the Gender Critical Research Network](#)'.

gender and their rights". It claimed that "those espousing gender critical perspectives routinely make transphobic, discriminatory, inaccurate, and harmful claims about trans people specifically, and gender more broadly, that have profoundly negative effects on social and political life". Several of Phoenix's colleagues reposted the LSE statement.

The Gender Studies department at the University of London School of Oriental and African Studies (SOAS) also reposted it, saying:

"Excellent @LSEGenderTweet statement in solidarity with staff and students at the Open University who are facing an unwelcoming and antagonistic environment because of the newly created Gender Critical Research Network."

The department of sociology at the OU reposted the SOAS tweet.

The OU student LGBT+ network set up a similar open letter for students. The OU Students Association issued a statement "to show support for all our Trans and Non-Binary students and staff" and highlighting "the upset that the Gender Critical Research Network has caused". The student network also posted the two letters for signing.²⁷

In total, the main open letter ended up being signed by 368 OU staff members and postgraduate researchers. Phoenix said it felt "deeply humiliating, both personally and professionally, to be condemned by colleagues in this public way".

At the same time as watching in horror as the list of names of colleagues signing the letter grew, Phoenix was also receiving threats and harassment, including death threats, from anonymous social-media accounts.

Essex University VC recants

After the Reindorf report, Essex University's vice-chancellor, Forster, had published an apology to Phoenix and Freedman and said he would act on the recommendations. But he soon came under pressure to recant.

A group of academics complained that the Reindorf report would have a "significant negative impact on student and staff wellbeing".²⁸ Six weeks after its publication, Forster apologised for releasing the report during Pride month and for "anyone having been made to feel unsafe as a result of the Review". He wrote specifically to apologise to trans and non-binary staff

²⁷ OU Students Association (2021). '[Statement on Gender Critical Research Network](#)'.

²⁸ Julie Bindel (2021). '[The University of Essex abandons its faculty to ideologues](#)', *UnHerd*.

through the LGBTQ+ staff forum chair.²⁹ This was the group that had mobilised to try to get Phoenix blacklisted.

Phoenix and Freedman felt the second apology fundamentally undermined the university's commitment to act on the Reindorf report. They said: "We now believe the initial apology to be little more than a PR stunt."³⁰

Statements and more statements

Phoenix asked the OU to take action to protect her under the university's bullying and harassment policy.

Instead, the OU took action that made it worse. On 24th June 2021 Tim Blackman, the OU's vice-chancellor, posted a statement on the university intranet. It referred to "strength of views and level of distress on all sides" and claimed that the network had "caused hurt and a feeling of being abandoned among our trans, non-binary and gender non-conforming staff and students". It said that the formation of the network was "compatible with our duty to uphold academic freedom, but we need to do more than this to safeguard the wellbeing of our community".³¹

The statement also set out a number of actions that would be taken as a result of high-level discussion, including "a review of all relevant policies to ensure they are fit-for-purpose... supported by expert and independent legal counsel", a review of "how adequately our staff training and professional development address these issues", a consultation on "an initiative that aims to bring all parties at the OU together into a common conversation that seeks to find agreement, or agreement to disagree, on a civil and respectful basis" and a review of "how the University oversees the establishment of academic networks and centres, and whether there are lessons to be learned from recent events and from good practice across the sector".

What it did not do was acknowledge the distress of the members of the GCRN or other gender-critical staff, or give any indication that the bullying and harassment of Phoenix and the others was unacceptable or that there would be any consequences.

²⁹ Professor Anthony Forster (2021). '[Our commitment to our trans and non-binary staff and students](#)', *University of Essex*.

³⁰ Rosa Freedman and Jo Phoenix (2021). '[Joint Statement about the University of Essex](#)', *On being a professional academic in an anti-intellectual age*.

³¹ Tim Blackman (2021). '[Gender Critical Research Network – A message from the Vice-Chancellor](#)', *The Open University*.

If this message was designed to calm the situation, it did anything but. The bullying and harassment ramped up.

On Yammer the LGBT+ staff network discussed the statement, accusing the GCRN of “sharing transphobic views and materials on their website”, of being a “hate group” and of attacking the basic rights of trans people by “amplifying and legitimising hostile and degrading transphobic content”.

A second statement was published by another group of academics within the OU. The Reproduction, Sexualities and Sexual Health research group published its statement on the official Wellbeing, Education and Language Studies (WELS) faculty website. It questioned the good faith of the GCRN because it was “launched with no prior notification to colleagues”. It said the term gender-critical “was chosen as a deliberate provocation to trans communities”. It accused the network of sharing materials “containing transphobic comments” and included a claim about “putting human lives at stake”.

Then a third statement was published, this time from the Knowledge Media Institute (KMI), disassociating it from the GCRN and saying it did not “condone or support” its views. It said that “not only in this Pride month, we believe that the health, wellbeing and inclusion of trans and non-binary staff, students and people across the globe is paramount”.

The University College Union also published a statement. Like the vice-chancellor’s statement, this one said it opposed intimidation, bullying or disrespect in general, but mentioned only trans people as victims. It called for support for trans and non-binary staff, but made no mention of support for gender-critical people.

That day Phoenix submitted a grievance to the university.

Jo Phoenix pleads for protection

In her grievance, Phoenix said that because of her gender-critical beliefs she had been ostracised, silenced, bullied and subjected to a targeted campaign of harassment. False allegations had been made that she and her GCRN colleagues were fundamentally hostile to trans rights. She had been subjected to a death threat and feared further such threats. Her mental health was being harmed, and enormous damage was being done to her professional reputation. She said that she had received no support over this time, during which her mother had died and she had had spinal surgery. She asked for disciplinary action to be taken to stop the defamatory and discriminatory public campaign against her, and called on the university to confirm that it would not treat the GCRN less favourably than other research networks.

Phoenix asked for the WELS and KMI statements to be taken down from the OU websites. The university responded that it would not remove them because the statements were covered by academic freedom.

