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FREE SPEECH UNION

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Professor Lisa Roberts
Vice-Chancellor
University of Exeter
Northcote House
The Queen's Drive
Exeter EX4 4QJ

12 February 2021

Dear Professor Roberts,

I am writing as General Secretary of the Free Speech Union, which campaigns in the public interest to defend, promote and secure freedom of speech. This letter is not written on behalf of any member of the Free Speech Union.

We applauded the decision of your predecessor, Professor Sir Steve Smith, to issue a Free Speech Statement, and are pleased to see that, under your leadership, it remains in place. Indeed, I was very impressed by the speed with which you intervened when I last wrote to you, flagging up the attempt to no-platform a speaker at the Exeter Debating Society. Thanks in part to your quick intervention, Caroline Farrow was able to speak at the debate.

It was with some concern, therefore, that we learned of the new external speaker policy of the University of Exeter Students' Guild (see enclosure 1):

Since events have all moved online and we anticipate a growth in digital events moving forward, we need to take some time to pause and develop digital event management protocols that ensure events are run smoothly and that they comply with relevant legislation and review recommendations...

In acknowledging that existing digital event protocols are inadequate and expose our student leaders to significant risk, **we are requiring all societies to postpone and rearrange any events with external speakers from Thursday 28 January 2021. You will be required to re-submit all events under the new process, and no events taking place from Thursday onwards will be permitted until approval is granted under the new review system** [with original emphases].

We ask that the University investigate promptly whether this new policy, the full details of which are not yet clear, is compliant with its codes of practice and the law. On the face of it, it looks as if the Students' Guild has no-platformed every single external speaker at Exeter at a stroke.

Our understanding is that the University may be in breach of its legal obligations if it fails to take reasonable steps to persuade or compel the Guild to amend this policy.

The law

As you will be aware, section 43 of the Education (No 2) Act 1986 requires that the university:

- take reasonably practicable steps to secure freedom of speech for, among others, visiting speakers;
- issue a free speech Code of Practice setting out how the above duty will be discharged on University premises, which includes any premises occupied by the Guild; and
- comply with the free speech code of practice.

The Code of Practice

The University's Free Speech Statement constitutes its Code of Practice. It explicitly applies to the Students' Guild, to visiting speakers and to "all events and activities held within University of Exeter premises".

The Code of Practice states that "the University will always seek, in the first instance, to allow an event to go ahead", and then, quite reasonably, sets out certain key risks which may require proper assessment before a speaking event may go ahead. Certain control measures are available to the University in order to mitigate risk, including briefings to chairpersons, restrictions to the topics under discussion, and prohibition of a certain speaker.

In addition, the Speakers and Events Policy sets out the University's "key objectives" in holding speaking events, one of which is the aim of ensuring that any risks be assessed in accordance with the thorough processes set out in the 'Responsibility for Implementation' section.

The Speakers and Events Policy, which seems to have been usefully updated during the period of lockdown, states:

This policy applies to ... speeches and guest speakers held at or in the name of the University of Exeter, whether booked by University staff, students or external parties. This includes events held virtually via collaboration tools such as Zoom or Teams (not exhaustive).

We accept that virtual education has created unforeseen difficulties for universities when it comes to complying with legal requirements. We hope the University will agree, however, that the effect of lockdown must not be to absolve you of key obligations, by way of legal technicality. As such, online speaking events organised by the University or Guild, and branded as such, should be understood as events held on University "premises" for the purpose of section 43 and codes issued under it.

Our concern

The University has issued carefully drafted policies for the purpose of balancing freedom of speech against legitimate risks that can arise. Why does the Guild think these are these insufficient to guard against the purported “significant risks”?

Moreover, what *are* the “significant risks” identified by the Guild? The Code of Practice, which is legally enforceable, is clear that the freedom to host external speakers should be secured, unless *specific* risks are uncovered by assessment. The Guild has not identified any risk that could justify this interference with students’ freedom to listen to and engage with external speakers.

The usual (and sometimes legitimate) reason for restricting speaking events is the need to arrange security. This obviously cannot be the case with online events.

We believe the University should investigate seriously suggestions made by students at the University that this new policy arises from complaints received by the Guild about a speaking event hosted by the Debating Society on 22 January 2021, at which Claire Fox and Joanna Williams argued for the motion “This house regrets the rise of the snowflake generation.”

We believe that, in all circumstances, the University should investigate whether its legal obligations have been breached, and take appropriate action if it finds they have. The need for investigation is especially important if, as may be the case, the ‘risk’ identified by the Guild is the mere possibility that students may hear opinions that are distasteful to Guild officers.

The student experience at Exeter has already been diminished by the Covid-19 pandemic and the ensuing lockdown. The University should not stand by while, as seems to be the case, the Guild diminishes it even further by cancelling external speaker events. Nor, we believe, should the University tolerate actions by the Guild which damage the University’s reputation as a forum for open, free-thinking debate.

Governance

We understand that it might be difficult for the University to compel the Guild to take action, given its corporate and democratic independence. We note too that Ordinance 31 under the University’s statutes, which sets out the relationship between the University and the Guild, does not contain the full range of terms required by section 22 of the Education Act 1994.

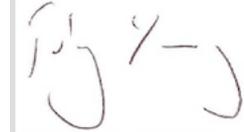
We think it would be a good idea for the University to agree a memorandum of understanding with the Guild. One seems to have been proposed by the Guild in its [Strategic Plan 2009-2012](#). It would be an excellent opportunity for the University to set out what it expects from the Guild, particularly in relation to freedom of expression, in return for its substantial annual grant.

As you will no doubt be aware, it is likely that the government will soon introduce new university free speech legislation, containing rules regulating students’ unions. We

believe Exeter should seek to be ahead of this, and not become 'Exhibit A' in the case for preventing student unions from ignoring universities' freedom of speech obligations. Would you be prepared to work collaboratively with the Free Speech Union in drafting pro-free speech terms of agreement between the University and Guild?

We would be very happy to assist in any way we can.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Toby Young', written over a vertical line.

Toby Young
General Secretary

Cc Sunday Blake, President, Students' Guild
The Rt Hon Michelle Donelan, Universities Minister, Department for Education
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