

**University of Bristol**

Attention: Professor Evelyn Welch, Vice-Chancellor

By email

13 December 2025

Dear Professor Welch,

**PRE-ACTION PROTOCOL LETTER: PROFESSOR ALICE SULLIVAN**

We write the following Pre-Action Protocol Letter in accordance with Annex A of the Pre-Action Protocol for Judicial Review.

**A Proposed claimant and their legal representatives**

1. We have been instructed by Professor Alice Sullivan. Professor Sullivan (“the Claimant”) is Professor of Sociology at the UCL Social Research Institute and Fellow of the Academy of Social Sciences.
2. The solicitor with conduct of this matter is James Gardner of Conrathe Gardner LLP, 167-169 Great Portland St, London W1W 5PF.
3. The Claimant accepts service by email subject to Mr Gardner being in receipt of, or copied into, all relevant correspondence.
4. Please would the Defendant (or its legal representative) confirm by return whether it is prepared to accept service of legal proceedings by email, and if so, to whom service by email should be directed. If it is prepared to accept service by email, please confirm if there are any requirements to which we should adhere, either generally or specifically, under paragraph 4.1 of Practice Direction 6A of the Civil Procedure Rules.

**B Proposed defendant**

5. The Claimant brings a claim against the University of Bristol. Professor Welch is the Vice Chancellor and President of the University.

**C Details of the matters under challenge**

6. The decisions and actions under challenge relate to the organisation of a talk given by the Claimant entitled *Sex, data and research: Lessons from the Sullivan Review*”

which took place on 22 October 2025.<sup>1</sup> The Claimant challenges the following elements of the Defendant's conduct in relation to this event:

- a. The very limited advertising of the event.
  - b. The prohibition on the attendance of undergraduates.
  - c. The restriction on registration to 60 attendees (30 university staff and students and 30 members of the public).
  - d. The selection of a venue which was particularly vulnerable to protestor disruption.
  - e. The failure to take reasonable steps to prevent protestors disrupting the talk, including by impeding the entrance to the venue, intimidating attendees, setting off the fire alarm on repeated occasions and banging on the windows, making abusive gestures and creating noise in a manner deliberately calculated to cause disruption to the talk, and which ultimately led to a change of venue pathway through the talk.
7. Further, the ongoing operation of the Defendant's Trans and Non-Binary Staff Inclusion Policy is unlawful as it fails to apply the law in *For Women Scotland Ltd v Scottish Ministers* [2025] UKSC 16 [2025] 2 W.L.R. 879 This had a direct effect on the Claimant as the Defendant's decision-making in relation to her talk on 22 October 2025 appears to have been at least in part an outworking of this policy.

## Factual background

8. On 18 July 2024, Professor David Gordon, a Professor of Social Justice at the School for Policy Studies, University of Bristol, invited the Claimant to give a talk at Bristol University. In March 2024 the Claimant had been commissioned by the government to undertake an independent review of data, statistics and research on sex and gender, the final report of which was published in March 2025.
9. The Claimant accepted the invitation, and a date was set for November 2024.
10. On 1 October 2024, Dr Sebnem Eroglu-Hawksworth informed Professor Gordon that the event had been 'subject to a risk assessment' and 'due to capacity concerns' the University would 'only be able to proceed with [the talk] as an online, internal event'.

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<sup>1</sup> The original title of the talk was '*The Gender Wars and Academic Freedom*'. However, because the talk took so long to arrange - as described in this letter - the title of the talk was ultimately changed to reflect the independent review for the government that the Claimant had undertaken and which was published in March 2025.

11. On 10 October 2024, the Claimant wrote to Professor Judith Squires, the Deputy Vice Chancellor and Provost, as she was listed as the ‘decision-maker’ for external speakers, to request an explanation for why the talk was to be held online only.
12. On 11 October 2024, Professor West, Head of School for Policy Studies, responded to the Claimant. She stated that the decision to move the event online was due to ‘risks’ as the Defendant had been made aware of planned protests outside the venue which went beyond “banner waiving” [sic]. Professor West further commented that

*“Where possible such mitigations are normally agreed and put in place before a speaker is invited to speak at a University of Bristol event but in this case the significance of the risks have only recently come to light.”*
13. It therefore appears to be the case that the University was aware of potential issues arising from protestors at the talk from October 2024 at the latest.
14. On 14 October 2024, the Claimant requested further information on the ‘planned protests’, including whether there were threats of violence, whether the police had been informed and whether the Defendant’s security team had given a view on how much security would be involved and how long this would take to organise. The Claimant also requested disclosure of the risk assessment.
15. In her reply of 15 October 2024 Professor West refused to share any information with the Claimant regarding the nature of the threats or who had made them on grounds this information was “confidential.”
16. The Claimant does not understand what the basis was for protecting the identity of persons who had made threats against her (potentially committing a criminal offence as well as breaching the University’s Code of Conduct).
17. On the following day the Claimant responded to Professor West stating that the information she was requesting, that concerned her, was covered by GDPR and in any event the school had a duty of care to inform speakers of threats made against them.

## The SAR Request

18. That month the Claimant also submitted a Subject Access Request (“SAR”).
19. On 26 January 2025, the Claimant received a response to the SAR which excluded relevant information without sufficient justification. On 28 January 2025, the Claimant made a complaint about this.

20. On 10 July 2025, after repeated chasing by the Claimant, the University of Bristol responded. However, the requested risk assessment was entirely redacted, so that four entire pages were blacked out.
21. The SAR did reveal the following information:
  - a. The estimated number of attendees was between 30-59 (based, it appears, on the Defendant's decision to restrict the number of attendees to that figure).
  - b. The event would be limited to the School for Policy Studies staff and postgraduate students.

Complaints about the event

22. The SAR also revealed the following complaints which had been submitted in advance of the event.
  - a. On 3 October 2024, an email had been sent to Professor West from an individual whose identity was anonymised, but who appeared to be a member of University of Bristol staff. This email, headed '*Confidential: EDI concerns raised regarding planned school event*' expressed concern about the Claimant's lecture, referencing the University of Bristol Trans and Non-Binary Staff Inclusion Policy. The email stated that an anonymous individual had objected to the seminar on the grounds that contributors to the Complainant's 2023 publication *Sex and gender: A contemporary reader* had been no-platformed or resigned from their academic positions. The identity of these contributors had been anonymised but the reference is likely to have been to Kathleen Stock, formerly professor of philosophy at the University of Sussex, and Professor Jo Phoenix. The following background to each of these individuals is relevant as set out below:
    - i. Kathleen Stock was a Professor at the University of Sussex. On 26 March 2025 the University of Sussex were fined £585,000 after an investigation found the university's governing documents failed to uphold freedom of speech and academic freedom, as well as failings in the university's management and governance processes.<sup>2</sup> The OfS launched its investigation following protests calling for the dismissal of Professor Kathleen Stock, a senior academic at the university. She had teaching and research interests relating to sex, gender and the rights of individuals in

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<sup>2</sup> <https://www.officeforstudents.org.uk/news-blog-and-events/press-and-media/university-of-sussex-fined-585-000-for-free-speech-and-governance-breaches/>

connection to these. The OfS had seen no evidence to suggest that Professor Stock's speech during her employment at the university was unlawful.