Phoenix also sent an email to Blackman describing the impact on the members of the GCRN of the accusations of transphobia and the campaign of harassment. She said that the OU was tacitly endorsing the campaign by failing to condemn it, by taking no action and by talking about “distress on all sides”. She once again asked for help, saying:

“There is urgent need for action in respect of the open letters, statements and Tweets to prevent further harm.”³²

The OU fails to protect

In August the members of the panel investigating Phoenix’s grievance requested that the WELS and KMI statements be taken down. The OU again refused, citing academic freedom.

The grievance process ground on slowly, despite requests from Phoenix to speed it up. No date was offered for its conclusion.

On 16th October 2021, 240 academics, including Phoenix, wrote to Kishwer Falkner, the chair of the Equality and Human Rights Commission, asking for the regulator to undertake a “Reindorf Review” of the HE sector. They said:

“It is now clear that many university leaders lack the courage or capacity to address the issue, which they have allowed to continue for several years in the face of mounting public criticism.”³³

In November 2021 the OU published an update on the vice-chancellor’s statement. It spoke again of the OU’s concern for those who found the GCRN’s work challenging. Again, it failed to acknowledge or challenge the targeted campaign against the GCRN.³⁴

This was the final straw. Phoenix, who had been on and off sick leave with stress, resigned, claiming constructive dismissal. In her resignation letter, she said that the reason for her resignation was the way she had been treated over the previous two years and “being made to feel like a pariah”.³⁵

³² *J Phoenix v The Open University and others [2024] UKET 3322700/2021*, paragraph 453.

³³ Sex Matters (2021). ‘[Academics write to the EHRC](#)’.

³⁴ The Open University (2021). ‘[Update on actions taken following VC statement on GCRN and academic freedom](#)’.

³⁵ Jo Phoenix (2021). ‘[My resignation letter](#)’, *On being a professional academic in an anti-intellectual age*.

The legal case

The tribunal

The OU responded to Phoenix's tribunal claim by halting the investigation of her grievance and denying all claims that it had unlawfully harassed or discriminated against her.

In its response to the claim, the OU denied that the reason for pulling out of the conference with the CCJS was because Garside had publicly expressed gender-critical views. Rather, it said, the threats of protest had made it "impossible to hold the event for its original purpose of celebrating Professor Sim and his work and legacy".

Westmarland said she did not recall making the "racist uncle" comment.

The OU denied that Phoenix had been instructed not to speak to the department about her research or her treatment by Essex University. It said she had been told that departmental meetings were for discussing departmental or university business, and that her treatment could be discussed outside those meetings.

Dr Drake said the comment about Charles Murray was a "thought experiment" about how his colleagues would have interpreted Murray's work, and that she had apologised when she realised it had upset Phoenix.

Few other facts were disputed. Instead, the OU tried to characterise Phoenix and the other GCRN members as aggressors because some considered their views to be offensive and harmful.

The university argued that it had been reasonable to characterise the comments made in the *Savage Minds* podcast as transphobic and "likely to offend trans or non-binary people".

It said that the emails from gender-critical staff members about the LGBT history month newsletter, in which gender identity or expression were described as "unevidenced beliefs" and "personal beliefs", could reasonably be upsetting and offensive to those who are trans, non-binary or gender non-conforming, and that the comments regarding pronouns could reasonably be interpreted as suggesting that it might be acceptable to "misgender" people.

It also argued that one initial member of the GCRN had posted tweets that "misgender[ed]" trans people, referred to them by "deadnames" and used the "often considered transphobic trope of 'men in dresses'".

It defended the open letter as being neither discrimination or harassment, saying that it did not name Phoenix or the other five founders of the GCRN.

It said that when the KMI received messages criticising the GCRN and KMI's hosting of its webpage, these messages "caused distress to KMI staff, including a trans member of staff and junior staff", and that KMI was also concerned that its association with the GCRN could jeopardise its rating under the Athena Swan award scheme.

The OU said that it had taken legal advice and, in light of that advice, considered that the letters and statements did not constitute unlawful harassment and were within the bounds of academic freedom and freedom of speech. It said that it had:

"consistently emphasised the need to ensure that it is an environment where open debate occurs in a manner consistent with its Statement of Principles on Academic Freedom".

It said that it had provided training to staff on belief discrimination following the Forstater ruling, but it did not accept that that university staff had done anything wrong.

It said that it did not view the tweets and open letter as harassment in light of:

"the polarised and contested discourse regarding gender critical views and trans rights under the Equality Act, the genuine and deeply felt concern by trans people and their allies that gender critical views, and the actions of some with those views, deny the rights of trans people in relation to gender identity and gender expression".

The OU sent 18 witnesses to defend its behaviour, and is estimated to have spent in the region of £1 million defending its case.

The judgment

On Monday 22nd January 2024, the tribunal handed down a judgment that Phoenix had been subjected to a targeted campaign of harassment and discrimination by the OU because of her gender-critical belief.³⁶

The tribunal rejected the characterisation of Phoenix and the other founders of the GCRN as aggressors. It found that they had been the victims of discrimination and harassment.

"We conclude that having 368 of your colleagues sign a public letter saying that you are part of a group that is fundamentally transphobic, is stigmatising and damaging and objectively was conduct that had the effect of creating an

³⁶ *J Phoenix v The Open University and others [2024] UKET 3322700/2021*.

intimidating, hostile, degrading, humiliating or offensive environment for the Claimant.”

Overall the tribunal found two acts of direct discrimination and 23 acts of harassment against Phoenix (or over 300 acts if each signatory was counted separately).

