



**FSU**  
FREE SPEECH UNION

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Professor Martin Jones  
Vice Chancellor and Chief Executive  
Staffordshire University  
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ST4 2DE

27<sup>th</sup> January 2022

Dear Professor Jones,

I am writing to you in my capacity as General Secretary of the Free Speech Union (FSU) on behalf of our member, Professor James Treadwell. The FSU is 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. This letter concerns your investigation of Professor Treadwell.

#### The facts

On 27 December 2021 Professor Treadwell, a criminologist with expertise in prison violence, sexual offenders and violent crime, posted tweets on his personal Twitter account that were intended as a contribution to the debate on gender self-identification and the risk that making it easier for men to change their legal gender could pose to female inmates in women's prisons. His Twitter account at that time stated that the views expressed were his own, not those of Staffordshire University. The tweets can be [read here](#). Broadly summarised, the Twitter thread explored the way in which male sex offenders exploit weaknesses in legislation and behave dishonestly with the purpose of accessing vulnerable victims. The thread was prefaced with a statement of Professor Treadwell's particular expertise and previous experience as a probation officer, in which capacity he met a large number of sex offenders. The final tweet in the thread stated: "It isn't about trans people, it's about bad people who will exploit the law from self interest and work within a legal framework (that could protect women's spaces) to do as they want and get what they want. You think that won't happen, you don't know how many sex offenders act."

On 6 January 2022 the Staffordshire University LGBTQ+ Network sent a letter to Staffordshire University – signed by "Students of Staffordshire University, the LGBTQ+ Network and more" – complaining about Professor Treadwell. We will deal with the substance of that complaint shortly.

On 12 January 2022 Professor Treadwell was notified verbally that a complaint had been made against him. However, details about the complaint were not disclosed to him for more than a week. This unwarranted delay caused serious stress to Professor Treadwell.

On 19 January he was asked by Professor Stella Jones-Devitt to attend a meeting in the “first half of next week”, despite still not having been made aware of the allegation. He objected, asking to see what he was accused of, and it was only then that he was sent the complaint. A second email from Professor Jones-Devitt then explained that she had been appointed as Investigating Officer and the meeting was part of the “Formal Stage” of the complaints process.

### The complaint

The complaint against Professor Treadwell alleges that he was “spreading misinformation”, engaged in “transphobic dog whistling” and that he was “courting a twitter audience of people with more obvious and extreme anti-trans views”. No evidence is provided for any of these assertions.

The complainants contend that Professor Treadwell’s posts were objectionable precisely because they were informed by his expertise: “it is worth noting that the views he expressed pertain specifically to criminology, the subject he teaches, and it seems naïve to think that his views on this subject would in no way influence his work”.

Large tracts of the letter simply articulate the complainants’ own political and philosophical views. They do nothing to substantiate the complaint, or even to provide grounds for the most preliminary informal investigation into the matter. In essence, all the complaint does is establish that the complainants and Professor Treadwell have different views. There is no suggestion that anything he said is unlawful.

Aside from setting out the complainants’ own views, the letter of complaint makes only two substantive points. The first is that Professor Treadwell has violated Staffordshire’s [Transgender Inclusion Policy](#). The complainants identify in particular the provision at section 3.0: “The University is committed to creating an inclusive Transgender-friendly environment in the workplace, the learning environment, research settings and online activities.”

They go on to say:

Many of us believe Treadwell’s views expressed on a public platform where university members may engage with his profile, creates hostility toward transgender students and staff at the university as his opposition to a fundamental right transgender people have to fight for, to be recognised as our gender without the need for gatekeeping and pathologizing, and his conflation of the progress of transgender rights with sexual predators does not contribute to an ‘inclusive transgender-friendly environment’.

The letter misrepresents Professor Treadwell’s views, and again proceeds into a lengthy argument in favour of gender self-identification which, while a perfectly legitimate viewpoint in itself, has no bearing on whether Professor Treadwell has breached any university policies. The reference to Professor Treadwell’s “opposition... to a fundamental right” ignores the fact that the “right” of transwomen prisoners to be placed in women’s prisons on the basis of their self-identified gender, and what conditions must be satisfied in order for that to happen, is a matter of ongoing political and social debate. It goes without saying that it is perfectly consistent to support trans rights in general without believing transwomen should be legally entitled to be placed in women’s prisons. Or, to put it another way, you can believe Staffordshire University should be an “inclusive transgender-friendly environment”, but not women’s prisons. The signatories of this letter have every right to express their view and to argue for a change in the law, but abusing the University’s complaints procedure to silence a member of staff who is expressing a different point of view is not consistent with the University’s commitment to upholding free speech (see below).

The second substantive point is the signatories’ demand for “action” against Professor Treadwell, namely that he must delete the tweets and issue an “apology demonstrating understanding of what damage his ideas

can cause". The signatories also demand that the University undertake "a review of his teaching to ensure these views are not entering the classroom" and that Professor Treadwell "receive inclusion training regarding discussion of transgender people and trans rights".