- ii. Jo Phoenix won an employment tribunal in January 2024 against the Open University. She succeeded in claims of constructive dismissal, wrongful dismissal, harassment, unlawful discrimination based on her gender-critical belief and post-employment victimisation.<sup>3</sup>
  - b. On 7 October 2024, the LGBTQ+ staff network wrote to the Social Policy Studies Research Centre and Equality Diversity and Inclusion team ("EDI") objecting to the lecture by the Claimant on grounds that she *"has been noted for her transphobia [sic] views"* and *"this kind of speaker and event causes real harm to our community... and sends a message to trans students and staff that their safety is secondary"*.
23. Despite their lack of any reasonable or evidenced foundation, it seems that these complaints were taken seriously as a matter for the EDI team.
24. On 7 October 2024, Dr Eroglu-Hawksworth emailed Professor West as follows:

*Dear Karen cc [redacted]*

*Following concerns raised with the EDI committee last week and as agreed after the risk assessment meeting about this event, I would like to confirm that the following measures will be in place at the event:*

- *The event will now be held online as a webinar which will involve a presentation and moderated Q&A*
- *It will be open to SPS staff and PGR students only*
- *waiting room function will be on and monitored by Res admin staff to ensure the event is kept internal*
- *Prof Gordon will chair the event, and manage the webinar on the day*
- *Prof Nick Townsend will act as the observer*

*I am also exploring whether I can find an academic to moderate the Q&A separately. Any suggestions would be welcome.*

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<sup>3</sup> <https://www.judiciary.uk/wp-content/uploads/2024/01/Joanna-Phoenix-v-The-Open-University-Employment-Tribunal-Reserved-Judgment.pdf>

25. On 8 October 2024, Professor West received an email from an anonymised sender confirming that the university were seeking advice from the senior EDI team who had requested the risk assessment.

## Professor Gordon's suspension

26. On 11 October 2024 Professor West emailed Professor Gordon confirming that she had read the risk assessment prepared by Dr Eroglu-Hawksworth who *"is more aware of the level of dissent to Professor Sullivan's visit and now, active plans for protest, possibly entailing violence"*.
27. She stated that *"I am keen for the event to go ahead in one form or another but we are now rather too late to ensure adequate security arrangements for Professor Sullivan and also for others attending the event. This is the reason for arranging it online."*
28. On 16 October 2024 Professor Gordon drafted an email to the LGBTQ+ staff network responding to their concerns. He shared this with Professor West for comment, telling her he planned to send it at 17:30 that day. At 17:20 Professor West replied saying that *"some of the contents of your [draft] email is useful and makes very clear that this is a very relevant debate for the School"*. She also said that she had already been in touch and asked him to leave further communications to her. Professor Gordon considered he was free as an academic colleague to send the email and that it was the right thing to do, so he sent it at 17:47.
29. On 28 October 2024 Professor Gordon received a request to attend a meeting with Professor West and the HR Team on less than 24 hours' notice as he was accused of failing to comply with a reasonable management direction and of bullying and harassment. Professor Gordon could not attend at the proposed time as he was working to a deadline but agreed to meet later that evening.
30. Astonishingly, on 29 October 2024 Professor Gordon was suspended without any meeting taking place. Professor West had lodged a complaint against Professor Gordon with the Dean of the University concerning Professor Gordon's conduct in sending a message to the LGBTQ+ network. Professor Gordon's access to the University email system was removed. He was not permitted to speak with staff or students.
31. Following an independent investigation, a report was issued in June 2025 found that Professor Gordon had failed to comply with an instruction from a manager but the allegations of harassment against Professor West were dismissed.

32. Despite this, Professor Gordon remains suspended by the Defendant, more than a year later.

14 May 2025

33. An in-person lecture was arranged for 14 May 2025.
34. However, the Claimant noticed that this was not advertised on the school's website. On 30 April 2025, the Claimant emailed Professor West to challenge this. Professor West confirmed this was the case. On 1 May 2025, the Claimant responded to state that the failure to communicate with the Claimant and advertise the talk was discriminatory and insisted that the talk should be advertised. She stated:

*This failure to communicate with me and failure to advertise my talk appears to be a continuation of the discriminatory treatment that I have been subjected to by the University of Bristol so far. I am sure that you are aware that discrimination against people due to their protected beliefs is unlawful.*

*If you are not willing to advertise the talk in the normal way, including on the departmental events page, I am not willing to come to speak on that basis.*

*I also expect the talk to be open to the public and to all University of Bristol staff and students, not just those in a particular centre or group.*

*If you can confirm that you agree to these conditions and will advertise the talk promptly then I will send you a revised abstract.*

*If you do not agree to these conditions, please let me know.*

35. In her response, Professor West stated:

*The risk assessment we have carried out is on the basis of it being a University event and the venue and security have been arranged accordingly. The venue we have planned only holds 60 people, so opening to a wider audience would be difficult at this stage. We clearly do want you to come, but if that is conditional on the talk being a fully open public event, we would have to revisit the venue and security arrangements we have put in place. Alternatively, a compromise might be to put the event on the School events page, but to make clear that it is only*



*open to University staff and students. Personally, I don't want to delay holding this event, but if your preference is for a fully open public event, we would be happy to explore what would need to be in place.'*

36. The Claimant confirmed that her preference was to delay the event in order to hold a fully open public event. Professor West replied that this did not mean that numbers would be unrestricted, to which the Claimant responded that she understood that there are always restrictions on numbers due to room sizes. At this point, the Claimant therefore understood that room availability and room size would be the constraining factor on numbers.
37. As a consequence, the event was further delayed, by almost six months.

## 22 October 2025

38. The talk eventually took place on 22 October 2025. The title was “*Sex, data and research: Lessons from the Sullivan Review.*” This was a change to the original title “*The Gender Wars and Academic Freedom.*”
39. On 20 October 2025, the Claimant received an email from an administrator. This stated that the Eventbrite for the event had now closed, as all 30 tickets had been booked. The administrator confirmed that the Claimant was to meet him on arrival at a car park behind the sports centre.
40. Neither the Claimant nor Professor Gordon had been told of the venue in advance but had simply been given a “*what three words*” designator. The attendees of the event had similarly not been informed of the venue until 24 hours prior. Professor Gordon collected the Claimant from the train station and drove her to the meeting point. From here, the Claimant was escorted to the venue by security.
41. The venue chosen was at Royal Fort House, a lecture hall in a building that was clearly vulnerable to disruption by protests outside. For external speaker events that are likely to be controversial the School of Policy Studies procedure generally uses the large secure lecture facility at the Priory Road university facility. The access to that facility is easy to control as security staff simply stand on the doors, monitor access by invited guests with tickets, and prevent any disruption to the event inside. The capacity of the secure lecture hall is more than 400 people. Numerous well-known speakers with views that some of the students at the university would regard as controversial have given talks at that university facility.



42. The restrictions on attendance and publicity for the talk were significant and were as follows:
- a. The event was restricted to faculty staff and postgraduates. No undergraduates were permitted to attend.
  - b. The number of registrations was restricted to 60, including 30 staff and students from the university and 30 members of the public, although the lecture theatre that the university had chosen has a capacity of over 100. Attendance is always considerably lower than registration at university events, and typically allowance is made for this by allowing substantially higher numbers to register than the desired audience number. In the event, attendance was only around 20 people, despite being fully booked. This may have been exacerbated by the intimidation of attendees, and the anticipation of such intimidation. The lecture theatre on a higher floor, to which the talk was ultimately moved halfway through when the disruption on the lower floor became too great, has a capacity of more than 300, as does the secure facility at Priory Road.
  - c. External attendees were not told (until the day of the event) what the venue was. However, the protestors who appeared do seem to have been informed where the event would take place.
  - d. Initially, in Spring 2025 when it was finally agreed that the event would take place on an in-person basis, the university refused to advertise it on the faculty site or the University of Bristol site. The university ultimately agreed to advertise to School staff and members and affiliates of the Poverty and Social Justice research centre including PGR students, staff networks such as faculty distribution lists and members of the public via the school website. The event was not advertised on social media.
43. The unlawfulness, and discriminatory effect, of these restrictions is outlined below. As regards the factual background it is worth noting that since the Defendant's External Speaker Code of Practice was endorsed by the university senate and implemented in 2019, only two external speaker events have been subject to cancellation or mitigating actions; and only one has been moved from being face-

to-face to being online.<sup>4</sup> Thus the restrictions applied by the Defendant to the Claimant's talk were not merely unusual – they were unprecedented.