1. 23rd October 2019: Westmarland compared Phoenix to a “racist uncle at the Christmas dinner table”. **Harassment**
2. 12th December 2019: Lack of praise when Phoenix reported being included in a grant compared with praise for a gender-affirmative colleague completing a funding application. **Direct discrimination**
3. December–January 2020: Drake instructed Phoenix not to speak to the department about her research or about the accusation that Phoenix was a “transphobe”. **Direct discrimination**
4. 11th June 2021: Drake compared Phoenix to Charles Murray. **Harassment**
5. 17th June 2021: OU staff members signed and published the open letter. **Harassment**
6. 18th June 2021: OU LGBT+ Staff Network Committee issues a statement linking to the open letter. **Harassment**
7. 18th June 2021: OU Sociology Department retweets the LSE statement. **Harassment**
8. 24th June 2021: Publication of the WELS statement. **Harassment**
9. 24th June 2021: Knowledge Media Institute publishes statement. **Harassment**
10. 24th June 2021: Cath Tomlinson (senior student advisor) posts a message on Yammer and the moderators fail to remove it. **Harassment**
11. 24th June 2021: Professor Peter Keogh of the School of Health, Wellbeing and Social Care sends an email to the LGBT Network email list about the vice-chancellor’s proposed statement, stating: “The issue is that the network are actually sharing transphobic views and materials on their website”. **Harassment**

Tweets and retweets by colleagues

12. “Just a heads up that the @OpenUniversity have just launched their own transphobic/TERF/GC campaign network.” **Harassment**
13. “Open University staff (including PGRS) who are concerned about the new gender critical research network and its impact on our trans colleagues and students assemble. Read and add your support in this open letter.” **Harassment**
14. “I stand in total solidarity with the other OU students and staff who are demanding action regarding GCs...” **Harassment**
15. “Seeing UK University research networks approved & set up working against the rights of marginalised communities in this case Trans & non binary people is another shocking milestone in 2021.” **Harassment**

16. "To commemorate the launch of the openly transphobic @openuniversity Gender Critical Research Network, why not read our rigorously peer-reviewed essay collection 'TERF Wars: Feminism and the fight for transgender futures?'" **Harassment**
17. "Thank you for your solidarity and support @LSEGenderTweet." **Harassment**
18. "Solidarity from LSE" with link to LSE Statement. **Harassment**
19. "...If you are OU staff or a PGR, perhaps you'd consider signing this open letter, which expresses concern about the impact of the new Gender Critical Research Network on trans/NB staff and students." **Harassment**
20. "Many of us wrote emails yesterday complaining about this 'gender critical' network and now there's an open letter to sign too...I feel we must do all we can to support our trans and non-binary colleagues." **Harassment**
21. "The point of the OU's transphobic research network, the point of giving LGBA [LGB Alliance] charitable status, is to slowly erect a set of establishment institutions on which the gov't can lean as they seek to sacrifice trans and nonbinary people to their culture war." **Harassment**
22. "I'm extremely grateful for the solidarity shown here. This is a very well explained statement, so please do read it if you want to know why staff/ students at the OU you feel so let down." **Harassment**
23. "The Reproduction, Sexualities and Sexual Health Research Group at @Open University has written a detailed letter to request that all university support for the gender critical network is withdrawn, and that they are removed from all Open University websites." **Harassment**
24. 24th June 2021 onwards: OU's failure to respond to the acts of harassment and discrimination following Phoenix's email. **Harassment.**
25. Since 24th June 2021, continuing to publish the WELS Statement on the OU's website. **Harassment**
26. The tribunal found that Phoenix had been **constructively unfairly and wrongfully dismissed.**
27. Halting the grievance investigation. **Post-employment victimisation.**

The tribunal criticised several of the OU's witnesses, impugning both their credibility and their professionalism. It found a mixture of motivations. Williams displayed "an irrational fear and was hostile to the Claimant because she had gender critical beliefs". Downes, Westmarland, and Drake were found to be "supportive and/or sympathetic to gender identity views rather than gender critical views" and to have acted against Phoenix on this basis.

Downes was easily upset, for example crying about the video of the WPUK talk, in which the tribunal found nothing that was objectively upsetting.

Keogh – who signed the original open letter, wrote the WELS statement and later vacillated about whether gender-critical beliefs were protected at all – was found to be insincere in his evidence. The tribunal said he was simply unconcerned with what the law said and failed to accept that gender-critical beliefs were protected.

A wider group was seeking to show solidarity with trans-identifying staff, or was fearful of standing up to those who claimed offence.

OU decision-makers spent in the region of £1 million to defend the cowardly, irrational and incompetent behaviour of its staff because its senior leadership team failed to recognise unlawful discrimination.

Apology and independent review

Following the judgment, Professor Blackman issued a statement saying the university was disappointed and would consider whether to appeal. His statement suggested that the persecutors were as much victims as the claimant:

“We are deeply concerned about the wellbeing of everyone involved in the case and acknowledge the significant impact it has had on Prof Phoenix, the witnesses and many other colleagues. Our priority has been to protect freedom of speech while respecting legal rights and protections.”³⁷

On 26th January Blackman made another public statement:

“This judgment made for difficult reading for all of us. In several areas we fell very short. We apologise unreservedly to Professor Phoenix for the hurt and distress this has caused.

He announced that the OU would initiate a major independent review of its internal working environment.

“This will include addressing the challenge we and the sector face balancing the complexities of upholding academic freedom, freedom of speech, and equality and employment rights. It will help us to work together to ensure those with differing views are safe and free to express their opinions within the law.”

On 7th May the university announced that Professor Dame Nicola Dandridge (formerly Chief Executive of the Office for Students, Universities UK and the Equality Challenge Unit) would lead the review. While the review is framed in terms of how the university manages

³⁷ Haroon Siddique (2024). ‘Open University academic wins tribunal case over gender-critical views’, *The Guardian*.

disagreements, it does not specifically address how the Open University will stop its staff from demonising, harassing and discriminating against staff with gender-critical beliefs.³⁸

The OU announcement initially included the information that Smita Jamdar, a partner at Shakespeare Martineau, had been appointed to provide independent legal advice to the review. Jamdar frequently tweets messages such as;

[“To all trans and non-binary folks out there I want to be the best ally I can.”](#)

She described it as “sad” that people objected to employers being part of Stonewall’s workplace rating schemes and responded to the Reindorf report:

[“Honestly don’t see why Stonewall are being pilloried for pursuing “rights as they want them to be not as they are”.”](#)³⁹

³⁸ The Open University (2024). [‘Professor Dame Nicola Dandridge to lead post-employment tribunal review’](#).

³⁹ Maya Forstater (2024). [Tweet @MForstater, 8th May 2024](#).

What are the lessons?

The legal lesson from the Phoenix case is simple: follow the Equality Act. The institutional lessons are harder, and it appears from OU's actions that there is a strong reluctance to address the co-ordinated persecution of gender critical staff or students.