### University policy

Point 2.1 of the [Code of Practice on Freedom and Lawful Assembly in the University](#) states that

Freedom of speech is fundamental to a University. As a result, staff and students of the University must tolerate and protect the expression of opinions within the law, regardless of whether these opinions are repugnant to them.

The complainants are obliged to uphold that policy as members of the University, and the University is obliged by section 43(4) of the Education (No 2) Act 1986 to take reasonable steps to secure the complainants' compliance. Neither has occurred. The complainants have demonstrably failed to tolerate views they find repugnant by making a complaint on the basis of a difference of opinion, while the University has taken steps to indulge their intolerance instead of enforcing the terms of its Code of Practice.

### Legal duties

As you will be aware, Staffordshire University is a public authority and therefore under section 6 of the Human Rights Act 1998 must not act incompatibly with the Article 10 right to freedom of expression under the European Convention on Human Rights. While interference with that right may be lawful under Article 10(2), such interference must be strictly justified.

In accordance with the High Court's decision in *Miller v College of Policing* [2020] EWHC 225 (Admin), Professor Treadwell's public comment on the controversy over transgender rights constitutes political speech, and therefore merits the highest degree of protection under Article 10 with little scope for lawful interference.

Furthermore, Professor Treadwell's tweets were also protected as an extramural exercise of academic freedom. The opinions expressed clearly derived, as the complainants concede, from his academic expertise in criminology. The European Court of Human Rights has held that academics, like members of the press, play the role of 'public watchdog' (*Magyar Helsinki Bizottság v. Hungary*, App. no. 18030/11 (2016), [167] and [168]):

The manner in which public watchdogs carry out their activities may have a significant impact on the proper functioning of a democratic society. It is in the interest of democratic society to enable the press to exercise its vital role of "public watchdog" in imparting information on matters of public concern.

Professor Treadwell's tweet thread was a classic example of the academic playing the public watchdog role. He used his expertise and practical experience to inform his audience, which otherwise would have been unaware, of specific considerations that should be taken into account in considering a matter of urgent public controversy. At all times, his argument was driven by the need to protect the rights of others – specifically, vulnerable people threatened by sexual violence – and the obligation he feels he has to reflect on how the conflict between the rights of victims of sexual violence and the rights of transgender persons (which he readily accepts and celebrates) can be resolved.

Other judgments of the European court have held that speech in exercise of academic freedom merits a high level of protection even outside the university context. At paragraph 40 of *Erdogan v. Turkey*, Apps. nos. 346/04 and 39779/04 (2014), the Court held:

It is therefore consistent with the Court's case-law to submit to careful scrutiny any restrictions on the freedom of academics to carry out research and to publish their findings (see *Aksu v. Turkey* [GC], cited above, § 71). This freedom, however, is not restricted to academic or scientific research, but also extends to the academics' freedom to express freely their views and opinions, even if controversial or unpopular, in the areas of their research, professional expertise and competence. This may include an examination of the functioning of public institutions in a given political system, and a criticism thereof.

We submit that, such is the importance ascribed to political and academic speech by the Convention, that even minimal interference in the form of a disciplinary investigation would constitute an unlawful interference with Professor Treadwell's right to freedom of expression. In *Kula v Turkey*, App. no. 20233/06 (2018), the European Court of Human Rights held:

38. the present application relates essentially to the exercise by the applicant of his right to freely express his views as an academic during a television programme organised outside his city of residence. In the Court's view, this issue unquestionably concerns his academic freedom, which should guarantee freedom of expression and of action, freedom to disseminate information and freedom to "conduct research and distribute knowledge and truth without restriction".

39. The Court thus considers that, however minimal the sanction [a reprimand] imposed on the applicant for taking part in a television programme outside his city of residence without the authorisation of his supervisors, it was liable to have an impact on the exercise of his freedom of expression and even to have a chilling effect in that regard.

We submit that this authority clearly applies to Professor Treadwell.

If the University believes that Professor Treadwell's comments were so exceptionally objectionable that an interference with his rights under Article 10(2) could be justified – a position we believe is unreasonable and unsustainable – we would be grateful if you would set out your grounds for this belief.

Under section 43 of the Education (No 2) Act 1986, the University has a positive duty to take reasonably practicable steps to secure freedom of speech within the law. Professor Treadwell was unquestionably exercising his lawful right to freedom of speech, as set out above. Compliance with the statutory duty would entail no more than refraining from submitting him to a disciplinary procedure – and, in turn, commencing disciplinary proceedings is highly likely to constitute a breach of the University's statutory duty. We can see no lawful reason why securing Professor Treadwell's right to freedom of speech in this instance would exceed the reasonably practicable steps the University is obliged to take.

In addition, Professor Treadwell's views are a protected belief under the Equality Act as per the judgment of the Employment Appeal Tribunal in [Forstater v CGD Europe Ltd UKEAT/0105/20/JOJ](#) which found that gender critical beliefs do constitute a coherent philosophical belief.

