CAFAS Update No. 65

2 January 2010

Council for Academic Freedom & Academic Standards

http://www.cafas.org.uk

Meeting:

Saturday 16 January 2010 2.00 pm Room 254 Birkbeck College Malet Street London WC1

Underground: Goodge Street, Euston Square, Euston, Russell Square, Holborn

The Swelling Rolls of Redundancy Among UK Academics

Following upon the Department of Education announcement last May of a 4% cut in budgets for higher education, Universities have been scrambling to to keep their budgets in the black. But the reductions in HEFCE allocations together with, doubtless, failures in various forms of prudence, including the mis-reporting of student numbers by London Metropolitan University and exuberant spending of student fee income on extravagant building plans, as at Sussex, have brought University administrators and Councils to look to solve their financial problems by chopping the real workforce of higher education from their payrolls. Academic faculty, who know the values and relevance of their fields of

expertise, who set the standards and teach the next generation of professionals, and whose research is to become the foundation of solving the extraordinarily difficult social and technological problems confronting the world, are to pay the costs with their jobs, while Britain pays with the loss of their expertise - or so many University Councils and senior University administrators intend.

Sussex has now joined the ranks of many other Universities with announcement this week of an intent to pursue redundancy of about 100 posts, including about 10% of the academic staff. Nor is Sussex playing by the rules of engagement, since even before Senate has agreed a plan of revised requirement for its faculty, and other legal obligations in redundancy, various faculty have caught wind of being on the list. Yet the real state of the University's finances and their accounting are not evident, perhaps even to any member of its Council although it is said to be raring to declare its intent and commit to the deed.

The extraordinary pity of it is the haste of these snap decisions. The situation is not seized as an opportunity for an entire institution to focus upon alternatives which might even make for improvements, as is the case at Harvard and at MIT where reductions of at least comparable relative sizes are sought. At these institutions the inspiration of the academic faculty together with students and administrators are engaged in sorting through and developing ideas of alternative solutions, and their entire communities are engaged in not a destructive process but in creating new and less expensive process in the belief that their institutions are valuable.

Of course cutting education budgets in a time of poor employment and shortage of capital is also particularly foolish, but surely, also the creative approach adopted by Harvard and MIT could also turn to effective examination of how University Councils do their jobs in overseeing good practice, defining that good practice in most especially good line-by-line financial accounting available to all, and how well the professionals of a University are able to ensure the academic standards and integrity which their students take with them for life.

Please keep CAFAS posted with a scorecard of successes and failures at your institution!

Janet Collett

London Metropolitan University: a Selfinflicted Fiasco

In many respects London Metropolitan University (London Met) (34,000 students) appears to be part of a trend of sacking staff in universities. There are, however, some aspects that are self-inflicted and peculiar to this university. London Met hit the headlines this year with the resignation of the former vice-chancellor (v-c), Brian Roper. This followed reports that the Higher Education Funding Council (HEFCE) was to claw back £36 million from the university's funding as a result of the university's understating of student dropout rates. The university then announced that it would have to make around

nearly a quarter of its 2,400 staff redundant. Two reports on the university's problems – one from the consultancy firm Deloitte, commissioned by HEFCE, and one from Sir David Melville former v-c of Kent and Middlesex, commissioned by the University – followed investigations as to how London Met came to overclaim millions of pounds in public funding which it had to give back

On publication of the reports, HEFCE wrote to the Chair of Governors, Peter Anwyl, asking members of the governing body and senior management 'to consider their position'. The Melville Report stated that Mr Roper, who remained on the payroll at a salary of £276,000 excluding bonuses until the end of 2009, presided over a 'dictatorial management regime'. HEFCE after receiving both reports called for the governors and senior management to resign. The alternative would be to close the university. Up to the time of Cafas Update going to press, no such resignations have been announced.* There are widespread fears among staff, students and the wider constituency that those held responsible for the crisis could cause the university to close. This fiasco has been waiting to happen. London Met was formed by a controversial merger of two post-1992 universities – London Guildhall (LGU) and North London (UNL), the latter in financial trouble. The first was run by Roderick Floud, the second by Brian Roper. The merger was the result of a political decision to save money. But there were problems. On merger in 2002, London Met uniquely had two heads on salaries exceeding £130,000. Sir Roderick did not depart until 2005. Another problem was the rationale of the university. It would be run as a business, would embrace the market, would implement government policy and would be 'founded on academic freedom'. Unsurprisingly it fell between all stools. One of the latest press reports on London Met is in *The Independent*, Monday 7 December 2009,

http://www.independent.co.uk/news/education/ed. London Met senior management have obdurately refused to relinquish their bonuses, suspend the performance related pay scheme and to find other ways of saving than redundancy.