44. A demonstration outside the Royal Fort House was already underway as the Claimant approached the venue, though she was not able to see this as she was taken to the venue through a back entrance.
45. Professor West was present at the seminar in the role of chair. When she saw Professor Gordon escorting the Claimant, she told him that he should not be in attendance. Professor Gordon explained that he had received permission from his line manager to attend.
46. As attendees approached the venue, protesters, some of them masked, heckled those arriving to attend the talk, including chanting such as “shame on you.” The entrance to the building was impeded by protesters who were intimidating those arriving for the talk, and so attendees were forced to use another entrance. There were some of the Defendant’s security staff present. They failed to stop this disruptive and intimidating behaviour; indeed, they did not appear to be trying to do so. In the entrance hallway there was a large Pride rainbow flag and a large Trans flag on prominent display. There was also a restroom with an ‘all gender’ sign in the entrance hall. A police officer was standing in the entrance hall next to the Pride and Trans flags as attendees arrived, wearing a rainbow lanyard.
47. Approximately 10 minutes into the talk, the protestors set off the fire alarm. This was a predictable attempt to disrupt and yet it took around seven minutes before the fire alarm was reset by the University security staff. A few minutes later the fire alarm sounded a second time, and this happened again and again, disrupting the talk repeatedly.
48. When the Claimant restarted her lecture, protestors began scaling the walls of the Royal Fort House building, banging on the windows, making abusive gestures and shouting through megaphones. The placards held by protestors were visible through the windows. The Defendant’s security guards failed to stop this disruptive and intimidating conduct.
49. The lecture was so significantly disrupted that a decision was eventually taken to move to a different lecture theatre on a higher floor. This resulted in the talk being halted as attendees moved to the new venue. This involved all the attendees walking up flights of stairs as there was no lift. This alternative venue had a much

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<sup>4</sup> Source: Defendant’s response dated 9 December 2025 to Claimant’s Freedom of Information request.

larger capacity. The talk then continued without disturbance. Following the talk, the security staff escorted attendees down the stairs.

50. There was by this time a police presence outside the venue, including police cars and a number of police officers. The police were standing a significant distance from the protesters and there was no attempt made to intervene when the protestors began climbing the walls, banging on the windows and using megaphones.
51. The Claimant had not been given warning of the likely scale of the protest, despite her multiple attempts to obtain this information from Professor West in advance. Nor had she been informed that the Defendant's faculty staff had decided to site the talk in a venue that was particularly vulnerable to the protest.
52. On 4 December 2025, the Claimant eventually received the Risk Assessment and 'Event Organiser Self-Assessment Form' in relation to the lecture which had taken place on 22 October 2025.
53. The Event Organiser Self-Assessment Form noted as follows:
  - a. Risk of reaching proposed venue capacity limits due to heightened media interest – Medium. The following reason was given.

*Prof Sullivan is a quantitative sociologist and Head of Research at the UCL Social Research Institute - which runs/manages most of the UK's cohort and time series surveys. She is the PI for the Department of Science, Innovation and Technology and Cabinet Office official review of data, statistics and research on sex and gender – see*

*<https://uksa.statisticsauthority.gov.uk/news/review-of-data-statistics-and-researchon-sex-and-gender/>*

*and*

*<https://www.ucl.ac.uk/ioe/departments-and-centres/departments/socialresearch-institute/research/review-data-statistics-and-research-sex-and-gender>*

*Her research and views on sex and gender have become politicised and drawn media attention. For example the recent cancellation of her talk by the Canadian Government appeared in the centre-right media:*

*<https://www.telegraph.co.uk/world-news/2024/03/14/candian-goverment-cancel-culture-alice-sullivangender/>.*

- b. Risk of speaker/s or event attracting public disorder eg protest – High. The following reason was given.

*Events on the topic of Prof Sullivan’s talk have sparked public disorder and even violence. Professor Sullivan has drawn attention to this potential herself – see e.g. <https://www.youtube.com/watch?v=5asl8RnZulc><sup>5</sup>*

- c. Risk of speaker causing or inciting to violence, hatred, personal harassment, alarm or distress – Low.

54. The Event Risk Assessment provided the following proposed risk mitigations:

- a. The speaker may cause or incite violence, hatred, personal harassment, alarm or distress

*Head of School and School Manager have met with Head of EDI and the LGBTQ+ staff network chairs to identify actions that could support staff wellbeing and to explore hosting future speakers who can offer different perspectives on the topic, to help ensure a balanced conversation.*

*Colleagues who feel unsafe to be on campus on the day of the event should discuss the possibility of working from home or elsewhere with their line manager.*

*Colleagues that express that they are in distress due to the nature and content of the event will be signposted to staff wellbeing services.*

- b. Due to the talk subject, speaker, the organisations they are associated with, or the organisers of the event - the event may attract heightened media interest which may lead to potential issues around capacity.

*Venue capacity restrictions in place and tickets to be shown at the door for entry.*

*x30 tickets allocated for university of Bristol staff and students and x30 for members of the public.*

*News & Content Manager supporting marketing approach. Event to be advertised internally, in line with standard school comms protocol, and*

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<sup>5</sup> A talk given by the Claimant on “Silencing Women: Academic Freedom and Unthinkable Thoughts”

*advertised on the external facing school website. The event will not be promoted via social media.*

- c. The talk subject, speaker, the organisations they are associated with, or the organisers of the event - have attracted controversy and/or may mobilise significant protest

*x30 tickets allocated for university of Bristol staff and students and x30 for members of the public.*

*Eventbrite registrations will be closed 24 hours ahead of the event so organisers can generate an attendee list to be used at the event.*

*The exact venue will only be disclosed to attendees on the morning of the event to avoid information being passed to protest groups in advance*

*tickets, either in paper or electronic format, must be presented for access to the venue and this must be supported by ID that matches the name on the ticket. If no ticket and/or matching ID, then entry will be denied. Members of staff can use their staff Ucard for ID purposes.*

*No bags will be allowed into the venue and there will not be any cloakroom facilities for bags to be stored.*

*Security and Campus Safety Supervisor to suggest a location to meet the speaker on the day of the event and will identify a secure route to get them to the venue location. **Security and Campus Safety Supervisor recommended the venue which avoids potential control issues that could disrupt the talk, e.g. windows that external protesters could bang on, too many entrances/exits that would take too many staff to secure, etc.***

*Venue booked with a non-descript heading so that the venue information is not leaked ahead of the event.*

*Capacity restricted to x60 max to allow for crowd control.*

*Additional security personnel will be deployed and members of the school admin team on hand to assist with event management.*

*Security team to advise on the date and time of the event to avoid clash with any other key events i.e. student exams etc in the likely event of protest*

[emphasis supplied]

55. This Event Risk Assessment, which was not shared with the Claimant prior to or at the time of the talk, and has only been released to her many weeks after the talk, is notable in the following respects:
- a. There is no explanation of the ‘threats’ cited previously by the Defendant’s Professor West
  - b. The risk of violence is blamed on the topic and on the speaker rather than on those who were threatening the violence or whose protest threatened to result in violence
  - c. There is careful coverage of the ‘wellbeing’ of ‘colleagues’ in connection with the talk, but no recognition or discussion of the Defendant’s legal obligations regarding freedom of speech on campus
  - d. Though the Risk Assessment states clearly that ‘*Security and Campus Safety Supervisor recommended the venue which avoids potential control issues that could disrupt the talk, e.g. windows that external protesters could bang on, too many entrances/exits that would take too many staff to secure, etc*’ – an explicit recognition of the need to select a venue that avoids disruption to the talk – the Defendant’s staff ultimately decided to select a venue that was particularly vulnerable to the protest disruption which they knew would occur, despite the availability of obviously more appropriate venues that would shield the giver of the talk and its attendees from the serious disruption and intimidation which duly occurred.