We contend that Professor Treadwell's tweets fall well within the remit of this protection. Therefore, either the Transgender Inclusion Policy has been breached by Professor Treadwell's lawful expressions of his protected philosophical belief, in which case the policy isn't lawful; or the policy has not been breached, in which case the investigation is unwarranted.

#### The erroneous decision to proceed with an investigation

The first step in the Formal Stage of the Complaints and Appeals Procedure (set out in Appendix A of the Guidelines for Investigating Officers) is to establish the "eligibility of the complaint" and assess it.

Under the [Complaints Procedure](#), a complaint may be ineligible if it is "frivolous or vexatious" or if the complainant "fails to provide reasonable evidence to substantiate their allegations". The Procedure goes on to list the following as characterising frivolous or vexatious complaints:

- pursuing unmeritorious complaints and/or unrealistic outcomes beyond all reason;...
- demands for redress which lack any serious purpose or value.

Given the evidently poor quality of the complaint, its lack of substance, and its unreasonable demands that Professor Treadwell cease from expressing a lawful view, that he be re-educated out of his views and effectively be suspended from teaching (in violation of equality law, the Education (No 2) Act, Article 10 rights of the ECHR, and the university's own free speech policy), we submit that the complaint should have been rejected as ineligible at the very first step of the process, and no investigation launched. The only substantial policy point made in the complaint merits no further investigation, given that all of Professor Treadwell's views are lawful. As set out above, if there is a conflict between Professor Treadwell's lawful views and the policy, then the policy is in error. But it is not clear that any such conflict exists.

As per Staffordshire University's Guidelines for Investigating Officers, "If the requested outcome is not practical or proportionate, the Investigating Officer should sensitively manage the [complainant] student's expectations from this early stage." This would have been the appropriate response to the complaint, in the form of a reminder from the University to the students that they must adhere to the University's free speech policy. We believe their failure to do so is more than sufficient cause for a counter-complaint, a right Professor Treadwell reserves should this matter continue any further.

Further, we see no evidence that the University has had any regard to the chilling effect that the decision to investigate Professor Treadwell on such a flimsy basis will have. Launching an investigation is not an impartial act. In doing so the University has indulged students who want Professor Treadwell's views to be suppressed. In making this decision the University has created a chilling effect on the academic freedom, freedom of association, and freedom of speech of others within the University. We consider this to be incompatible with Staffordshire's obligations under the Education (No 2) Act 1986 and with the University's own policies.

#### Further procedural mistakes

The delay between the 12 January verbal discussion and the eventual disclosure of details of the case caused Professor Treadwell and his family considerable and understandable stress. It also had the effect of making him feel that he could not be active on social media or participate in public debates relevant to his field of expertise. We question whether this delay was in keeping with the investigatory guidelines which state: "The University seeks to resolve student concerns at the earliest opportunity" and warns that "Complaints investigations should not become a grievance in themselves so Investigating Officers will need to respond as quickly as possible".

We contend that Professor Jones-Devitt should have disclosed the allegation against Professor Treadwell in her initial email. She should also have disclosed in her initial email that she had been appointed as Investigation Officer, that the meeting was a formal investigation meeting, and that – notwithstanding her attempts to put Professor Treadwell at ease – this was not an informal discussion. She should also have informed him of his right to have a representative accompany him, which she did eventually disclose but only in response to him asking. The Investigating Officers' guidelines clearly state: "The member of staff should be offered the opportunity to be accompanied to the meeting by a member of staff or trade union representative."

#### Further action

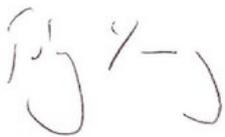
We will be fully supporting our member Professor Treadwell in this matter, by any means we deem necessary, up to and including legal action. We call on the University to:

- 1) Immediately end the investigation into Professor Treadwell;
- 2) Apologise to Professor Treadwell for beginning this proceeding without sufficient basis; and
- 3) Remind the complainants of point 2.1 of the code of practice on freedom of speech, and their obligation under that policy to “tolerate and protect the expressions of opinions within the law, regardless of whether these opinions are repugnant to them”.

If this matter should be escalated further by the complainants, either through another abuse of the complaints process or via any other means, the University is obliged to defend Professor Treadwell and his rights. That obligation may well include reminding students generally of current UK law on academic freedom and freedom of speech, and the relevant university policy with which they must comply.

Should Professor Treadwell be targeted in any other public way, as has happened to other academics at other institutions in circumstances like these, the University will also be obliged to protect him from harassment. Should the need arise, we are prepared to offer Professor Treadwell such assistance as we deem reasonably necessary to ensure that the University honours these obligations.

Yours sincerely,



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- cc. Lord Wharton, Chair, Office for Students
- cc. Ms Nicola Dandridge, CEO, Office for Students
- cc. The Rt Hon Michelle Donelan, Universities Minister, Department for Education
- cc. Mr Iain Mansfield, Special Advisor, Department for Education
- cc. Mr David Smy, Office for Students