



**FSU**  
FREE SPEECH UNION

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Dr Mary Bousted and Mr Kevin Courtney  
General Secretaries  
National Education Union  
Hamilton House  
Mabledon Place  
London WC1H 9BD

10<sup>th</sup> October 2022

**Via Email: [mary.bousted@neu.org.uk](mailto:mary.bousted@neu.org.uk); [kevin.courtney@neu.org.uk](mailto:kevin.courtney@neu.org.uk)**

Dear Dr Bousted and Mr Courtney,

I am writing in my capacity as General Secretary of the Free Speech Union to express my concern about a draft document, passed to us by a whistleblower, which contains the NEU's proposal to redefine the word 'transphobia' in such broad terms that any criticism of gender identity ideology – or the agenda of transrights activists – would be deemed 'transphobic'.

The document is labelled "Proposed definition of transphobia from NEU Trans and Non-Binary Network". The proposal gives the following examples of 'transphobic' behaviour:

- "Propagating ideas, concepts and misinformation harmful to trans people and which erase and ignore trans history, such as trans as an ideology..."
- "misgendering and incorrect use of pronouns"
- Discussing how best to balance trans rights and sex-based women's rights with a trans individual, on the grounds that such a discussion would challenge "their rights and/or identities"
- "Supporting and propagating the vilification and demonising of trans children or their parents and supporting adults"

The draft document further defines 'transphobia' as:

- A "rejection of trans identity and a refusal to acknowledge that those identities are real or valid"

While protecting trans pupils, trans teachers and trans support staff from harassment is a worthy aim, this proposal goes far beyond that and would have the effect of silencing any challenge to gender critical ideology or the agenda of transrights activists. Indeed, the definition even prohibits the discussion of gender theory as an ideology because referring to it in that way is allegedly 'transphobic'. That has the implication, which surely cannot be intended, that some of the intellectual forebears of the transrights movement, such as Dr Judith Butler, are themselves transphobic.

While we would never defend genuine harassment by appealing to the right to free speech, we do defend the right of individuals to abstain from endorsing gender critical ideology and to challenge the transrights activists' agenda without being penalised. For instance, we defend the right of gender critical feminists, such as Maya Forstator and Allison Bailey, not to use the preferred pronouns of transgendered individuals since doing so would tacitly affirm something they do not believe possible, namely, that a person can change sex. Many people, not just gender critical feminists, reject the idea that sex is a social construct, and, according to the courts, the belief that sex is binary and immutable is a lawful and reasonable point-of-view, deserving of protection under the Equality Act 2010. Such people should not be compelled to make statements or endorse an ideology that they do not believe, and a gender critical teacher who was punished by his or her school for refusing to use the preferred gender pronouns of a trans member of staff would be able to bring a case for discrimination against the school in the Employment Tribunal.

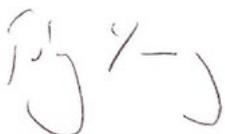
The definition of 'transphobia' and transphobic behaviour in the NEU's proposal, in addition to being excessively broad, is also very vague. It proscribes "vilification" of trans children without defining what is meant by that, or giving an example of where that has happened. Similarly, it defines as 'transphobic' the propagation of "ideas, concepts and misinformation" that are deemed by the NEU to "ignore trans history" and to be "harmful". What the relevant history is in this context and what "ideas, concepts and misinformation" cause harm is not set out. To a gender critical feminist, propagating the idea that a person can change his or her sex would be to spread "misinformation". Why has the NEU decided that "misinformation" is only "harmful" if it is being spread by one side in this debate?

Which brings me to the nub of the issue: Why is the NEU taking one side in an ongoing public debate when it has plenty of members on the other side? Not only that, but if it adopts this proposal it will be joining the most extreme transrights activists in condemning anyone who refuses to go along with their agenda as a 'transphobe'. Even if the NEU feels compelled to endorse this ideology, why has it felt the need to go further and refuse to defend any of its members who dissent from it? Doesn't the NEU have a duty to defend the rights of all its members, including those who find themselves at odds with the union's official position on issues like this? Is the NEU effectively saying to all its members that do not go along with gender identity ideology that it regards them as 'transphobic' and no longer wants them as members? As it stands, this proposal would make it impossible for the NEU to defend a teacher who got into trouble merely for advocating tolerance of gender identity ideology, as referring to the beliefs of transrights activists as an "ideology" is deemed to be 'transphobic' according to your proposed definition.

I hope the NEU will reconsider adopting this definition of 'transphobia', not least because if it refuses to stand up for its members who refuse to endorse gender identity ideology it, too, could be found guilty of discrimination under the Equality Act 2010.

Alternatively, if you are determined not to defend the rights of your members with gender critical beliefs, or those that get into trouble for being insufficiently supportive of the transrights agenda, please could you refer them to the Free Speech Union? We will be glad to assist them and the standard annual membership fee is just £49.95 compared to £203.40 at the NEU.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'J. Y. J.', written in a cursive style.

Toby Young  
General Secretary  
The Free Speech Union  
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#### Appendix: 'Proposed definition of transphobia from NEU Trans and Non-Binary Network'

Someone might identify as trans if they define their gender differently to the sex that they were assigned at birth. This can include binary trans people, non-binary people and, if they identify as trans, gender non-conforming people. A trans identity is not dependent on any medical intervention, and is individual and personal to the person.

- Transphobia comes from a rejection of trans identity and a refusal to acknowledge that those identities are real or valid. Transphobia has no single simple manifestation and can be directed to trans, non-binary and gender non-conforming people; people thought to have a trans identity; or towards people with an association with trans people. It is complex and can include a broad spread of thoughts, feelings and behaviours. The effects of transphobia are similarly broad and far reaching, but transphobic behaviour can violate a person's dignity or create an intimidating, hostile, degrading, humiliating or offensive environment. Transphobic behaviour can prevent transgender and gender diverse people from living full open lives comfortably as themselves and free from harm and creates barriers for trans people in society, including in the workplace.

Transphobic behaviour can come in many different forms, including but not limited to:

- Deliberate and/or persistent misgendering and incorrect use of pronouns, including when a person is not present
- Propagating ideas, concepts and misinformation harmful to trans people and which erase and ignore trans history, such as trans as an ideology or contagion
- Offensive jokes, language, innuendo and mockery directed towards someone's trans identity and/or practices intended to be inclusive of trans people
- Inappropriate and intrusive questioning or gossip which can violate a person's dignity
- Systematic exclusion of trans people from discussion about issues that directly affect them, or the expectation of trans people to participate in discussion or debate about their rights and/or identities
- Deliberate exclusion, including from conversation, professional and/or social activity and physical spaces
- Supporting and propagating the vilification and demonising of trans children or their parents and supporting adults