## D The law

56. The principal legal measures relevant to the facts outlined above are as follows.

- a. The Education Act 1986
- b. The Higher Education and Research Act 2017
- c. The Higher Education (Freedom of Speech) Act 2023
- d. The Equality Act 2010 (EqA).
- e. The Human Rights Act 1998 (HRA).

### Section 43 Education Act 1986 – Freedom of Speech in universities, polytechnics and colleges

57. This section provides:

*(1) Every individual and body of persons concerned in the government of any establishment to which this section applies **shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.***

*(2) The duty imposed by subsection (1) above includes (in particular) the duty to ensure, so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with—*

*(a) the beliefs or views of that individual or of any member of that body; or*

*(b) the policy or objectives of that body.*

*(3) The governing body of every such establishment shall, with a view to facilitating the discharge of the duty imposed by subsection (1) above in relation to that establishment, issue and keep up to date a code of practice setting out—*

*(a) the procedures to be followed by members, students and employees of the establishment in connection with the organisation—*



(i) *of meetings which are to be held on premises of the establishment and which fall within any class of meeting specified in the code; and*

(ii) *of other activities which are to take place on those premises and which fall within any class of activity so specified; and*

(b) *the conduct required of such persons in connection with any such meeting or activity; and dealing with such other matters as the governing body consider appropriate.*

(4) *Every individual and body of persons concerned in the government of any such establishment shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the requirements of the code of practice for that establishment, issued under subsection (3) above, are complied with.*

[Emphasis added]

#### Higher Education (Freedom of Speech) Act 2023

58. The Higher Education (Freedom of Speech) Act 2023, inserted the following provisions into the Higher Education and Research Act 2017

#### *PART A1 PROTECTION OF FREEDOM OF SPEECH*

##### *Duties of registered higher education providers*

##### *A1 Duty to take steps to secure freedom of speech*

##### *Part A1*

##### *Duty to take steps to secure freedom of speech*

***(1) The governing body of a registered higher education provider must take the steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take in order to achieve the objective in subsection (2).***

***(2) That objective is securing freedom of speech within the law for—***

- (a) staff of the provider,*
- (b) members of the provider,*
- (c) students of the provider, and*
- (d) visiting speakers.***

***(3) The objective in subsection (2) includes securing that—***

- (a) the use of any premises of the provider is not denied to any individual or body on grounds specified in subsection (4), and*
- (b) the terms on which such premises are provided are not to any extent based on such grounds.***

***(4) The grounds referred to in subsection (3)(a) and (b) are—***

- (a) in relation to an individual, their ideas or opinions;***
- (b) in relation to a body, its policy or objectives or the ideas or opinions of any of its members.***

***(5) The objective in subsection (2), so far as relating to academic staff, includes securing their academic freedom.***

***(6) In this Part, “academic freedom”, in relation to academic staff at a registered higher education provider, means their freedom within the law—***

- (a) to question and test received wisdom, and*
- (b) to put forward new ideas and controversial or unpopular opinions,*

*without placing themselves at risk of being adversely affected in any of the ways described in subsection.*

**A2 Code of practice**

- (1) *The governing body of a registered higher education provider must, with a view to facilitating the discharge of the duties in section A1(1) and (10), maintain a code of practice setting out the matters referred to in subsection (2).*
- (2) *Those matters are—*

  - (a) *the provider's values relating to freedom of speech and an explanation of how those values uphold freedom of speech,*
  - (c) *the procedures to be followed by staff and students of the provider and any students' union for students at the provider in connection with the organisation of—*

    - (i) *meetings which are to be held on the provider's premises and which fall within any class of meeting specified in the code, and*
    - (ii) *other activities which are to take place on those premises and which fall within any class of activity so specified,*
  - (d) *the conduct required of such persons in connection with any such meeting or activity, and*
  - (e) *the criteria to be used by the provider in making decisions about whether to allow the use of premises and on what terms (which must include its criteria for determining whether there are exceptional circumstances for the purposes of section A1(10)).*
- (3) *The code of practice may deal with such other matters as the governing body considers appropriate.*
- (4) *The governing body of a registered higher education provider must take the steps that are reasonably practicable for it to take (including where appropriate the initiation of disciplinary measures) in order to secure compliance with its code of practice.*
- (6) *The governing body of a registered higher education provider must, at least once a year, bring—*

  - (a) *the provisions of section A1, and*
  - (b) *its code of practice under this section, to the attention of all of its students.*

Part A3

*Duty to promote the importance of freedom of speech and academic freedom*

***The governing body of a registered higher education provider must promote the importance of—***

***(a) freedom of speech within the law, and***

***(b) academic freedom for academic staff of registered higher education providers and their constituent institutions,***

***in the provision of higher education.***

[emphasis supplied]

Human Rights Act 1998

59. By operation of Section 6(1) of the Human Rights Act 1998, the Defendant is also subject to obligations under the Convention. Articles 10 and 11 are relevant:

*Freedom of expression*

*Article 10*

*1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*

*2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

Article 11

*Freedom of assembly and association*

*1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.*

*2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.*

EHRC Freedom of expression: a guide for higher education providers and students' unions in England and Wales.

*Core Ideas and Key Points (p6)*

*2. Higher education providers should always work to widen debate and challenge, never to narrow it.*

*3. Any decision about speakers and events should seek to promote and protect the right to freedom of expression.*

*4. Peaceful protest is a protected form of expression;*

*What does that mean for visiting speakers (p11)*

*The s.43 duty does not mean that any group or speaker has a right to be invited to speak to students on HEP premises or at SUs. What it does mean is that a speaker who has been invited to speak at a meeting or other event should not be stopped from doing so unless:*

- they are likely to express unlawful speech, or*
- their attendance would lead the host organisation to breach other legal obligations and no reasonably practicable steps can be taken to reduce these risks*

## What might 'reasonably practicable steps' or 'risk mitigations' be? (p33)

*To meet the s.43 duty HEPs have to consider if there are reasonably practicable steps they can take to ensure lawful speech is protected. Promoting balanced debate and challenge at events can often reduce any legal risks as well as furthering the purpose of the PSED and Prevent duties. Steps might include:*

- challenging high-risk speakers with opposing views*
- having an independent chairperson to facilitate an event and make sure a range of viewpoints can be heard*
- filming an event to deter the use of unlawful speech*
- putting additional security in place*
- ticketing an event to avoid non-student violent protest*
- requesting to see any promotional materials before the event*
- having a policy setting out principles of respectful discourse that speakers have to follow*
- supporting and encouraging the SU and student body to host debates*
- training staff on how to facilitate well-balanced debate, and*
- postponing the event if necessary to enable one or more of the steps above to be taken*

## Case Study (p37)

*An event is organised by an atheist SU-affiliated society to debate whether God exists. Before the event, people complain that it should not go ahead because some of the group's views and campaigning materials are offensive to individuals with a religion or belief. The event happens, but is interrupted by chanting and shouting from faith student activists in the audience. Those activists are eventually escorted off the premises by security, and the event is postponed. The views expressed by the speakers and protestors are not unlawful; both are protected by the s.43 duty. But there is a need to balance the rights to freedom of expression of the members of the atheist student society, by enabling the event to proceed, and the faith student activists' right to protest. The HEP knew there was opposition to the event, and was under a duty to take all "reasonably practicable" steps to ensure the event could go ahead. This could have included providing additional security to ensure that protestors could be removed if they refused to leave or stop their protest after having a reasonable opportunity to express their views, or exploring with the society whether an event where a range of views would be expressed was a viable alternative. As an issue that is causing confrontation*

*on campus between groups of individuals who share protected characteristics, the PSED requires the HEP to consider what steps it can take to ensure atheists feel able and safe to organise future events, and to promote good relations between atheist and religious students on campus.*

## The Equality Act 2010 (EqA)

### Section 13 EqA – Direct Discrimination

*(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.*

### Section 26 EqA – Harassment

*(1) A person (A) harasses another (B) if—*

*(a) A engages in unwanted conduct related to a relevant protected characteristic, and*

*(b) the conduct has the purpose or effect of—*

*(i) violating B's dignity, or*

*(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.*

*(2) A also harasses B if—*

*(a) A engages in unwanted conduct of a sexual nature, and*

*(b) the conduct has the purpose or effect referred to in subsection (1)(b).*

### Section 149 EqA - The Public Sector Equality Duty ("PSED")

60. Section 149 EqA enacts the Public Sector Equality Duty (PSED) applies to the governing bodies of universities and is a continuing duty. This provides as follows:

*(1) A public authority must, in the exercise of its functions, have due regard to the need to—*

***(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;***

***(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;***



*(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

...