You can support struggling staff and students by signing their petitions, writing letters and taking part in demonstrations. See their Blogspot: http://savelondonmetuni.blogspot.com/2009/12/lo bby-board-of-governors-15th-december.html * STOP PRESS: The Governors in post before 31.8.09 are to resign by 31.8.10, the Chair by 31.3.10.

Amir Majid

Among the casualties of redundancy at London Met is Amir Majid, Reader in Law. Dr Majid, one of those who help Cafas members with legal advice, has complained on a number of occasions to London Met management about irregularities in the university's procedures. He is victim of, as former colleague Dr Nafissi (letter to Alfred Morris, September 2009) says, application of 'personal criteria' rather than any objective criteria stated to be necessary for redundancies. The head of Dr Majid's department has a record number of grievances against him.

Dr Majid has a formidable *curriculum vitae*, is a part-time immigration judge, works tirelessly for charity and for disability, and is a barrister. He has never been deterred from full participation in academic and legal life by the fact that he is blind.

In the absence of proper fair procedures of appeal against dismissal at London Met, he is compelled to take his appeal to the Employment Tribunal. At the same time he is denied access to his specialised email facilities at London Met on which he depended for communication. Please help by sending messages of support for him to Pat Brady

patrick.brady28@googlemail.com or Geraldine Thorpe thorpegm@googlemail.com who will ensure that he receives them. Your concerns will be relayed to the relevant authorities.

Please support by attending his tribunal if you can

His tribunal is on Monday 21 December 2009 at East London Tribunal Service, 2nd Floor, Anchorage House, 2 Clove Crescent, London E14 2BE. (Monday-Friday, 9am-5pm) For Employment please call: Tel: 0207 538 6161 Fax: 0207 538 6210 East India Dock DLR Station (three minute walk from Anchorage House).

Casework

CAFAS deals with a far greater range of problems than we envisaged when the organisation was founded. We thought at first that we would have one main task: to defend university academics who were victimised for speaking out against the dramatic decline in

standards that we saw as the inevitable consequence of combining increased student numbers with inadequate funding.

Our perspective at that time failed to take sufficient account of just how much damage would be caused by throwing education to the wolves of market forces, competition and the laws of supply and demand. It soon became apparent that the process of dumbing down, and inflating grades to conceal this, was by no means confined to the higher education sector; it was sweeping through FE and the schools as well; and it was generating all sorts of problems we hadn't anticipated.

In FE at first, then throughout the system, lecturers found that they were no longer free to mark examinations honestly, because anything other than high marks would be construed as evidence of their own failure as teachers. Intimidation and bullying, combined with the pressure of league tables, and of funding linked to success rates, generated massive grade inflation throughout the system; and anyone who resisted was more than likely to be victimised. Thus it was that an over-stretched and underfunded system miraculously produced better and better results, with the proportion of Firsts and Upper Seconds dramatically increasing year-by-year.

Another set of problems derived from the growing practice of franchising. In the quest for new income, emissaries from British universities roamed the globe seeking new markets, recruiting lucrative overseas students and setting up a host of more or less shady foreign outposts. Standards in these satellite institutions were poorly monitored, and overseas students were neglected once their fees had been extracted. CAFAS found itself dealing with requests for help from lecturers working abroad complaining about poor standards, and from overseas research students in Britain who weren't getting proper supervision or the facilities they'd been promised.

In UK universities, every aspect of academic life was in sharp decline. Students who needed more time spent on them were given less time; as the real standard of degrees sank, so their apparent standard rose. The mechanisms supposedly in place to preserve the 'quality' of degrees were in reality elaborate cosmetic exercises which exacerbated the problem by distracting already over-stretched lecturers from teaching. In a caricature of industrial productivity, quantity came to replace quality in published

research, and research itself was increasingly shaped by funding sources.

