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FREE SPEECH UNION

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Baroness Royall of Blaisdon
Principal
Somerville College
Woodstock Road
Oxford, OX2 6HD

13th February 2021

Dear Lady Royall,

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.

One of our members, a student at Somerville College, has contacted us following the receipt of an email from you on 8th February:

Dear Students,

There is irrefutable evidence that a number of systemic injustices in our society, such as institutional levels of racism, homophobia, transphobia and disability discrimination, grow, at least in part, from individual unconscious biases that many or all of us have. A vital step in addressing these injustices is for each of us to become more aware of our unconscious biases as a necessary first step towards avoiding actions driven by unconscious prejudices. In order to make progress in these important direction, it is necessary that we all actively think about what unconscious biases we have and the damage they can do.

This is why I am writing to let you know that, following consultation with student representatives we are requiring all our students to undertake a short online unconscious bias training course. You will shortly receive an e-mail giving you your personal username, along with a link to the training course site. You will be required to complete this course by Friday 19th February and achieve a mark of 100% in the assessment at the end.

I trust that you will be happy to participate in this exercise and that this will contribute to Somerville becoming a more inclusive community.

Our member is understandably anxious that if they refuse to take this training course, or if they score less than 100% in the assessment at the end of the course, they may face disciplinary action.

We think your insistence that all students do this training – and score 100% on the assessment – is wrong for a number of reasons.

First, your assertion that there is “irrefutable evidence” of a link between “unconscious biases” and “discrimination” is misleading. There is some evidence that such a link exists, but it’s not “irrefutable”. On the contrary, it is the subject of ongoing debate. For instance, a [meta-study](#) published in the *Journal of Personality and Social Psychology*

in 2009 analysed 122 research papers that looked at whether such a link exists. It concluded that a person's score in the racial component of the Implicit Association Test – a test designed to measure a person's unconscious biases – accounted for about 5.5% of the variation in discriminatory behaviour in lab settings, while IAT scores in other sections of the test accounted for about 4% of the variance. But these results have been vigorously contested. For instance, in a follow-up [meta-analysis](#) in the same journal in 2013. A more recent [meta-analysis](#) in 2019, which looked at 492 studies, found that unconscious bias training produced, at best, “trivial” changes in behaviour.

Second, while I applaud your aim of tackling racism, homophobia, transphobia and disability discrimination and making Somerville a more inclusive community, there is some evidence that unconscious bias training *increases* discriminatory behaviour towards disadvantaged groups. For instance, the sociologists Frank Dobbin and Alexandra Kalev looked at the impact of the mass roll-out of diversity training in American corporations for the *Harvard Business Review* and concluded that such programmes are counter-productive, particularly when they're compulsory (“[Why Diversity Programs Fail](#)”):

The positive effects of diversity training rarely last beyond a day or two, and a number of studies suggest that it can activate bias or spark a backlash,” they wrote. “Trainers tell us that people often respond to compulsory [courses with anger and resistance](#) – and many [participants actually report more](#) animosity toward other groups afterward.

Third, I am concerned that making this training course compulsory may be a breach of your contractual obligations to our member and, further, that insisting they score 100% on the assessment at the end of the course may be a breach of both the Human Rights Act 1998 and the Equality Act 2010.

On the contractual point, it was not made clear to our member when they enrolled at the College and embarked on their course of study that they would be required to take an unconscious bias training course. Nor was there any reference to their being required to score 100% in an assessment at the end of that course. This seems to be a striking unilateral variation of contract.

When it comes to the Human Rights Act and the Equality Act, the problem arises because of the College's requirement, as set out in your email, that our member must score 100% in the assessment. I have looked at this “quiz”, as it's described in the course materials, and I am particularly concerned about the fifth question:

Acknowledging your personal feelings about particular groups or individuals is a useful starting point in overcoming unconscious bias.

Is this productive or unproductive in addressing your personal biases?