*(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—*

*(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;*

*(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;*

*(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.*

...

*(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—*

*(a) tackle prejudice, and*

*(b) promote understanding.*

*(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.*

*(7) The relevant protected characteristics are—*

*age;*

*disability;*

*gender reassignment;*

*pregnancy and maternity;*

*race;*  
*religion or belief;*  
*sex;*  
*sexual orientation.*

[Emphasis added]

#### Relevant Case Law

*R (Ben-Dor) v University of Southampton* [2016] EWHC 953 (Admin)

61. This Judicial Review concerned a university's withdrawal of permission for two professors to hold a conference on its campus on the basis that it would give rise to an unacceptably high risk of disorder and that there was insufficient time to put adequate safety measures in place to ensure that good order was maintained. The High Court found that this was a proportionate interference with the professors' right to freedom of expression and assembly, pursuant to ECHR art.10 and art.11, and there had been no procedural irregularity.

62. At paragraph 71, Lady Justice Whipple noted

*The Claimants contend that the Defendant's decision amounts to a disproportionate interference with the Claimants' Convention rights. In addressing those challenges, I have firmly in mind the four stage approach to issues of proportionality of interference with Convention rights, summarised by Lord Sumption in Bank Mellat v HM Treasury (No 2) [2014] AC 700 (and recited in Carlile at [19]) as follows:*

*"[20] ... the question depends on an exacting analysis of the factual case advanced in defence of the measure, in order to determine (i) whether its objective is sufficiently important to justify the limitation of a fundamental right; (ii) whether it is rationally connected to the objective; (iii) whether a less intrusive measure could have been used; and (iv) whether, having regard to these matters and to the severity of the consequences, a fair balance has been struck between the rights of the individual and the interests of the community. These four requirements are logically separate, but in practice they inevitably overlap because the same facts are likely to be relevant to more than one of them."*

63. The Court considered whether withdrawing permission to hold the conference was a proportionate response. The following features of this case are of relevance.

*§75 The risk assessments were based on information obtained from the police; the assessments themselves appear to be thorough and professional. The Event Assessment contained details of a number of very worrying risks.*

...

*§76 By taking account of recent events in Paris and the general state of national alert, the Defendant was taking into account a relevant factor which might lead to disorder or violence within the confines of the university. As Mr Capewell said, the suggestion that the Defendant should simply ignore the terrorist threat in these circumstances is absurd.*

...

*§78 Fifth, I ask myself what else the Defendant could have done, faced with the risks identified only a few weeks before the conference was due to take place, other than to withdraw permission? The Claimants argue that the Defendant should: “simply have worked with the police if they had concerns as to public disorder because that is the job of the police not University security.” (see the Claimants’ skeleton argument at [62]). This misses the important point that the Defendant had duties, personal to it and not delegable to the police, to ensure the safety of its students and staff, and others who occupy its premises for whatever reason. It also had an obligation to protect its own premises from damage, and an interest in protecting its own reputation for safe conduct of public events. The Defendant could not “simply” expect the police to secure the event, without putting in place its own security arrangements. Significant work was required by the Defendant to work up its own security plan. This would take time. That was why the conference could not take place as planned.*

[Emphasis added]

## Policies

64. Bristol University has the following policies in place, relevant to the matters in this case:
- a. Freedom of Speech Code of Practice
  - b. External Speaker Policy

- c. Assessor's Risk Assessment Guidance
- d. Trans and Non-Binary Code of Practice

Freedom of Speech Code of Practice 2025-2026

65. As per Section 43(3) of the 1986 Act, the Defendant has maintained a Code of Practice to secure freedom of speech within the law.

***Protections relating to Academic Freedom***

*We seek to enable staff to exercise their academic freedom within their area of expertise, as set out above and in the Charter, within the law without placing themselves at risk of losing their job or privileges or the likelihood of securing promotion or different jobs at the University being reduced.*

*The content of teaching or research may be challenging or unwelcome and we expect all students and staff to engage with intellectual and ideological challenges in a constructive and questioning way.*

***Institutional neutrality***

*The University does not take an institutional position on public matters such as political, cultural or religious debates except where (i) necessary to advance the University's charitable objects (as defined in the University Charter) or (ii) those matters affect the University's essential functions and/or operations or (iii) if expressly agreed by the Board of Trustees. This is to ensure that critical debate is encouraged and individuals are not discouraged from expressing themselves freely within the law.*

External Speaker Policy

***2.2 Training and Guidance:***

*All those involved in this procedure should:*

- (i) consult the recent guidance from the Equality and Human Rights Commission on Freedom of Expression in Universities (February 2019) (the EHRC Code) and the University's Free Speech Code of Practice which underpins this Policy.*
- (ii) If they are a member of University staff take the Training Module relating to Free Speech and Academic Freedom available on Develop*

...

## *7 Conduct of those attending and organising events.*

*7.1 In relation to any event organised under this Policy, all members of the University are reminded of their obligations under the University's Acceptable Behaviour Policy, the Student Disciplinary Regulations and Staff Conduct Procedure (Ordinance 10.4 Code of Conduct), including their obligation to respect the rights of others to freedom of speech. Bristol SU members are expected to comply with the Bristol SU Code of Conduct.*

*7.2 If a member of University staff or a student wishes to make a complaint about a matter related to Free Speech and/or academic freedom they may do so under the Procedure for considering complaints raised by staff and students relating to Free Speech and Academic Freedom.*

### Assessor's Risk Assessment Guidance

Area of Risk	Consultation options	Risk Level	Risk Level Indicators	Common risk mitigations – For this area of risk
The speaker may cause or incite violence, hatred, personal harassment, alarm or distress	Police	Low	No evidence the speaker has or will commit unlawful speech	n/a
		Medium	Accusation or inconclusive evidence the speaker has or will commit unlawful speech	<ul style="list-style-type: none"> <li>ï Film event</li> <li>ï Promotional materials shared in advance</li> <li>ï Experienced Chairperson</li> </ul>
		High	Confirmation from a relevant authority that the speaker has or is likely to commit unlawful speech	<ul style="list-style-type: none"> <li>ï There may be no obligation to let the event proceed</li> </ul>

Area of Risk	Consultation options	Risk Level	Risk Level Indicators	Common risk mitigations – For this area of
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				risk
Due to the talk subject, speaker, the organisations they are associated with, or the organisers of the event - the event may attract heightened media interest which may lead to potential issues around capacity	Police University Security Services	Low	The speaker/s, the organisation/s they are associated with, or the organisers of the event have little or no profile in national media, online news stories, social media. Similar events have had no capacity issues	n/a
		Medium	The speaker/s, the organisation/s they are associated with, or the organisers of the event have some profile in national media, online news stories, social media. Similar events have been ticketed or required management of capacity	i Event ticketed (and potentially made university student and staff only)
		High	The speaker/s, the organisation/s they are associated with, or the organisers of the event have significant profile in national media, online news stories, social media. Similar events have had capacity issues.	i Security at event i Event ticketed (and potentially made university student and staff only)