We also didn't anticipate at the beginning how many racial discrimination cases we would have to deal with, cases which relate directly or indirectly to the islamophobia which has become the prevailing ideology since 9/11. More specific to the universities is the prejudice stemming from the recruitment of overseas students. The increasing dependence on their tuition fees has been accompanied, in a superficially paradoxical way, by contempt for such students, occasionally the African ones, much more commonly the Chinese. The received wisdom is that the latter are prone to cheating, and this is attributed, not to the fact that so many of them have language difficulties that the universities do little to cure, but to their 'culture'.

Some of those who contact CAFAS need little more than a sympathetic ear, or perhaps some advice on how to cope with bullying or harassment, or with the lacklustre support from their trade union. At the opposite extreme are complex cases requiring prolonged correspondence and detailed submissions. Three of our current cases fall into this second category and, taken together, they illustrate some of the variety of problems we have to address. One example is in a traditional university, another is in a post-1992 university, and the third in what used to be called an FE college (they are now called 'corporations').

The traditional university example is ground-breaking, because it concerns the first academic (in this instance a distinguished senior academic) to be dismissed for allegedly failing to produce the research output required for the RAE. CAFAS is currently taking the victim through the university's appeal procedure.

The example from a post-1992 university, concerns a mature student who enrolled in a programme promising to result in a professional qualification who was, when he complained about the inadequacies in the programme, victimised in all sorts of ways.

The example from an FE college is of a lecturer dismissed by reason of redundancy because the AS and A2 courses he was teaching had allegedly been closed. The man in question happened to have, coincidentally of course, a history of conflict with the college management, and to have been suspended and banned from the campus after complaining to his examination board about poor standards in the college. CAFAS has represented him through two internal appeals and is now handling his ET application.

Trying to help the victims of a system in general decline is CAFAS's core activity, the most useful thing we do. But there are never enough people to handle the work involved. So, if anyone who reads this feels that he or she has, or could acquire with practice, the competence to take cases on, please let me know, and quickly.

Colwyn Williamson Co-ordinator

*The article below is adapted from a chapter of the author's forthcoming study 'Academic Freedom and the Law' to be published in 2010/11.

ACADEMIC FREEDOM AND TERRORISM

Eric Barendt, Professor of Media Law, UCL*

Some university lecturers are now very concerned about the implications for the exercise of academic freedom of the terrorism laws which were introduced in a number of countries after 9/11 and the London tube and bus bombings in July 2005. Scholars argue that these laws may make it difficult, or even illegal, to teach courses examining the origins and ideology of terrorist groups, or to conduct serious research in this area - essential research, if we are to understand why these groups attract new members and how they work. Without such understanding the United Kingdom, the US and other liberal democracies will be less able to take effective steps to counteract recruitment to terrorist groups and to weaken their operations. So academic freedom is hugely important in this context. It should not be regarded as a perk, or privilege, for university professors and lecturers, as it has sometimes been treated. Rather, it is a freedom which benefits the general public, just as the exercise of the freedom to conduct scientific and medical research is protected in the interests of public health, rather than for the personal benefit of clinical researchers.

UK terrorism laws: Terrorism Act 2000

It is worth highlighting some of the provisions in recent United Kingdom laws which may have an impact on the exercise of academic freedom. The risk to academic freedom was in fact first posed by legislation enacted before the atrocities of 2001 and 2005. The Terrorism Act 2000 (TA) consolidated and put on a permanent footing a number of measures in earlier terrorist legislation enacted during the 1970s and 1980s to deal with the Northern Ireland troubles. Section 1 of the TA has a very broad definition of 'terrorism', so it includes the use or threat of violence or of serious damage to property, designed to influence the government of any country and which is made for the purpose of advancing any political, religious or ideological cause. It is immaterial whether the targeted government is democratic or totalitarian, so it would be an offence to incite serious damage, say, to banks in Zimbabwe or Libya, even if the object was to bring about democratic government in that country. It is worth emphasizing that this definition applies to the offences created by the Terrorism Act, 2006 (discussed later in this article) as well as to those in the TA 2000.