Follow the Equality Act

The Phoenix case (and the preceding cases of Maya Forstater, Allison Bailey, Denise Fahmy and Rachel Meade)⁴⁰ provides a few straightforward lessons:

- Discrimination and harassment in respect of people with “protected characteristics” is unlawful under the Equality Act.
- The “gender-critical” belief that sex matters is covered by the protected characteristic of religion or belief. People with gender-critical beliefs have equal rights and protections to those with other beliefs.
- Feeling offended or even “unsafe” does not necessarily mean that a person is being harassed. The court has to decide if the conduct in question could reasonably have that effect. Again and again the tribunal found that the offended response of Phoenix's colleagues was unreasonable.⁴¹
- The idea that you can hold a protected belief but not manifest it is wrong in law. Employers are not free to discriminate against people for allowing beliefs to escape from their heads. Employers can have policies and practices (such as social-media policies and workplace codes of conduct) that limit how people express themselves in general in certain situations, but those policies should not directly discriminate against people with particular beliefs. Policies and practices that put people with particular beliefs at an indirect disadvantage need to be justified as a proportionate means to a legitimate aim.
- If employers equate gender-critical views with transphobia and bigotry, this is direct discrimination, as it is based on stereotypical and negative assumptions about those

⁴⁰ Best Free Speech Practice has written briefings on these cases for universities: see '[Universities and free speech](#)' at [bfsp.uk](#).

⁴¹ As Lord Justice Nicholas Underhill found in *Dhellwal v Richmond Pharmacology [2009]*: “What the tribunal is required to consider is whether, if the claimant has experienced those feelings or perceptions, it was reasonable for her to do so. Thus if, for example, the tribunal believes that the claimant was unreasonably prone to take offence, then, even if she did genuinely feel her dignity to have been violated, there will have been no harassment within the meaning of the section.”

who hold gender-critical beliefs. Promoting this as an institutional view is likely to be harassment.

Organisations must follow the Equality Act and have policies that are clear and even-handed.⁴² Their policies should enable them to pursue their mission. For universities, this includes protecting academic freedom.

Why did the OU fail to follow the Equality Act?

During the tribunal hearing, the OU said that it provided training to its people advisors and HR business partners on the Forstater decision. But this training appears to have been ineffective.

The OU did not have uniquely poor staff. It was in the grip of something wider. As the case illustrates, hostile attitudes to gender-critical people are all too common in academia, and the law is often ignored or misunderstood.

Shereen Benjamin and Neil Thin note something similar in their interactions with managers at Edinburgh University:

“They appear to have fundamentally misunderstood the difference between upholding the human rights of transgender-identifying people (which universities are legally and morally obliged to do), and the beliefs and demands of gender identity theory (which should be a matter for good-faith discussion). Because of that misunderstanding, managers mistake the site of the conflict as ‘the trans issue’ and having failed to understand the underlying causes, mostly fail to deal effectively with its consequences.”⁴³

The hostile environment experienced by those who seek good-faith discussions about gender-identity theory and its consequences is illustrated in an exchange from the Phoenix case files. On 10th June 2021, when the Employment Appeal Tribunal published its finding in the Forstater case that gender-critical beliefs are “worthy of respect in a democratic society”, Sally Hines, professor of gender studies and sociology at Sheffield University, posted on X (Twitter):

“Anyone celebrating the Forstater ruling is basically (and mistakenly) celebrating the right to be a bigot. These things just show people as they really are.”

⁴² Best Free Speech Practice (2024). *Equality Act and employer liability for harassment for protected views: the Phoenix case*.

⁴³ Shereen Benjamin and Neil Thin (2022). ‘*Sex, Gender and Academic Freedom: a guide for university managers*’, *University of Edinburgh Academics for Academic Freedom*.

Phoenix's colleague Downes reposted this with the additional message:

“Well done you have protected your rights to say dehumanising things. Such an important contribution to what us diversity workers are trying to do in creating a non-hostile workplace and culture that respects difference [eye-rolling emoji].”⁴⁴

Smita Jamdar, the lawyer who would later be appointed by the Open University to provide independent legal advice to the post-tribunal review, tweeted:

“Forstater v CGD Judgement 2019< fascinating case on balancing competing freedoms, involving trans rights and radical feminism, Basically concludes that refusing to accept trans people have rights is not a belief worthy of respect in a democratic society.”⁴⁵

At several points Phoenix asked for help, but the university ploughed on without challenging the discrimination and harassment she was suffering, which was encouraged by hostile attitudes, fear of being accused of transphobia and the view of “experts” including the LGBT+ network, Stonewall and Athena Swan, the dean of EDI and the legal counsel drawn in to help review university policies.

None of these experts helped the OU to avoid falling into the trap of wrongly characterising Phoenix's views as denying trans people's rights, and subjecting Phoenix to ongoing and escalating harassment. In fact, they encouraged the university's misplaced confidence that it was acting in line with the law.

Academia is vulnerable to mobbing

Professor Ian Pace of City University has written that what happened to Phoenix can be understood as an example of the phenomenon called “workplace mobbing”.⁴⁶ This concept was named by the Swedish psychologist Heinz Leymann in the 1990s. He defined it as “systematic stigmatising through, inter alia, injustices (encroachment of a person's rights)” at the hands of either workmates or management.

Leymann found that when a dominant group of colleagues subjects a workmate to rumours, slander, ridicule and ostracism, management often finds it easier to view the victim as the problem. Left unprotected by management, the victim finds the workplace increasingly

⁴⁴ *J Phoenix v The Open University and others [2024] UKET 3322700/2021*, paragraph 130.

⁴⁵ Smita Jamdar (2019). [Tweet @smitajamdar. 19th December 2019.](#)

⁴⁶ Ian Pace (2024). [‘The Jo Phoenix case shows the perils of academic mobbing’](#). *Times Higher Education*.

hostile and so becomes ill, defensive or ineffective. Their mental health suffers and they often end up either being dismissed or resigning.⁴⁷

Factors that make someone vulnerable to mobbing include race, sexual orientation, class and background. Individuals at particular risk include those who have marked success, act as whistleblowers or dissent publicly from received wisdom.

