



Jo Phoenix v The Open University

Gender-critical belief discrimination in higher education

Jurisdiction: Employment Tribunal 2023

Sector: Education

Causes of action: Belief discrimination, Constructive dismissal, Harassment

Legal representation: Annie Powell and Elizabeth George of Leigh Day (solicitors), Ben Cooper KC (counsel)

Decisions: [Jo Phoenix v The Open University \(Employment Tribunal Judgment\)](#)

Summary of events

Jo Phoenix, a professor of criminology, was employed by the Open University (OU), where she co-founded a Gender Critical Research Network (GCRN) to explore issues of sex and gender with academic rigour. Phoenix holds gender-critical beliefs: that a person's biological sex is immutable and should take precedence over gender identity in some circumstances.

In October 2018, Phoenix, along with 53 other academics, signed a letter in *The Guardian* concerning the Government's proposed reforms of the Gender Recognition Act 2004 (GRA). Following the letter's publication, Phoenix's views were mischaracterised by colleagues.

Dr Chris Williams, a senior academic at the OU, said that he would talk to the local LGBT centre to try to stop Phoenix researching "children and transgenderism versus lesbian erasure", even though she was not planning to do any research in that area.

Matters escalated in 2019: concerns were raised about Phoenix speaking at an event organised by Women's Place UK and signing a letter to *The Times* questioning Stonewall's influence in universities. She was ostracised by some colleagues, who compared her to "a racist uncle at the Christmas dinner table" and the controversial sociologist Charles Murray.

After the launch of the GCRN in 2021, over 360 OU staff signed a public letter condemning it as transphobic and calling on the OU's Vice-Chancellor to withdraw support for it. Fourteen of Phoenix's colleagues actively spread derogatory remarks online.

Phoenix sought support from the university to end the harassment, but the response from the university was inadequate. In June 2021, Vice-Chancellor Tim Blackman posted a statement that acknowledged "distress on all sides" but failed to address the harassment faced by GCRN members, which continued when the OU's Reproduction, Sexualities and Sexual Health research group (RSSH) published a statement accusing the GCRN of bad faith and endangering lives.

In December 2021 Phoenix resigned, citing an unworkable environment, and pursued an employment tribunal case for discrimination, harassment, and constructive dismissal.

Outcome

The Employment Tribunal found that Phoenix had been subjected to a targeted campaign of harassment and discrimination due to her gender-critical beliefs, noting that she had been working in a hostile environment from May 2019, which intensified from June 2021, and was not provided with the protection she requested. The tribunal held the OU accountable for two acts of direct discrimination and 23 incidents of harassment, including:

- the "racist uncle" comment
- the open letter condemning Phoenix and the GCRN
- publication of the RSSH statement and the failure to take it down, which continued the damage to Phoenix's reputation
- linking Phoenix's name to derogatory materials that spread false information about the GCRN's aims
- instructing Phoenix not to discuss her research in departmental meetings, effectively silencing her academic freedom
- not recognising Phoenix's substantial success in obtaining grant contributions, compared with recognition given to those without gender-critical views.

Cross-examination found no evidence to substantiate allegations about Phoenix's research, concluding that they were driven by irrational fear and hostility due to her beliefs. The judgment was openly critical of certain of the evidence given by some of the OU's witnesses, commenting:

"We expected a certain basic level of rigour in presenting the evidence before the Employment Tribunal. There were some witnesses who... did not meet this standard." [paragraph 22]

The tribunal concluded that Phoenix was a victim of hostility and systemic failures within the institution. It was particularly critical of the OU's handling of Phoenix's concerns, noting "evident disparity" in the treatment of the gender-affirmative side and the GCRN and the failure to acknowledge the toll on the members of the GCRN or condemn those attacking it: the OU failed to protect Phoenix from the attacks by colleagues, and as such failed to provide a suitable working environment.

Following the judgment, the vice-chancellor issued a public apology and initiated an independent review to examine internal practices and policies related to academic freedom and the protection of diverse viewpoints.

Remedy

The terms of this settlement in March 2024, including any financial compensation or other remedial actions, remain confidential.

Further reading: see sex-matters.org/case-briefings