Two offences in the TA might lead to charges against academics. First, it is conceivable that a researcher could be prosecuted for the offence of possessing an article in circumstances which give rise to a reasonable suspicion that the possession was for the purposes of the commission or instigation of a terrorist act: section 57. It is a defence to show that the articles, which may include documents, were not possessed for terrorist purposes, so an academic who held them for the purpose of research or to use in a seminar should not be convicted of the offence. But nobody wants to face a criminal prosecution which might ruin, albeit temporarily, career prospects, so a university researcher would be well advised to have nothing to do with documents, the possession of which could give rise to suspicion.

Even more problematic for researchers is the offence, under TA section 58, of collecting or making a record of information likely to be useful to someone involved in a terrorist act, which would clearly cover academics collecting, say, a terrorist training manual to illustrate points in a university seminar. There is a defence of 'reasonable excuse', but in the leading court

decision on this provision, ¹ Lord Rodger in the House of Lords declined an opportunity to rule in the abstract whether it would always be a defence to prove that the information had been downloaded 'out of curiosity'. ² Everything would depend on the precise circumstances; again it would be understandable if a researcher decided not to take the risk of prosecution and passed up an opportunity to acquire or download information caught by the provision.

Terrorism Act 2006

Provisions in the Terrorism Act 2006 (TA 2006) pose an even clearer threat to the exercise of academic freedom. The Act introduced the offence of encouragement of terrorism, defined as the publication of 'a statement ...likely to be understood by some or all of the members of the public...as a direct or indirect encouragement...to them' to commit, prepare or instigate terrorist acts: section 1. Statements which glorify the commission of these acts, whether in the past, in the future, or generally, are to be treated as indirectly encouraging them, if they are statements from which members of the public could reasonably be expected to infer that the glorified acts should be emulated by them: section 1(3). Under Section 2 of the TA it is an offence to disseminate a terrorist publication – a publication with material likely to be understood as encouraging terrorist acts or with material likely to be useful in the commission or preparation of such acts. Finally, the Act criminalizes training in the skills of terrorism, an offence which includes instruction in the preparation or use of noxious substances or in the use of terrorist techniques: section 6.

The Association of University Teachers raised concerns about the implications for academics of early drafts of the Bill in its evidence to the Joint Human Rights Committee of the House of Commons and House of Lords.³ The Committee accepted these concerns and urged the government to include freedom of expression defences to the offences created by sections 1 and 2. Baroness Williams moved amendments in the House of Lords to provide specific exemptions for statements made solely for the purpose of academic teaching or research, and to exclude

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¹ R v G [2009] 2 All ER 409.

² See paragraph 83 of the House of Lords judgements.

³ Evidence to the Joint Committee, Third Report for 2005-6, HL Paper 75-II, evidence 91-93

professional chemists from the offence created by section 6. The government resisted these amendments, but it did modify the clauses to ensure, for example, that anyone making a statement, or disseminating a publication, would have a defence if he could show that he did not endorse the views in the publication and it was clear from the circumstances that he did not endorse them: see TA sections 1(6) and 2(9). Academics discussing terrorist material in a university seminar can invoke these defences if they are faced with criminal charges.

But it is not really good enough for the government to point out that bona fide scholars, and others such as journalists, have little to fear because they will have a good defence to any charge. University scholars may understandably prefer caution and decline to discuss in their seminars controversial material which could be understood to support terrorism or to put it on their reading lists. They do not want to run the risk of a police investigation, let alone a criminal prosecution, even if they would have a good defence to the charge. The government ignored the 'chilling effect' of restrictions on freedom of speech and research; these provisions may deter legitimate academic activity, just as defamation laws discourage investigative journalism because the press does not want to run the risks of an expensive libel action.

The two episodes at Nottingham University

Two recent episodes at Nottingham University bring out the possible repercussions of this legislation on academic life, though it is unclear how far either shows that academic freedom is now seriously at risk. In the first, Rizwaan Sabir, a MA research student, and Hicham Yezza. personal assistant to the Head of the School of Modern Languages and Culture, were arrested in May 2008 and detained for a few days after Yezza had downloaded an edited version of the Al-Qaida training manual at Sabir's request to assist in his research.4 Members of the administrative staff at the School had noticed the document on Yezza's computer, while he was absent from the office, and the Head of the School notified the police.