Academics are supposed to be able to dissent from received wisdom. But universities are particularly vulnerable to the group dynamics identified in studies of groupthink. These in turn enable mobbing. The “economy” of academia runs on favours, including the peer review of book proposals, articles, research grants and outcome reports; the writing of references and the performance of such extra-institutional tasks as external examinations and consulting on new degree programmes. Hiring, firing, promotion, funding and publication decisions are made by committees with reference to standards and objectives that are ambiguous and hard to measure.

Ideologically motivated equality, diversity and inclusion (EDI) policies that misunderstand the Equality Act make this situation worse. Rather than protecting minorities against mobbing, they give the mob another weapon.

From the student who wrote “we have the Equality Act 2010, which means you can fuck right off with all this transphobic bullshit” to the dean of EDI, who turned out under cross-examination to be unable to recognise how the basic concept of discrimination could be applied to gender-critical belief, to the OU witnesses who lied, dissembled and appeared confused when asked to explain their decisions, the OU showed itself to be in the grip of an institutionalised misunderstanding about the law. That misunderstanding facilitated the mobbing of Phoenix and the GCRN. Those who took part in the mobbing often did so in the belief that the Equality Act (as communicated to them through training from Stonewall) was on their side.

Universities are signed up to institutionalised prejudice

Many universities are members of benchmarking schemes that misstate the law and tell them to ignore and downplay the rights of gender-critical people, and to view those people with prejudice.

This is the problem Phoenix and the other gender-critical academics had been trying to explain to their employers since 2018. As they wrote in the open letter to *The Guardian*:

⁴⁷ Heinz Leymann (1990). ‘[Mobbing and Psychological Terror at Workplaces](#)’, *Violence and Victims*, 1990 Summer; 5(2):119–26. PMID: 2278952.

“Many of our universities have close links with trans advocacy organisations who provide ‘training’ of academics and management, and who, it is reasonable to suppose, influence university policy through these links. Definitions used by these organisations of what counts as ‘transphobic’ can be dangerously all-encompassing and go well beyond what a reasonable law would describe. They would not withstand academic analysis, and yet their effect is to curtail academic freedom and facilitate the censoring of academic work.”

The **Stonewall Diversity Champions** scheme is a “community of employers” who pay an annual subscription to receive advice and support from Stonewall on how to advance LGBT equality in the workplace. Stonewall states that it gives advice, support and resources to organisations on meeting their statutory requirements under the Equality Act 2010 and going “beyond the legal minimum”. Of the 24 members of the Russell Group of universities, 21 are part of the scheme.⁴⁸

Stonewall instructs member organisations that “transphobia” is defined as “the fear or dislike of someone based on the fact they are trans, including denying their gender identity or refusing to accept it”. This definition characterises people with gender-critical beliefs as “transphobic”, since they do not accept that a person’s gender identity makes them a man or a woman.⁴⁹

Stonewall has published guidance for universities that warns against platforming speakers who deny “that trans people exist as the gender they say they are”. It also says that students must be allowed to use facilities based on their self-identified gender; that trans-identifying students should be able to participate on the sports teams that they want; and that universities should review their curricula, including holding “LGBT curriculum review days for individual courses, involving staff and students”.⁵⁰

Many universities also take part in the **Stonewall Workplace Equality Index**, an annual policy benchmarking scheme which requires them to submit detailed answers to a wide variety of questions. Topics covered include the institution’s policies and benefits, the employee lifecycle, staff networks, allies and role models, senior leadership, monitoring, procurement,

⁴⁸ Committee For Academic Freedom (2024). ‘[Our Mission](#)’.

⁴⁹ Committee for Academic Freedom (2024). ‘[Nine UK universities label gender-critical academics transphobes, investigation reveals](#)’.

⁵⁰ Stonewall (2019). [Delivering LGBT-inclusive higher education](#).

customers, service users and clients.⁵¹ Universities and other employers are expected to “empower” all employees “to step up as change makers and allies”.⁵²

The **Athena Swan Charter**, launched with the aim of supporting women working in the disciplines of science, technology, engineering, maths and medicine (STEMM), promotes similar ideas. Since 2015 the Athena Swan programme has shifted its focus from “women” to “gender”. In 2016 it began to recommend that universities avoid collecting data on sex. The 2021 charter asserts that “gender is a spectrum”. In 2021 participating universities were required to make a commitment to “fostering collective understanding that individuals have the right to determine their own gender identity”.⁵³

Research on universities that have taken part in Athena Swan from 2012 to 2018 found that participation was not associated with an increase in female representation. In fact, institutions that belong to Athena Swan and hold an award have a lower proportion of women in senior positions.⁵⁴

The notion of fostering a “collective understanding” is antithetical to academic freedom. Ideological policing such as this impinges upon academic freedom and diminishes the diversity of the curriculum. Athena Swan has already led to EDI-driven curriculum change, for example at Oxford University, where the history faculty asked graduate students to vet reading lists and examinations.⁵⁵

Sally Hines (who responded to the Forstater judgment by saying that anyone celebrating it was “celebrating the right to be a bigot”) was a key member of the working group that developed the “gender as a spectrum” principles. She has declared her long-term vision for Athena Swan as leading to widespread curriculum change.⁵⁶

A third scheme is the **UK Medical Schools Charter on So-Called LGBTQ+ “Conversion Therapy”** (GLADD Charter).⁵⁷ Vice-chancellors and heads of medical schools agree that medical school students and staff should “under no-circumstances, participate in the

⁵¹ See for example [Edinburgh University’s response on 30th October 2020](#) to a freedom-of-information request 1667284 at the website *What Do They Know*.

⁵² Sex Matters (2022). [‘What does it take to get into Stonewall’s Workplace Equality Index?’](#)

⁵³ Athena Swan (2021). [Template Principles Letter](#).

⁵⁴ John Armstrong and Alice Sullivan (2023). [‘A Time-Series Analysis of the Impact of Athena Swan on the Representation of Women in Senior Roles’](#), SSRN.

⁵⁵ John Armstrong and Alice Sullivan (2023). [‘A Critical Analysis of Athena Swan as a Policy-Scoring Scheme’](#), SSRN.