Area of Risk	Consultation options	Risk Level	Risk Level Indicators	Common risk mitigations – For this area of risk
The talk subject, speaker, the organisations they are associated with, or the	Police University Security Services	Low	Neither subject, speaker nor any associated organisation have attracted controversy and/or there is no evidence they have been subject to protest	n/a

organisers of the event - have attracted controversy and/or may mobilise significant protest	Medium	Subject, speaker, or any associated organisation have attracted controversy and/or have been subject to minor protest and/or a minor protest has been planned for this event	<ul style="list-style-type: none"> <li>ï Security at event</li> <li>ï Event ticketed (and may potentially be made UoB student and staff only)</li> <li>ï Promotional materials shared in advance</li> </ul>
	High	Subject, speaker, or any associated organisation have attracted significant controversy and/or been subject to significant protest and/or a major protest has been planned for this event	<ul style="list-style-type: none"> <li>ï Security at event</li> <li>ï Event ticketed (and may potentially be made UoB student and staff only)</li> <li>ï Promotional materials shared in advance</li> <li>ï Experienced Chairperson</li> <li>ï Appropriate additional speaker/s arranged to offer an opposing view</li> </ul>

## Trans and Non-Binary Code of Practice

66. Bristol University has a Trans and Non-Binary Code of Practice. Whilst the website states that “*the policy is currently being reviewed in light of the ruling, by the Office for Students, of 26 March 2025*”, the policy remains available on the website.

67. The following sections of the policy are relevant.

### *2 Legal Context*

*The University recognises that protection under the Equality Act 2010 is extended to trans (including non-binary) individuals from the moment they indicate their intention to transition. We will provide support to all trans staff, regardless of what stage of transition they are in, whether they are transitioning medically or not. This*



*includes staff who have non-binary, non-gender, gender-fluid, and other gender diverse identities.*

...

### *3. Confidentiality*

*If a colleague discloses that they are trans, it is the responsibility of all staff and students to treat this information confidentially. No identifying information can be shared with any person at any time without the individual's explicit consent.*

...

### *4 Policy Statement*

...

*The University of Bristol will not discriminate against people on the grounds of their gender identity, gender expression, trans identity, trans history, or trans status.*

...

*Trans staff can use the facilities (such as changing rooms and toilets) they feel most comfortable using. The University will work to provide appropriate facilities for trans staff, including gender-neutral facilities. Trans staff will not be expected to use disabled/accessible facilities as an alternative. The University has a commitment to accessible and gender-neutral toilets.*

...

*All staff are responsible for removing transphobic and anti-trans material if it appears on University premises and such materials should be reported to the relevant HR Team.*

## **E Proposed grounds of claim**

68. The Defendant's decisions are actions in relation to the 22 October 2025 event were unlawful for the following reasons.

- I. The Defendant failed to take such steps as are reasonably practicable to ensure that as a visiting speaker, the Claimant's freedom of speech within the law was secured and/or have particular regard to securing such freedom, contrary to Section 43(1) Education Act 1986 and/or A1 and A3 Higher Education (Freedom of Speech) Act 2023.
- II. The Defendant's decision making in relation to the talk given by the Claimant amounts to direct discrimination and harassment against the Claimant on grounds of her gender critical beliefs.
- III. The Defendant's handling of the Claimant's talk was a breach of the PSED.
- IV. The Defendant's decision to restrict access to the event, and failures to prevent the event from being disrupted, were an unlawful interference with the Claimant's Article 10 rights.

### **I Failure to take such steps as are reasonably practicable to secure the Claimant's freedom of speech.**

69. The Defendant failed to take such steps as are reasonably practicable to ensure that the Claimant's freedom of speech within the law was secured, in breach of the duty under Section 43(1) Education Act 1986 and the duty in the Higher Education (Freedom of Speech) Act 2023, A1(2)(d).
70. The Defendant is required to have particular regard to the importance of freedom of speech in relation to visiting speakers such as the Claimant. This objective includes securing that the terms on which such premises are provided are not to any extent based on an individual's ideas or opinions (Sections A1 (3)(b) and A1(4)(a) Higher Education (Freedom of Speech) Act 2023.
71. The Defendant explicitly breached this requirement on the basis of the restricted terms upon which it allowed the Claimant to voice her views on 22 October 2025. As explained above, the restrictions/'mitigating actions' applied by the Defendant

to the Claimant's talk were not merely unusual (in the context of all the other external speaker talks facilitated by the Defendant in the past six years), they were unprecedented.

72. Indeed, in all the circumstances it is hard to avoid the conclusion that, quite contrary to its statutory obligations, the Defendant pursued a concerted campaign to deter the Claimant from giving her talk, and ensured that if it did occur, the attendees would be as few, and as hindered or deterred, as possible.
73. Similarly, it is hard to avoid the conclusion that University staff were intentionally ineffective in their efforts to prevent protestors from disrupting the talk.
74. **Firstly**, by restricting the attendance to 60 (30 university staff and students and 30 members of the public), the Defendant limited the number of people who could engage with the Claimant's ideas.
75. The Risk Assessment states that this was for "crowd control." However, the Event Organiser Self-Assessment Form states the risk of the speaker causing or inciting to violence, hatred, personal harassment, alarm or distress is low. Thus, the alleged "high risk" emanates from protestors. It is therefore unclear how limiting attendees is necessary to prevent risk posed by protestors.
76. Additionally, this is clearly not the least restrictive measure, given the risk assessment provides for additional security personnel and members of the school admin team to be available to assist with the event management. The Defendant had had over fifteen months from the Claimant's initial invitation to the event itself to plan for this risk and could have used that time to take various other steps to ensure the talk could go ahead without disruption, such that reducing attendance was clearly a breach of the Defendant's positive duty.
77. As set out above, the EHRC Guidance on 'Freedom of expression: a guide for higher education providers and students' unions in England and Wales', provides examples of reasonably practicable steps to ensure that freedom of speech is upheld. These include, challenging high-risk speakers with opposing views, having an independent chairperson to facilitate an event and make sure a range of viewpoints can be heard, filming an event to deter the use of unlawful speech, putting additional security in place etc.
78. This demonstrates the range of reasonable options the Defendant ought to have considered before the intrusive measure of significantly restricting attendance. The attendee numbers ultimately permitted by the Defendant were a small fraction of the total attendees previously accommodated at the secure Priory Road facility for other visiting speakers – or indeed at the higher lecture theatre at Royal Fort

House to which the talk was moved part-way through, and which was clearly therefore available. Given that (as conceded by the Defendant in its response to the Claimant's FOI request) the Defendant almost never applies 'mitigating actions'/restrictions to talks by external speakers, the natural inference is that the Defendant decided to apply discriminatory special measures to restrict attendee numbers for the Claimant's talk.

79. Additionally, the Defendant's own guidance on assessing risk includes the following as 'common' risk mitigations in high-risk contexts (though in fact no mitigating actions are commonly applied by the Defendant to external speaker events). These include security at event, event ticketed (and may potentially be made UoB student and staff only), promotional materials shared in advance, experienced Chairperson and appropriate additional speaker/s arranged to offer an opposing view. It is evident that none of the suggested mitigations include restricting numbers of attendees.
80. **Secondly**, the Defendant's decision to prohibit the attendance of undergraduates significantly reduced the range of people with whom the Claimant could engage. The Risk Assessment provides no justification for this decision, nor any indication of how the presence of undergraduates would increase risk. As above, this is not a "common mitigation" stated in the Defendant's Guidance on assessment of risk policy and/or the ECHR guidance. The rationale appears to be a further attempt to restrict exposure to the Claimant's views, thereby breaching the Defendant's positive duty.
81. **Thirdly**, the Defendant's decision to host the lecture in a venue that was particularly vulnerable to interruption from protestors was an evident failure to take reasonable steps to secure the Claimant's freedom of speech. This was unreasonable given the availability of at least two alternative venues, either the secure lecture room at the Priory Road facility which had been used many times in the past successfully to host controversial speakers such as Jacob Rees-Mogg, Enoch Powell, John Vincent, Roger Scruton, or the venue on a higher floor in Royal Fort House, where the Claimant's talk was eventually permitted to continue uninterrupted. Talks such as these have been permitted by the Defendant to have large audiences, for example around 400 people were able to attend a talk by Jacob Rees Mogg at the Priory Road facility in 2018.
82. Further, the Risk Assessment explicitly states the Security and Campus Safety Supervisor will recommend a venue which "*avoids potential control issues that could disrupt the talk e.g. accessible windows that external protesters could bang on, too many entrances/exits that would take too many staff to secure, etc.*" Thus

the vulnerabilities of the venue had already been pre-identified in a context where the Defendant was aware of planned protest.

