



**FSU**  
FREE SPEECH UNION

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

18<sup>th</sup> February 2021

Dear Lady Royall,

Thank you for your letter dated 15 February 2021. I very much appreciate the swift response.

I am grateful for the further reflection you have given to this matter following receipt of our letter, and pleased to hear of your decision that students will no longer be required to score 100% in the proposed unconscious bias test or face any disciplinary action if they fail to do so.

However, we have continuing concerns over the proposal that students scoring less than 100% be invited for a 'chat'.

As you will be aware, the right to freedom of expression is delicate. What constitutes an interference with the right is very broadly defined in law. As affirmed by the High Court in *Harry Miller*, any activity that indirectly impedes expressive activity is potentially an unlawful interference with free expression.

It is overwhelmingly likely that the prospect of being invited for a 'chat' will, for most students, have a dissuasive effect. A chat with a senior fellow is usually, in the college context, a prelude to some sort of reprimand. We accept in good faith that you have no intention to impose any sanction on students if they fail to complete the assessment or score less than 100%. Notwithstanding your good intentions, however, the effect of a 'chat' with non-compliant students will be a chill on free thinking.

We accept that tests can be a valid way of checking comprehension of training materials. This can be especially important in the context of regulatory compliance – for instance health and safety or data protection.

But questions of bias and justice are not matters for mere compliance. They are matters of principle. No credible educational institution, still less an Oxford college, should treat them as a matter for box-ticking, rather than discussion and reflection.

No Somerville student will inadvertently get less than 100% in this test. All of your students, whether biased or not, are likely to be savvy enough to understand the self-serving answer that each question demands – essentially, to profess that they hold the correct, orthodox beliefs. Its only realistic purpose, therefore, will be to uncover non-conformists rather than those likely to engage in discriminatory behaviour.

As I wrote in my first letter, this is likely to be well within the realm of unlawful compelled speech and we believe the college would be unwise to implement a potentially unlawful policy. However, I believe this points to a mutually satisfactory and lawful outcome. A student is only likely to score less than 100% because he or she wishes to register principled disagreement with UBT as a whole, or with the answers demanded by the test.

The college should welcome principled disagreement. There is no better arena in which it could take place. As such, the college should re-purpose the test, making sure to convey that it is optional, as a prelude to debate. If a significant number of students decline to take the test, or fail to score 100%, then the college should arrange a college-wide debate about the role unconscious bias plays in discriminatory behaviour and whether bringing those biases to the surface is likely to reduce or increase such behaviour.

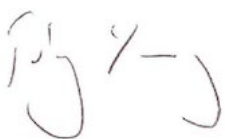
A college-wide debate of this nature could also be an opportunity to discuss whether such training exercises, even if they do make a small positive difference, are ultimately counter-productive since they soak up time and resources that could be devoted to making a more positive difference – such as widening participation. I was myself involved in just such an outreach programme while an undergraduate at Brasenose, visiting sixth forms in disadvantaged areas, and was able to persuade many students to apply.

To prevent any potential detriment or harassment, the college should ensure that the test results should be anonymous so there is no way for the College to tell what those students who took the course managed to score. In our view, this would put to rest any concerns we have relating to the Equality Act 2010.

Since my original letter, the Government has declared its intention to [bring forward a bill](#) in the next Parliamentary session to strengthen free speech at universities. Among the proposals is the requirement that the free speech duty under s.43 of the Education (No.2) Act 1986 be amended to include a duty on higher education providers (HEPs) to ‘actively promote’ freedom of speech and the appointment of a ‘Free Speech Champion’ to the board of the Office for Students responsible for ensuring HEPs comply with this duty. If these proposals become law, I believe it is likely that any student who is penalised for failing to take an unconscious bias training course – because he or she, having weighed up the scientific evidence, believes it to be a waste of time – could complain to the Free Speech Champion and expect the matter to be investigated.

It is worth noting that the Government shares my scepticism about the value of this training. Earlier this year, the Equalities Office commissioned the Behavioural Insights Team (BIT) to [look into its effectiveness](#). Having examined the evidence, the BIT concluded: “there is currently no evidence that this training changes behaviour in the long term or improves ... equality in terms of representation of women, ethnic minorities or other minority groups”. It also flagged up the emerging evidence that it could have unintended negative effects. On the strength of this review, the Government has decided to phase out unconscious bias training in the Civil Service.

Yours sincerely,



Toby Young  
General Secretary

The Free Speech Union

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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

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