⁵⁶ Sally Hines (2021). [‘Beyond Gender Wars and Institutional Panics: Recognising Gender Diversity in UK Higher Education’](#), *Sociological Studies Research*.

⁵⁷ GLAAD (2023). [UK Medical Schools Charter on So-Called LGBTQ+ “Conversion Therapy”](#).

provision any form of ‘conversion therapy’” and commit to supporting the campaign for legislation banning so-called “conversion therapy” and ensuring that curricula “include authentic and joyful representation of LGBTQ+ people”.

Many of those who support this charter take an expansive view of “conversion therapy” to include any therapy that does not affirm a child’s transgender identity and endorse their desire for medical intervention.

The closing down of debate and research in medical schools and journals has had a direct and harmful impact. It has contributed to a lack of sound evidence on the aetiology of childhood gender dysphoria and the consequences of giving children puberty blockers and cross-sex hormones.⁵⁸ Medical conferences have been cancelled and protested against in the name of countering an ill-defined spectre of “conversion therapy”.⁵⁹ When the UK Council for Psychotherapy announced in April 2024 that it had withdrawn from the Coalition Against Conversion Therapy, the lead author of the GLADD charter said that the professional body now “supports the abuse of people in the LGBTQ+ community” and seeks to “inflict harm”.⁶⁰

Dr Hilary Cass, who chaired the Independent review of gender-identity services for children and young people for NHS England, published her final report in April 2024. She highlighted the lack of good-quality research on outcomes for gender-distressed children and observed that:

“There are few other areas of healthcare where professionals are so afraid to openly discuss their views, where people are vilified on social media, and where name-calling echoes the worst bullying behaviour.”⁶¹

Following the publication of the Cass Review, a group of academics led by Natacha Kennedy (the transgender academic who had drawn up the list of gender-critical academics to target in 2018) wrote an open letter urging the NHS not to act on its recommendations because Cass had engaged with people “accused of supporting ‘conversion therapy’”.⁶²

⁵⁸ Hannah Devlin and Ian Sample (2024). “‘This isn’t how good scientific debate happens’: academics on culture of fear in gender medicine research”, *The Guardian*.

⁵⁹ Ruth Pearce (2024). ‘[RCGP host conversion therapy conference in London – protest 23 March](#)’. *Dr Ruth Pearce*.

⁶⁰ Joseph Hartland (2024). [Tweet @HartlandJoseph, 6th April 2024](#).

⁶¹ The Cass Review (2024). [Final report](#).

⁶² ‘[Letter from academics concerned about The Cass Review](#)’, *Uncommon Sense*, 13th April 2024.

Universities are not letting go of Stonewall

Universities have shown themselves remarkably resistant to reconsidering schemes such as Stonewall Champions, despite the mounting evidence that those schemes misrepresent the law, fail to support everyone's rights, contribute to a hostile environment for gender-critical staff and students and undermine academic freedom.

In May 2021, after the EHRC acknowledged that gender-critical beliefs are legally protected, Stonewall, along with a number of other trans and LGBTQ+ organisations, wrote an open letter to express “frustration and disappointment” at the lobby group’s “recent record on LGBTQ+ people’s rights and trans people’s rights specifically”. It called the EHRC’s position a “kick in the teeth”.⁶³

When the EHRC published a cautious position on gender self-identification and on legislating to ban conversion therapy, Stonewall responded by saying that the regulator was not fit for purpose and reporting it to the international organisation GANHRI.⁶⁴

Following the Reindorf report and the Forstater judgment, Stonewall defended itself publicly by downplaying the problem of discrimination against those with gender-critical beliefs. It said: “The substance of the [Forstater] judgment makes it clear that the protection is very narrow, clears a very low bar, and does not impact trans people’s protections under the Equality Act.” At the same time, it said that employers should go “beyond the letter of the law” and proudly “support LGBTQ+ people to thrive in the workplace”.

Stonewall says that people with gender-critical beliefs are “not entitled to manifest these beliefs at work in a way that is directly or indirectly discriminatory or harassing to other people on the basis of their protected characteristics”. In fact, provisions against discrimination and harassment apply to everyone equally. *No one* is entitled to unlawfully harass or directly discriminate against others at work. But expressing gender-critical beliefs is not inherently discriminatory.

Several of the academics who signed the letter to the EHRC calling for a sector-wide “Reindorf Review” were targeted as a consequence.⁶⁵ Professor Lee Grieveson was “politely requested to withdraw” from a conference at St Andrews University by the organising committee, which said it saw the letter as part of a broader project “to protect

⁶³ Consortium (2019). ‘[EHRC Open Letter](#)’.

⁶⁴ Sex Matters (2024). ‘[Threats, reprisals and intimidation against the EHRC and those who stand up for sex-based rights in Britain](#)’.

⁶⁵ Lee Grieveson (2021). ‘[Speeches to UCL Academic Board Meeting on Stonewall Membership, 10th December 2021](#)’, Professor Alice Sullivan.

institutionalised transphobia". The email he received said that, as a member of the Stonewall Diversity Champions scheme, the university had a responsibility to ensure that it was "an inclusive space, where people of all gender identities and presentations feel welcome and respected. Your public presence as a signatory of this letter clashes with the aforementioned values."⁶⁶

Edinburgh University's Staff Pride Network sent an email to hundreds of staff members (also published on the Edinburgh University website) implying that signing the letter was "abusive or discriminatory" and saying that members of the network had been deeply disturbed:

"It is clear to us how harmful 'gender critical' beliefs are to the trans and non-binary members of our community, and that reductive, biologically essentialist attitudes towards sex are also damaging to everyone."⁶⁷

The Reindorf report advised Essex University to reconsider its membership of the Stonewall scheme, but the university decided against leaving.⁶⁸ It concluded that: "Ending our relationship with Stonewall would lead to a breakdown in the relationship with our LGBTQ+ community".⁶⁹ Its assessment did not consider the university's relationship with gender-critical staff. Likewise, Essex University's most recent EDI report failed to mention protection of gender-critical staff.⁷⁰ In 2022 the human-rights centre at Essex University published a paper claiming that inviting a gender-critical speaker could "contaminate student life for hundreds if not thousands of people".⁷¹

UCL left the Stonewall scheme after a respectful debate and democratic vote by the academic board. At the meeting, attended by over 300 people, contributions alternated between those for and those against. An anonymous vote was decisive, with a margin of around two to one in favour of leaving.⁷² Those arguing for UCL to remain affiliated with Stonewall claimed this would have no impact on academic freedom at UCL. However, four of the 16 signatories to this submission had been among the group that attempted to have the

⁶⁶ UCL (2021). '[Academic Board 10 December 2021, Paper 2-13: UCL and Stonewall](#)'.

