



**FSU**  
FREE SPEECH UNION

The Free Speech Union  
85 Great Portland St.  
London W1W 7LT  
[FreeSpeechUnion.org](https://www.FreeSpeechUnion.org)

**Professor Sir Malcolm Evans**  
**Regent's Park College**  
**Pusey Street**  
**Oxford**  
**OX1 2LB**

5th September 2023

Dear Professor Evans,

I am writing to you in my capacity as General Secretary of the Free Speech Union, a non-partisan, mass membership public interest body that stands up for the speech rights of its members and campaigns for free speech more widely.

It has come to our attention that Regents Park College has published a Trans Inclusion Statement (the Statement) which all students and employees of the College are required to comply with. The Statement stipulates that any “unlawful discriminatory behaviour, including transphobic harassment or bullying of by individuals or groups, will be dealt with under the College’s Policy on Harassment and Bullying and within the relevant legislation The Equality Act 2010”. Examples of behaviour that may be classed as inappropriate include “making jokes about trans people or their trans status”, “denying or disputing the validity and/or existence of a trans person’s identity” and “consistently using incorrect titles or pronouns or names to refer to a trans person (‘deadnaming’)”.

As you will be aware, for the purposes of Section 26 and Part 6 of the Equality Act 2010 (EqA), students are third parties and owe no duties under the EqA. English universities are not directed by law to treat students as though they are bound by duties under EqA. The College’s attempt to hold students accountable under the EqA through this Statement (particularly in relation to speech that is merely offensive) will unduly inhibit free speech and is in direct conflict with the College’s statutory duties to facilitate freedom of speech as set out below:

- Under Section 43 of the Education (No 2) Act 1986 (EA) the College is required to take such steps as are reasonably practicable to secure freedom of speech within the law for its employees and students.
- Under the Higher Education and Research Act 2017 the College is required to uphold the existing laws around freedom of speech such as the right to freedom of expression under Article 10 of the Human Rights Act 1998.
- Under Section 6 of the Human Rights Act, the College has an obligation not to act incompatibly with the protection of the right to freedom of expression under article 10 of the European Convention on Human Rights.
- Under the Higher Education (Freedom of Speech) Act 2023, the College must take steps that are reasonably practicable for it to take to secure freedom of speech within the law for its staff, members, students and visiting speakers.

It is also in direct conflict with College's Freedom of Speech Policy and the University of Oxford's Free Speech Statement which states:

Recognising the vital importance of free expression for the life of the mind, a university may make rules concerning the conduct of debate but should never prevent speech that is lawful. Inevitably, this will mean that members of the University/College are confronted with views that some find unsettling, extreme or offensive.

The Statement says that "persistently misgendering an individual with the wrong name or pronoun, and claiming to have done so accidentally, might be experienced as harassment by the person concerned" and that inappropriate behaviour could include a "refusal to treat a person in accordance with their affirmed identity".

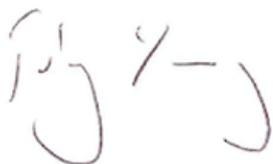
The compulsory use of pronouns, mandated even for individuals who do not share a belief in gender identity ideology – such as orthodox Christians, practising Muslims and those who hold gender critical beliefs – is an untested point of a law. However, a court might well decide that insisting someone who believes that sex is binary and immutable use a trans or non-binary person's preferred pronouns is a form of unlawful discrimination, given that the Employment Appeals Tribunal has ruled that it is a protected belief under the EqA. It might also conclude that it is compelled speech, which would be a breach of Article 10 of the European Convention on Human Rights. In *Lee v Ashers Baking Company*, the Supreme Court concluded that Article 10 rights include the right not to express a particular belief, e.g. a belief in gender identity ideology.

Although the Statement refers to the need to "uphold lawful freedom of expression" and protect "lawfully expressed gender-critical beliefs" – which we welcome – any insistence that students comply with the College's "commitment to trans inclusion" in all the ways set out in the Statement – that they affirm everything a trans person believes about their gender, for instance – would be a breach of the College's legal duty to uphold free speech and this duty is not diluted by the EqA, as explained above. As such, this Statement risks stifling free speech and may well encourage students to make complaints of harassment to silence those who express perfectly lawful beliefs that they disagree with.

For the reasons set out above, we consider the Statement to be unlawful and open to legal challenge and we require it be withdrawn before the start of Michaelmas term. Should a member of the College be penalised in any way for refusing to comply with an unlawful aspect of the Statement, we will offer them our support, up to and including legal support.

If the College would like our help in revising the Statement to ensure it is compatible with its duties to uphold free speech, we would be happy to advise on a cost-free basis.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'F. J. J.', is written over a faint, light blue circular stamp or watermark.

Toby Young  
General Secretary  
The Free Speech Union  
[info@freespeechunion.org](mailto:info@freespeechunion.org)

Cc. Professor Irene Tracey CBE, Vice-Chancellor, Oxford University  
Rt Hon Kemi Badenoch, Minister for Women and Equalities, Government  
Equalities Office  
David Johnston MP, Parliamentary Under-Secretary of State for Children, Families  
and Wellbeing, Department for Education  
Professor Arif Ahmed, Director for Freedom of Speech and Academic Freedom,  
Office for Students