Neither Sabir nor Yezza could claim academic freedom under UK law, for the Education Reform

Act 1988 confers that freedom only on 'academic staff'. 5 But in principle, students, particularly research students, should enjoy academic freedom; they would have it in Germany, where the Basic Law allows anyone to claim intellectual freedom (Wissenschaftsfreiheit) when they are engaged in serious scholarly research. It is very understandable that the university authorities acted as they did; Yezza was absent from the office when the material was discovered, and so could not explain that he had downloaded the manual on behalf of a research student. If he had done that, they would, one hopes, have contacted Sabir's supervisor, or another member of the School of Politics, who should have been able to explain the character of the document. With academic assurances, it would surely have been unnecessary to call in the police. What was disturbing was the complacent statement of the then University Vice-Chancellor, Sir Colin Campbell, to all university staff that those who accessed terrorist material for research purposes run the risk of investigation and prosecution, though they are likely to have a good defence to any charges made after they have been detained. What is missing from the statement is any appreciation of the value of academic research in this context and the university's concern to defend it.

A more recent controversy raises more complex academic freedom issues.

The School of Politics and International Relations has instituted a system of module review, under which teaching groups within the School look at the reading lists prepared by individual members of academic staff. Nobody is compelled to participate. The intention is not to persuade lecturers to remove controversial material from their list, but merely to advise them about the possible consequences of including material which might be regarded as illegal, as well as discuss with them the range of topics covered, assessment methods and overlaps with other courses. There are no sanctions for refusing to take part. Nevertheless, some members of the School have objected to the scheme which, in their view, might be used to limit their academic freedom to teach a course as they think appropriate.

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⁴ The manual is accessible from the US Department of Justice and other websites, and is available for purchase from Amazon.

⁵ Education Reform Act 1988, sect 202(2)(a).

⁶ Telephone conversation with Head of School, Professor Paul Heywood: November 23, 2009.

One aspect of this conflict is whether academic freedom is solely a right for *individual* university teachers, or whether it should be ascribed to academic institutions, or their Schools and Departments. The new system has been defended with the argument that teaching freedom is an institutional right of the university and that Schools and Departments exercise the University's right by reviewing the reading lists of its members.⁷ And it can be said that the object of the scheme is to safeguard the academic freedom of individual members of the School by drawing their attention to the impact of terrorism (or other) legislation which impacts on its exercise, and to provide them with a defence if the contents of a course are considered legally suspect. On the other hand, in the context of the Sabir/Yezza affair a year ago, one can understand that some lecturers might worry that the scheme could be used to discourage them from putting controversial material on their reading lists, though it should be pointed out that it had been extensively discussed and approved by the School over a number of months.

However, a stronger scheme under which members of academic staff were *compelled* to submit their lists for scrutiny, and to remove material which the Department considered controversial or offensive would clearly infringe the teaching freedom which individual academics have enjoyed by convention and as a matter of general practice. That is far removed from the Nottingham scheme which attracted considerable publicity and debate earlier this year.⁸

In my view these episodes do not show that academic freedom is now seriously in danger as a result of the recent terrorism laws and the response of universities to them. But we should not be complacent. Like general civil liberties and human rights, academic freedom should not only be defended when it is clearly threatened or in danger. For then it is too late. Its value and significance should be vigorously asserted in calmer times, especially when there is legislation on the statute book which could be used to restrict its exercise

A Matter of Trust

List 98 mentioned in the open letter produced below is a secret blacklist of teachers established and maintained by Essex County Council since the 1970s. Southend-on-Sea Borough Council currently keeps 1 069 names from that list without informing those on the list that they are on it and what it holds about them.

The letter

Tuesday 24 November 2009

Mrs Nicola A Reynolds HR Senior Consultant Essex County Council

Dear Mrs Reynolds

Community Cohesion

Thank you for your e-mail of Monday 16 November 2009.