⁶⁷ Staff Pride Network (2023). '[In response to 'Sex Matters' letter](#)', *The University of Edinburgh*.

⁶⁸ University of Essex (2023). '[Equality, Diversity and Inclusion Annual Report 2021–22](#)'.

⁶⁹ University of Essex (2022). '[The University's relationship with Stonewall and use of external assurance and benchmarking diversity schemes](#)'.

⁷⁰ University of Essex (2023). '[Equality, Diversity and Inclusion Annual Report 2021–22](#)'.

⁷¹ Ewan Somerville (2022). '[Lecturers face backlash as report could encourage silencing of gender-critical speakers on campus](#)'. *The Telegraph*.

⁷² Alice Sullivan (2022). '[Why UCL are shutting the door on Stonewall](#)'. *The Critic*.

2020 WPUK conference cancelled on the basis that it was in “direct contradiction to Stonewall’s UK Workplace Equality Index”.⁷³

Following the third reading of the Higher Education (Freedom of Speech) Bill in the House of Commons, the then Minister for Higher and Further Education, Michelle Donelan, wrote to universities highlighting a “growing concern that a ‘chilling effect’ on university campuses leaves students, staff and academics unable to freely express their lawful views without fear of repercussion”. She asked universities to carefully consider their participation in external assurance and benchmarking diversity schemes, as part of their statutory duty towards academic freedom. University leaders shrugged this off. Professor Robert Van de Noort, vice-chancellor at the University of Reading (who has had Stonewall “ally” training), said that diversity schemes did not undermine academic freedom.⁷⁴

⁷³ Alice Sullivan (2021). [Speeches to UCL Academic Board Meeting on Stonewall Membership, 10th December 2021](#), Professor Alice Sullivan.

⁷⁴ Professor Robert van de Noort (2023). [Diversity schemes “do not undermine free speech”](#), University of Reading.

Who needs to act to solve the problem?

The challenge for universities, as Dr Kath Murray of policy analysts MurrayBlackburnMackenzie wrote in 2019, is clear:

“Universities should be trans inclusive and non-discriminatory. This does not, however, mean that institutions are obliged to replace policies based on the protected characteristic of sex with those based on gender identity. Instead, universities need to develop ways to balance competing interests between different groups. In particular, managers need to ensure that the differing views are fairly represented, and avoid the situation where only one narrative or position can be expressed (for example, by dint of groups taking a ‘no debate’ position).”⁷⁵

But promoting negative attitudes towards those who express gender-critical views remains the policy and practice of most universities.

Solving this problem requires university leaders to show leadership.

University leaders

University leaders should make a strong commitment to intellectual diversity and institutional neutrality on controversial issues. Universities should support pluralism and open, honest, courageous and reasoned discussion of controversial ideas, in a spirit of respect for people but not necessarily for ideas.⁷⁶ But university leaders must also recognise that it is not enough to make general statements of support for disagreement: they have to grasp the nettle of talking about sex and gender specifically. Universities should uphold the right of their members to hold supportive, critical or agnostic positions on gender-identity theory, and for their right to argue for those positions according to normal academic conventions. They cannot support the more extreme version of gender-identity theory, which contends that anyone expressing any disagreement with the theory is bigoted, transphobic, and harmful and should be excluded.⁷⁷

University leaders and managers should consult with their gender-critical staff and students to hear their experiences. The academics with gender-critical concerns who find it easiest to gain a hearing are those who are senior and established. They have the job security to speak out and the seniority to be heard; early-career academics lack both. The

⁷⁵ Kath Murray (2019). ‘[Sex, gender identity and academic freedom](#)’, *The University of Edinburgh*.

⁷⁶ See: London Universities’ Council for Academic Freedom (2024). ‘[London Principles for Academic Freedom](#)’.

⁷⁷ See: Shereen Benjamin and Neil Thin (2022). ‘[Sex, Gender and Academic Freedom: a guide for university managers](#)’, *University of Edinburgh Academics for Academic Freedom*.

Collective of Early-career Feminist Academics says: “There are many in more precarious positions who hold similar views but remain silent or leave academia altogether.”⁷⁸ Managers know about trans-identifying staff from staff networks, but few have made any effort to find out about gender-critical staff. Where the interests of groups come into conflict, those conflicts should be discussed and addressed in an evidence-based and transparent way. For managers to maintain a position of neutrality, they have to know their workplace culture.

University leaders should review their involvement in third-party schemes. They need to recognise that being part of a scheme that seeks to appease one group at the expense of another undermines the intellectual foundations of their institution, their culture of inquiry and professionalism, and their understanding of the law. Schemes should be reviewed in light of whether the recommendations align with the needs of all members of the institution or instead lend undue weight to the needs of a subgroup:

- What is the evidence that following an external organisation’s policy advice will improve outcomes?
- Does the scoring mechanism discourage their institution from deviating from the advice of these schemes when that advice is not aligned with its needs?
- Are the commitments and recommendations in line with the Equality Act and academic freedom? If not, they should leave.

University leaders should review their policies and make sure they are in line with the law. Universities should be clear that they welcome staff and students who are gender non-conforming or who identify as transgender, transsexual or cross-dressers, but also that they welcome gender-critical staff and others who think that sex matters (including, for example, Muslim students). Universities are institutions that deal with bodies as well as ideas. Practical rules around toilets, changing-rooms, accommodation and sports must be clear and fair to protect the dignity, privacy and inclusion of all. Universities will have to recognise that they have been getting this wrong.