83. Therefore the Defendant's decision to arrange for the event to take place in Royal Fort House is a flagrant denial of the Claimant's freedom of speech, as it specifically enabled disruption. The fact that the Claimant was not given prior notice of the venue denied her the ability to request an alternative venue and/or prepare for the likely disruption, again breaching the Defendant's positive duty.
84. **Fourthly**, the Defendant's delay in silencing the fire alarm and failure to proactively stop protestors from banging on windows and shouting abuse is a clear failure to take reasonable steps to secure the Claimant's freedom of speech.
85. The Risk Assessment explicitly notes that there was a high risk of the event attracting controversy and/or significant protest. The tactics used by protestors such as banging on windows and setting off fire alarms are predictable strategies, the former even anticipated in the Risk Assessment itself.
86. The fact that it took around seven minutes to silence the first fire alarm and there was a failure by security staff to stop protestors banging on the windows evidences a clear breach of the positive duty to secure the Claimant's freedom of speech. This is highlighted by the case study included within the ECHR guidance which provides the example of an event organised by an atheist SU-affiliated society to debate whether God exists. The example describes a situation where an event is "interrupted by chanting and shouting from faith student activists in the audience. Those activists are eventually escorted off the premises by security, and the event is postponed... The [Higher Education Provider] knew there was opposition to the event and was under a duty to take all "reasonably practicable" steps to ensure the event could go ahead. This could have included providing additional security to ensure that protestors could be removed if they refused to leave or stop their protest after having a reasonable opportunity to express their views or exploring with the society whether an event where a range of views would be expressed was a viable alternative."
87. In clear contrast, in the Claimant's case no such response took place with regard to the protestors disrupting the talk and security failed to remove protestors when the level of interruption clearly exceeded any reasonable opportunity for them to express their views.
88. **Fifthly**, the context of the Claimant's lecture can be clearly distinguished from a situation such as that in *R (Ben-Dor) v University of Southampton* [2016] EWHC 953 (Admin) for the following reasons:

- a. The risk assessment in *Ben Dor* was based on information from the police (§75) whilst that in the Claimant's case appears to be based on anonymous complaints and proposals made by the Defendant themselves.
  - b. The risks in *Ben Dor* were particularly significant, including the context of a recent terrorist attack in Paris (§76). There was no such level of threat in the Claimant's case.
  - c. The risks in *Ben Dor* were only identified a few weeks before the event was due to take place, hence the Court's finding that postponing the event was a proportionate interference (§78). In the Claimant's case, the invite to speak was initially made in July 2024 and the lecture did not happen for a further 15 months, following two postponements. Therefore, unlike in *Ben Dor*, the Defendant had ample time to assess the risks and take reasonable steps to secure the Claimant's freedom of speech.
  - d. Finally, in *Ben Dor*, it was noted that significant work was required by the Defendant to work up its own security plan (§78) including reference to the fact "*none of the Defendant's own staff or contracted in staff had any public order training and the Defendant has no riot equipment available to it*" (§67). This reference to 'riot equipment' emphasises the gravity of risk in the *Ben Dor* case. By contrast, in the Claimant's case, there was no suggestion that Defendant's staff were unable to deal with potential protestors, which further calls the inactive and ineffective response to the disruption on the day into question.
89. As the EHRC guidance notes in the example quoted above: "*The views expressed by the speakers and protestors are not unlawful; both are protected by the s.43 duty. **But there is a need to balance the rights to freedom of expression of the members of the atheist student society, by enabling the event to proceed, and the faith student activists' right to protest.***" The Defendant's conduct demonstrated a complete failure to balance the rights of the protestors with those of the Claimant and those attending her talk. The event was barely able to take place at all, was severely restricted, and was significantly disrupted. The University in effect enabled a 'heckler's veto' by the anonymous complainants, the LGBTQ+ staff network and the protestors. For all these reasons, the Defendant's management of the Claimant's talk breaches the university's positive duty to take all reasonable steps to secure the freedom of speech of the Claimant and is therefore unlawful.

**II The Defendant's decision-making in relation to the talk was discrimination on account of the Claimant's Gender Critical Beliefs.**

90. The Claimant identifies as gender critical, such that she believes that sex is real, important, immutable and not to be conflated with gender identity . As per Forstater this a protected philosophical belief under the Equality Act 2010.
91. The Claimant's talk was focused on her government-commissioned independent review of data, statistics and research on sex and gender, published in March 2025. This considered the main obstacles to accurate data collection by public authorities on sex and gender identity in public bodies, and good practice in respect of the above. Therefore, the subject of her work and the content of her talk were closely connected to her gender critical beliefs.

**Direct Discrimination**

92. The Defendant's handling of the Claimant's talk was less favourable treatment because of her gender critical beliefs contrary to s.29 of the Equality Act 2010, in the University's provision of services (specifically, a venue and associated arrangements for her talk) to the Claimant. In particular, the Defendant treated the Claimant less favourably than someone without gender critical beliefs, by way of the following actions:
  - a. The Defendant prohibited the attendance of undergraduates.
  - b. The Defendant restricted attendance to 60 attendees (30 university staff and students and 30 members of the public), despite the fact the room chosen seated 100, the room they were eventually moved to had capacity for 300 and the secure lecture room at Priory Road had capacity for 400.
  - c. The Defendant selected a venue for the talk in Royal Fort House, vulnerable to protestor disruption, despite the fact that the secure lecture room at the Priory Road facility was the usual venue used for controversial speakers having previously hosted Jacob Rees-Mogg, Enoch Powell, John Vincent, Roger Scruton.



- d. The Defendant's staff failed to respond quickly and effectively in silencing the fire alarm set off by protestors during the Claimant's speech, despite the fact this was a predictable attempt at disruption.
  - e. The Defendant's staff failed to stop protestors climbing up the walls of the building, banging on windows and shouting abuse during the Claimant's talk.
  - f. The Claimant was not told in advance of the nature of the identity of the individuals who had made threats against her.
  - g. The Claimant (and the attendees) were not told in advance of the location of the talk.
93. The discrimination against the Claimant's beliefs was evident in numerous ways, from the response of the LGBTQ+ staff network and the way in which Professor Gordon was disciplined for attempting to engage with them, to the Pride and Trans flags on prominent display in the entrance hall on the day of the talk. The discrimination is also evident from the fact that the Defendant almost never applies mitigating actions/restrictions to external speaker events. It decided to make a highly unusual exception to this practice on this occasion.
94. It seems that the Defendant's management of the Claimant's talk, illustrating as it did a clear preference for the rights of the protesters above those of the Claimant, was an outworking of the position set out in its Trans and Non-Binary Staff Inclusion Policy. The Defendant's continued reliance on this policy is further evidence of an incorrect application of the law and direct discrimination against the Claimant in the following respects.
95. **Firstly**, the policy adopts a self-identification approach to gender reassignment which is not recognised in the Equality Act 2010 or any other part of English law, as reflected in the following excerpts from the policy:
- a. *"The University recognises that protection under the Equality Act 2010 is extended to trans (including non-binary) individuals from the moment they indicate their intention to transition."*
  - b. *"The University will not discriminate against people on the grounds of their gender identity, gender expression, trans identity, trans history, or trans status."*