Presumably, the “correct” answer is that this is “productive”, and if you tick “unproductive” – there are only two choices – you will score less than 100%. But the social science evidence that acknowledging your unconscious biases helps you to “overcome” them is weak. What little evidence there is suggests that any change in unconscious bias that results from this kind of awareness is minimal, short-lived, does not lead to a reduction in real-world discriminatory behaviour and can lead to an increase in such behaviour. (The Free Speech Union summarised some of this evidence in its [briefing document](#) on unconscious bias training.)

On the balance of the scientific evidence, therefore, it would be more accurate to give the “wrong” answer to question five. Not all students will be acquainted with this evidence but some will, including our member. What you are asking this student to do is to give an answer they believe is false to avoid a possible sanction – and this will apply to some of the other students familiar with the social science literature on unconscious bias training.

Penalising a person if they don't express a point of view they disagree with was judged to be unlawful by the Supreme Court in [Lee v Ashers Baking Company](#). In that case, the Court ruled that compelling the owners of a

bakery to bake a cake and include a message on that cake that they disagreed with was a breach of their rights under the European Convention on Human Rights. In effect, the Court ruled that the right to freedom of expression (Article 10) includes the right not to express a particular point of view. As a public authority under s.6 of the Human Rights Act 1998, the College may not act in a way that is incompatible with the rights of the European Convention on Human Rights and that means not “requiring” our member to express a point of view they disagree with.

In addition, s.91 of the Equality Act 2010 makes it unlawful for a higher education provider in England and Wales to harass a student on the basis of their protected characteristics, including their religion or belief. Harassment is defined in s.26 of the Act as the creation of “an intimidating, hostile, degrading, humiliating or offensive environment” for a person in virtue of their protected characteristics, including religion or belief. Our member thinks of themselves as a scientific rationalist and, as such, always tries to answer factual questions of the type posed in this “quiz” by examining the empirical evidence. They believe that, on the balance of evidence, the correct answer to question five is “unproductive”, but you have said in your email that they are required to score 100% in this assessment and that means they are being told to give an answer they believe to be wrong, under threat of possible disciplinary action. In this way, the College has created “an intimidating, hostile, degrading, humiliating or offensive environment” for our member in virtue of his belief in scientific rationalism.

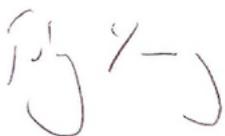
Even if you believe that the preponderance of scientific evidence suggests training courses of this type are more likely to be “productive” than “unproductive”, it is surely at odds with your [Freedom of Speech Policy](#) (which says that “freedom of speech and academic freedom are central tenets of Somerville College life”) to insist that there is only one correct answer to this question and require all students to give that answer in a course assessment or face a potential sanction. The relationship between conscious and unconscious biases, and the impact of unconscious bias training on a person’s real-world behaviour, are subjects of an ongoing academic debate and if the College values academic freedom it should not insist that all students take one side in this debate.

In light of the above, I would ask you to make it clear that doing this unconscious bias training course is not mandatory and if any students at the College choose to take it they will not suffer a detriment if they score less than 100% on the “quiz”. For the reasons I’ve set out, I believe that insisting our member take this course may be a breach of their contract with the College, and demanding they score 100% on the “quiz”, because it requires our member to express a point of view they do not hold and which they believe to be scientifically false, is a breach of both the Human Rights Act and the Equality Act.

In your email, you imposed a deadline of 19th February by which all students at the College had to complete the training and score 100% on the assessment. Therefore, could you issue the clarification I have asked for before that date?

I look forward to hearing from you at your earliest possible convenience.

Yours sincerely,



Toby Young
General Secretary

The Free Speech Union
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Cc: Ms Louise Richardson, Vice-Chancellor, Oxford University
The Rt Hon Michelle Donelan, Universities Minister, Department for Education
The Rt Hon Kemi Badenoch, Parliamentary Under-Secretary of State for Equalities
Mr Iain Mansfield, Department for Education
Lord Wharton, Chair, Office for Students
Ms Nicola Dandridge, CEO, Office for Students
Mr David Smy, Office for Students