Universities should revise their EDI training and create a culture of evidence-based discussion. Where staff have been trained by Stonewall and other lobby groups that promote gender-identity theory, they must ensure that further training counteracts any such impression. EDI training should include specific examples of harassment directed at people with gender-critical beliefs. Universities should integrate the teaching of skills and dispositions associated with robust, good-faith, evidence-based discussion and disagreement into curricula at all levels.

⁷⁸ Collective of Early-career Feminist Academics (2021). ‘[About us](#)’.

Universities should understand the phenomena of “mobbing” and include it in their training.

As the Sex Matters briefing *Academic mobbing: what university management needs to know* recommends, academics in management roles and everyone in university HR should be trained to be able to recognise mobbing and to act quickly to stop it before it gains momentum.

Most of all, university leaders need to be brave. If they stand up for the principles of neutrality, academic freedom and compliance with the law, they personally will be called “transphobes”. If they try to avoid personal consequences by making vague, delayed and formulaic responses and by avoiding taking action, they will be giving in to the mob dynamics that led the OU to sacrifice Phoenix. They must recognise that compromise is impossible with people who wish to silence debate. People who cannot handle intellectual differences do not belong in academia.

Office for Students

Under the Higher Education (Freedom of Speech) Act 2023, which comes into force on 1st August 2024, every university will be required to take steps that are “reasonably practicable for it to take in order to secure freedom of speech within the law for its staff, members, students and visiting speakers”. Universities will be required to maintain a code of practice and to promote academic freedom.

The OfS has published draft guidance and is establishing a new, free-to-use complaints scheme for students, staff and visiting speakers who believe their lawful free speech has been restricted. It includes examples that draw directly on recent cases, and says:

“Providers, constituent institutions and relevant students’ unions should promptly reject public campaigns to discipline, expel or fire a student or member of staff for lawful expression of an idea or viewpoint. These may take the form of organised petitions or open letters, an accumulation of spontaneous or organised social media posts, or long-running focused media campaigns.”

The draft guidance states:

“Policies and other statements should not discourage lawful speech by misrepresenting a provider’s legal duties. This may include oversimplification.”

It also expressly states that rules saying that “misgendering is never acceptable” are likely to be unlawful.

Example 29 in the guidance highlights a third-party scheme with an accreditation process that requires the university to sign up to a set of principles (the example given concerns the

'best ways to meet our future energy needs'). Depending on the circumstances, institutional endorsement of this principle may discourage expression of legally expressible views. The example says that not implementing the provisions of any charter that undermines free speech and academic freedom is a reasonably practicable step that a university could take.

These schemes, however, and the prejudices they promote, have shown themselves to be resistant to challenge.

The Office for Students should review whether involvement with the Stonewall Diversity Champions or Workplace Equality Index scheme, the Athena Swan Charter or the GLADD Charter on conversion therapy (for medical schools) is compatible with protecting academic freedom. It should then issue guidance.

Equality and Human Rights Commission

The new system of regulation by the OfS should be helpful in enabling academics to challenge breaches of their academic freedom. But it will not directly tackle the underlying misrepresentation of the Equality Act by universities.

The EHRC is the regulatory body responsible for enforcing the Equality Act 2010. It has the power to enter into legally binding agreements (known as Section 23 agreements) with organisations, in which those organisations commit to not breaching equality law.

Section 23 agreements address specific concerns and include an action plan, which may include requirements such as providing training for staff and implementing new policies and procedures.

The EHRC should invite universities to engage in a common Section 23 agreement to address the problem of gender-critical discrimination and harassment, and to extract themselves from the discriminatory policies they have adopted through their engagement with Stonewall and Athena Swan.

This could include developing a set of model policies that are compatible with the Equality Act to replace Stonewall-promoted policies (including those on data collection and transition at work).

Funding bodies

The UKRI and its constituent funding bodies should review whether incentives and policies linked to Athena Swan and Stonewall conceptions of gender identity undermine academic freedom.

Funding bodies should consider the quality of the research they have funded that was informed by gender-identity ideology and that considered issues of sex and gender identity (including in law, medicine, social sciences and education). Are there gaps in what they have funded because of the culture of fear? What research is needed?

Other sources of support

Academics For Academic Freedom (afaf.org.uk)

Founded in late 2006 as a campaigning group for all lecturers, academic-related staff, students and researchers in the UK and Ireland who want to defend unimpeded inquiry and expression. Also heavily involved in case work, much of which never hits the headlines.

Alumni For Free Speech (affs.uk)

Alumni for Free Speech (AFFS) encourages alumni of universities and colleges to support free speech, academic freedom and viewpoint diversity at their institutions and to hold universities and colleges to high standards of free-speech protection.

Best Free Speech Practice (bfsp.uk)

Not-for-profit organisation dedicated to campaigning for free speech at UK universities and more broadly. It has published briefings on key gender-critical cases for universities (Forstater, Fahmy, Meade, Phoenix).

Collective of Early-career Feminist Academics (cefawomen.co.uk)

A collective of gender-critical early-career feminist academics (CEFA): postgraduate research students, postdoctoral research fellows and lecturers.

Committee for Academic Freedom (afcomm.org.uk)

A group of academics from all disciplines who promote these principles:

- Staff and students at UK universities should be free, within the limits of the law, to express any opinion without fear of reprisal.
- Staff and students at UK universities should not be compelled to express any opinion against their belief or conscience.
- UK universities should not promote as a matter of official policy any political agenda or affiliate themselves with organisations promoting such agendas.

Free Speech Union (freespeechunion.org/academic-freedom)

A non-partisan, mass-membership, public-interest body that stands up for the speech rights of its members and campaigns for free speech more widely, whether in the workplace, at university or on social media.

London Universities' Council for Academic Freedom (nms.kcl.ac.uk/lucaf)

An academic-led and non-partisan organisation that is committed to supporting academic freedom. It aims to facilitate and encourage collaboration between academics within London universities with the goal of developing, sharing and supporting good practice, and providing mutual aid and solidarity, to support academic freedom within their institutions and beyond. It has produced the London Principles for Academic Freedom.

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Sex Matters is a charitable incorporated organisation

Charity number: 1207701

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Published 15th May 2024