Both Essex County Council and Southend Borough Council have been providing funds for Essex Racial Equality Council for many years. So it was significant for Mrs Marion Press, who was EREC Director and is currently its Vice Chair, to say the following about List 98:

"I was aware of the list 98 to which you refer, but only because you constantly referred to it in correspondence with the Southend office. Despite enquiries at the time I could not find anyone who would either confirm or deny the existence of said list."

Please state whether it was appropriate for you not to co-operate with or trust an organisation that you have actually been funding.

Yours sincerely

Majzoub B Ali

cc

Mrs Marion Press Southend Borough Council Officer Ms Joanna C Ruffle

⁷ See 'Nottingham "Censorship": A defence' by P Eadie and M Humphrey, August 3, 2009 on www.teachingterrorism.net

⁸ See the comments on www.teachingterrorism.net

NOTICES

AGM 24 April 2010

Committee Election

Please send nominations to the Secretary, Ben Cosin. Brcosin1926@yahoo.co.uk

Meeting Saturday 16 January 2010 Room 254

Meeting 2.00pm

Agenda

- 1. Minutes
- 2. Matters arising
- 3. Academic Freedom
- 5. Casework and AOB

Officers' meeting in Room 254 at 13.30

Cafas Reports

Details are on www.cafas.org.uk

SUBSCRIPTION

Dear Members

Some of you have forgotten to pay your membership fee.

Could you please be kind enough to check the date of your last payment on the address label? If you should find there "***" or "***!!!" could you please send a cheque without further delay as your contribution is absolutely crucial to the well being of CAFAS.

Many thanks for your contribution. Your Treasurer and Membership Secretary,

Eva Link

CAFAS Update seeks to provide an open forum for opinion and discussion.

Items do not necessarily reflect the views of the Council.

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CONSTITUTION

CAFAS' aims are outlined on the membership form. The full constitution can be obtained from the Secretary or www.cafas.org.uk.
CAFAS was founded in February 1994. It depends on subscriptions and an active membership. It meets in January, April, July and September/October.

Next deadline: 31 March 2010

Please send letters, news items and articles to: Pat Brady patrick.brady28@tgooglemail.com & Geraldine Thorpe thorpegm@googlemail.com

Cafas Meetings 2009-2010

16 January 2010 Room 254

AGM

24 April 2010 Room 252

3 July 2010

Room 252

DO YOU BELIEVE

- That academic standards have been dumbed down throughout the higher and further education sector?
- That this decline has been accompanied by the escalating rhetoric of 'excellence' and 'worldclass'?
- That the number of contact hours between teachers and students, which the Dearing Report described as a proper measure of the quality of

education, has been reduced across the board?

- That there are all sorts of pressures on examiners to pass candidates who would previously have failed?
- That it is far easier to obtain Firsts and Upper Seconds than it used to be?
- That practices which used to be treated as academically unacceptable, or even as cheating, are now widely regarded as normal and inevitable.
- That the effect of the RAE and other pressures on academics is to increase the quantity of research, not the quality, and to restrict innovative and critical thought?
- That there are pressures, often of a commercial nature, to avoid certain areas of research, or to falsify results or to distort their conclusions and significance?
- That, despite lip-service to the importance of teaching, universities and colleges take little account of this in career advancement?
- That academic values have been largely displaced by market values?
- That the stated 'mission' of universities to serve the community has been abandoned in favour of commercial priorities?
- That education in the UK no longer has the status of a right bringing social benefits, but is instead treated as a commodity to be bought and sold?
- That discrimination against women and ethnic minorities is still rife in the employment and promotion practices of tertiary education, despite the multicultural community it is supposed to serve?
- That the work of the union in fighting discrimination and victimisation can usefully be supplemented by specialised advice and support from an organisation which focuses on issues of academic freedom and standards?

If you believe that many or most of these propositions are true, you ought to be a CAFAS member and your UCU branch ought to affiliate.

Membership Secretary & Treasurer: Dr Eva Link, 17 Highcliffe, Clivedon Court, London W13 8DP 02089982569; rekgemL1982@yahoo.co.uk

If you would like a speaker from CAFAS to address a branch meeting, contact Colwyn Williamson, colwynwilliamson@hotmail.com; 07970 838 276 www.cafas.org.uk