- c. *“This includes staff who have non-binary, non-gender, gender-fluid, and other gender diverse identities.”*
96. This is unlawful as per *For Women Scotland* [§206] which confirmed that sex under the Equality Act refers to biological sex and Section 7 EqA protects gender reassignment. Therefore “nonbinary” is not a protected characteristic. Further, treating gender identity as if it falls under sex discrimination protections is not compatible with the Court’s ruling that biological sex remains a legally distinct and necessary category.
97. **Secondly**, the policy states:
- “Trans staff can use the facilities (such as changing rooms and toilets) they feel most comfortable using.”*
98. This is unlawful as *For Women Scotland* confirmed that single-sex services and spaces, if relied upon, must be based on biological sex. The policy incorrectly reflects the law by adopting a self-identification model.
99. **Thirdly**, the policy states:
- “No identifying information can be shared with any person at any time without the individual’s explicit consent.”*
100. The GRA 2004 imposes strict confidentiality only on GRC-related information. *For Women Scotland* highlighted the continuing legal relevance of biological sex, meaning that in some contexts (e.g., occupational requirements, single-sex services, safeguarding) sex may need to be known, and cannot be made operationally inaccessible simply by a policy of blanket confidentiality.
101. **Fourthly**, the policy states:
- “All staff are responsible for removing transphobic and anti-trans material if it appears on University premises...”*
102. This is the most troubling and relevant part of the policy for the purposes of the Claimant’s talk. The reference to ‘transphobic and anti-trans’ material must be understood against a background where any reference to biological sex or women’s rights is often characterised as ‘transphobic’ or ‘anti-trans’, as the Claimant has experienced, and as is evidenced by some of the claims made against her by the Defendant’s staff, as revealed by the Subject Access Request. This blanket statement therefore fails to acknowledge that some material deemed by

the Defendant's policy to be 'transphobic and anti-trans' may be a lawful expression of critical beliefs, which are protected under Article 10.

103. **Overall**, the policy perpetuates a self-identification model over a recognition of biological sex. This is clearly contrary to the reasoning in the Supreme Court judgment in *For Women Scotland*. The Defendant's handling of the Claimant's talk reflects a disregard for the Claimant's gender critical views and a preference, as reflected in the policy, for a self-identification approach. Further it adopts a position on a public matter of political, cultural or religious debate contrary to the requirement for institutional neutrality in the Freedom of Speech Code of Practice. For these reasons the Defendant's Trans Inclusion Policy is unlawful.

### Harassment

104. Further or in the alternative, the above conduct constitutes unwanted behaviour related to the Claimant's gender critical belief.
105. This conduct had the purpose or effect of creating a hostile and intimidating environment for the Claimant for the following reasons:
- a. The Claimant was unable to adequately prepare for the level of protest at the event.
  - b. The Claimant was unaware in advance where the event was taking place, so as to understand how its location would be vulnerable to protestors interrupting.
  - c. The Claimant was made to feel vulnerable during the speech due to Defendant staff's failure to effectively silence the fire alarms and/or manage the protesters.
106. The Defendant's management of the talk discriminated against the Claimant on grounds of her gender critical beliefs by way of direct discrimination and/or harassment. Accordingly, the decision making was unlawful.

### **III The Defendant's handling of the Claimant's talk was a breach of the PSED**

107. The Defendant's handling of the Claimant's talk was a breach of the PSED. In particular, the Defendant failed to have due regard to the need to eliminate

discrimination and harassment as set out above, in breach of their duty under s149(1)(a) EqA.

108. Further, in failing to take reasonable steps to protect the Claimant's freedom of belief, the Defendant has fallen short of its duty to remove or minimise disadvantages and/or take steps to meet the needs of persons with gender critical beliefs in accordance with section 149(3)(a) and (b).
109. Finally, the Defendant's failure to promote a meeting between Professor Gordon and the LGBTQ+ network to understand how best to facilitate the lecture given by the Claimant offends the Defendant's duty to have due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share. This involves having due regard, in particular, to the need to tackle prejudice, and promote understanding, pursuant to section 149(5) EqA. The Defendant's conduct in the Claimant's case demonstrates a clear failure to promote good relations between the LGBTQ+ community and those holding gender critical beliefs.

#### **IV The Defendant's decision is an unlawful interference with the Claimant's Article 10 rights**

110. The Defendant's decision-making in respect of the Claimant's talk has interfered with the Article 10 rights of the Claimant. Article 10 expressly protects the Claimant's right to "impart information and ideas". This was curtailed as attendance was prohibited to undergraduates, the overall numbers were restricted and the Claimant was significantly disrupted during their delivery of the speech. For this interference to be proportionate, the Defendant would need to be able to satisfy the well-known four-part test set out in *Bank Mellat (No 2)* [2014] AC 700 [§74]. For the reasons set out below, the Defendant has failed to satisfy this test.
  - a. **Is the objective of the measure taken one which is sufficiently important to justify the limitation of a protected right?** The Defendant presumably relies on the objective of preventing disorder and crime in accordance with Section 10(2).
  - b. **Is the measure taken rationally connected to that objective?** The restrictions are not rationally connected to the objective of preventing order and crime. Firstly, there is no rationale for how restricting numbers of attendees and prohibiting undergraduates is connected to preventing disorder as the Defendant acknowledges the risk emanates from

protesters and not attendees. Secondly, the decision to use a room which is recognised in the Risk Assessment as increasing vulnerability to protestors is explicitly at odds with the objective of preventing crime.

- c. **Could a less intrusive measure have been used without unacceptably compromising the achievement of the objective?** It is clear that a less intrusive measure was possible. For example, planning for the event to take place in the room on a higher floor within Old Fort, which was both less vulnerable to protestors and had a larger seating capacity. Further or in the alternative, the Defendant could have used the venue on Priory Road which is typically used for controversial speakers and has a capacity of up to 400.
- d. **Balancing the severity of the measure's effects on the rights of the person to whom it applies against the importance of that objective, does the former outweigh the latter?** The measures significantly inhibited the right of the Claimant to impart her ideas, as only 60 people were permitted to register and the event itself was disrupted to such extent that attendees were forced to move to an alternative venue part way through the Claimant's talk. The Defendant's need to prevent crime and disorder is clearly an important objective. However, the fact that the venue chosen in fact exacerbated the risk is clear evidence that the restrictions on the Claimant's Article 10 rights were not a proportionate interference.

Further, the Claimant noted that it was the most aggressive and disruptive response to her presence she had ever experienced, thereby emphasising the severity of the measure's effects on the Claimant's Article 10 rights.

111. Therefore, the Defendant's decision making in relation to the talk is unlawful as it represented an unlawful interference with the Claimant's Article 10 rights.

## **F Action the Defendant is expected to take**

112. To avoid litigation, the Defendant is asked to

- a. confirm that the Trans Inclusion Policy will be withdrawn on account of its unlawfulness; and
- b. issue a public announcement stating that its decisions in respect of the Claimant's lecture were unlawful for the reasons outlined above.

## **G Other avenues of challenge**

113. The Claimant has made complaints regarding the Defendant's conduct via their internal processes and has made a Subject Access Request (SAR). Therefore, the Claimant has extinguished all options of raising this issue within the university's complaint procedure. Accordingly, the Claimant seeks judicial review as a remedy of last resort.

## **H Details of information sought**

114. The Claimant requests that the Defendant provide unredacted versions of the initial risk assessments.

## **I Alternative dispute resolution**

115. While our clients are open to engaging in meaningful discussion to resolve this matter without recourse to litigation, the urgency and significance of the issues raised may make judicial determination necessary. Please let us know if you wish to arrange such discussion.

## **J The Defendant's response**

116. Please provide a response within 14 days of this letter as required under the Pre-Action Protocol.

117. If no satisfactory response is provided within 14 days (i.e. by 30 December 2025) the Claimant reserves the right to issue judicial review proceedings without further notice.

Yours sincerely,



Conrathe Gardner LLP