



FSU
FREE SPEECH UNION

THE FREE SPEECH UNION
85 GREAT PORTLAND ST.
LONDON W1W 7LT
[FREESPEECHUNION.ORG](https://www.Freespeechunion.org)

Professor Nick Jennings CB FREng FRS
Vice Chancellor and President
Loughborough University
Hazlerigg Building
Loughborough
LE11 3TP

19th May 2022

Dear Professor Jennings,

I am writing to you in my capacity as General Secretary of the Free Speech Union (FSU) on behalf of our member, Dr Jon Pike. 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 the treatment of Dr Pike at a recent event hosted by Loughborough University.

The facts

Dr Pike is a Senior Lecturer in Philosophy at the Open University with a specialism in the philosophy and ethics of sport, and a world-leading expert in issues surrounding transgender inclusion in women's sports. His advice has been sought by national, international and global sports bodies on that topic. These bodies include World Rugby, the Sports Councils, and USA Power Lifting to name only a few. He has done consultancy work, received external funding for his research from the International Olympic Committee, and served as an expert witness in cognate court cases internationally. Dr Pike is also known as the Convenor of the Open University's Gender Critical Research Network.

On 16 May 2022 Dr Pike attended an event hosted by Loughborough entitled "IAS Festival of Ideas: Transitions – Festival and Book Launch Gender Diversity and Sport: Interdisciplinary perspectives on increasing inclusivity". This topic was well within the parameters of his research and expertise.

Dr Pike was attending the hybrid event online as a well-credentialled and widely-known academic in this area. During the course of two hours, he asked around four questions. The questions he asked included requesting a definition of "offensive language" in the context of the discussion and whether the terms "male" and "female" were offensive terms. He did not receive a reply to these. Although he had no expectation that all his questions would be answered, he was simply engaging with the topic of the event and hoping to spark a reasonable discussion.

His last question, following a presentation on 'Cisgenderism' in the policy debate, was as follows: "Thanks, interesting presentation. You seem to assume that male physiological advantage is fair in female sport. Could you say why you make that assumption?" After posing this question through the online Q and A chat-box, Dr Pike was removed from the talk and received a terse email from the Loughborough Institute of Advanced Studies. This read:

Jon, due to the disruptive nature of your questioning and as per the terms of joining the event we have removed you.

Dr Pike rejects the allegation that he was in any way disruptive, not least as he seemed to be the only online attendee, that he was on mute for the entirety of the talk and not even visible, and that his questions were posed through the Q and A chat-box. He had no power to disrupt proceedings even if he had wanted to, which he did not.

Dr Pike also rejects the claim that he violated the “terms of joining the event”. He did not use “oppressive language” and he respected “the experiences and identities of event participants” as these terms requested. The claim that he did not do this, which Loughborough’s *Institute of Advanced Studies* made, is professionally damaging.

Following this, Dr Pike wrote to you, and your Chief Operating Officer, Mr Richard Taylor, replied on your behalf. Dr Pike stated his view that his treatment by Loughborough was a breach of his right to academic freedom and his rights under the Equality Act. Mr Taylor confirmed that it was not proper to remove Dr Pike from the seminar, though only because the action had been taken without organisers first explaining why his questions were somehow “causing concern”. Troublingly, Mr Taylor’s response attempted to justify Dr Pike’s treatment on the grounds that “You have been openly critical of colleagues’ work in this and cognate areas”.

Mr Taylor also advanced the argument that Dr Pike’s prior Twitter posts “suggested a general hostility to work in this area”. In fact, Dr Pike’s core academic interest lies in this area. Far from being ‘hostile’ to work in this area, he simply takes a dissenting view from current orthodox opinions on the subject, which seems likely to be the real issue here. However, public bodies do not have the right to stifle heterodox opinions/speech. Far from it – as a liberal democratic country, all speech, particularly academic speech, is protected in law; protections that are due to be strengthened by the Higher Education (Freedom of Speech) Bill.

Legal duties

Human Rights Act 1998

Loughborough University is a public authority for the purposes of section 6 of the Human Rights Act 1998 and must, therefore, not act incompatibly with the Article 10 right to freedom of expression enshrined within the European Convention on Human Rights (ECHR). This right has been held to extend not only to “information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but [also to those that offend, shock or disturb the State or any sector of the population](#)”.

Further, ‘academic freedom’ [has been defined](#) as a key facet of the Article 10 right and encompasses academics’ right to “freedom of expression and action, freedom to disseminate information and conduct research and distribute knowledge and truth without restriction” and **has been held to apply [beyond the teaching and research settings](#)**. Even minimal reprimand [can constitute an unlawful interference](#) with an academic’s exercise of academic freedom as even this can have a ‘chilling effect’. This high bar for interference is the result of the status (or ‘burden’) of academics as ‘public watchdogs’ – their job is essential to the proper functioning of democratic society.

Indeed, the [Council of Europe](#) (of which the UK is still a member) has rightly underlined that a society which violates the principle of academic freedom inevitably reverts into “intellectual relapse and, consequently, social and economic stagnation”. Academic freedom is not only for the benefit of enabling academics to do their jobs, but is in fact a public good within the liberal paradigm. It exemplifies and advances the free exchange of all ideas (no matter how distasteful or unpopular) in pursuit of truth, progress, and the fulfilment of individual and societal needs. It must, therefore, be robustly defended.

Of course, the right to free expression under Article 10 is not unqualified (see Article 10(2) of the ECHR). However, given the fact that Article 10(2) must be construed narrowly as a general rule (i.e., there is not a lot of room for interference with the right to freedom of expression) and the particular importance granted to academic freedom, we suggest that an argument claiming interference with Dr Pike's rights is justifiable under Article 10(2) and was both unreasonable and unsustainable.

Equality Act 2010

Loughborough University is also subject to the Public Sector Equality Duty which can be found at section 149 of the Equality Act (EqA). Under this duty, it must have due regard to the need for elimination of discrimination and harassment in the exercise of its functions. It is our contention that Loughborough University may have breached this duty.

Dr Pike was clearly and directly discriminated against (s13(1), EqA) on the basis of a protected characteristic: his Gender Critical beliefs. This philosophical belief (s10, EqA) posits that a person's sex is an immutable characteristic determined by the possession of certain chromosomes, and not a social construct. For the avoidance of doubt, please note that this belief has [recently been identified as](#) "worthy of respect in a democratic society, not incompatible with human dignity and not in conflict with the fundamental rights of others" by the Employment Appeal Tribunal. Hence, it is unlikely that there would be any justifiable reason for Loughborough's breach of the section 149 duty.

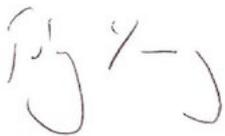
Further action

We are therefore asking you for:

- 1) An acknowledgement of Loughborough University's duties with regards to free speech; and
- 2) A public apology from the University, with wording to be agreed with Dr Pike, to be published with reasonable prominence on the university's website and social media accounts, for his treatment. This must include a categorical rejection of the claim that Dr Pike used "oppressive language" or, as [suggested by your employee](#), that he made "transphobic comments" or engaged in "abusive speech."

We will be fully supporting our member Dr Pike in this matter, which may extend to indemnifying any legal expenses he incurs.

Yours sincerely,



Toby Young
General Secretary
The Free Speech Union
toby@freespeechunion.org

Cc: The Rt Hon Michelle Donelan, Universities Minister, Department for Education
Lord Wharton, Chair, Office for Students
Ms Nicola Dandridge, CEO, Office for Students

Mr Iain Mansfield, Special Advisor, Department for Education
Mr David Smy, Office for Students