

# *CAFAS Update No. 87*

*16 June 2017*

*Council for Academic Freedom & Academic Standards*

*Website: [www.cafas.org.uk](http://www.cafas.org.uk)*

*AGM & Meeting:*

*Saturday 1 July 2017  
2.00-5.00 pm  
The Magdalen Hall  
St Mary's Church  
Eversholt Street  
London NW1 1BN*

*Underground & Mainline: Euston, Euston Square, Mornington Crescent*

## **REPORT ON ACADEMIC FREEDOM IN THE EU AND UK**

In March this year two academics at the University of Lincoln, Professor Terence Karran and Lucy Mallinson submitted a report commissioned by the University and College Union (UCU) on the protection of academic freedom in British universities. Its conclusions are disturbing, though not for the most part particularly surprising. The report concluded that the constitutional and legislative protection for the freedom in the UK is 'negligible' (page 1), much slighter than it is in other European Union countries. Further, the legal position is mirrored by the equally poor

protection of the freedom in practice in the UK, where the position of British academics also compares unfavourably with that of their peers in Europe. This conclusion was reached as a result of similar surveys conducted from 2015 (and still continuing) by Professor Karran of the experience of academics in European universities and in 2016-17 among members of the UCU.

The report makes two recommendations to improve the position. First, more information should be provided to encourage greater awareness of academic freedom among UCU members. Secondly, following the precedent set by the Danish academic professional association in the light of Karran's previous analyses of academic freedom in Europe (2007 and 2009, referred to in note 90 of this Report), a complaint should be made to the ILO-UNESCO Committee of Experts on the

application of the 1997 UNESCO Recommendation on the position of university teachers (Report, pp 81-82). The Danish complaint led to a change in the law in Denmark, so the authors hope that a similar change might result here if the UCU raised the matter at international level.

This Report should be studied carefully both by individual academics and by university authorities, though sadly I doubt if it will receive more than scant attention. It begins with a very good analysis of the importance and character of academic freedom – a professional freedom crucial for scientific discovery and social development – with its key elements of teaching and research freedom. It rightly points out that these freedoms must be supported by the freedom to participate in university administration, for without that there is little academics can do if they are directed to teach a particular subject or in a particular manner or if they are compelled to conduct research on a topic not of their choosing. I am less sure that tenure is necessary for the protection of academic freedom (see the argument at p 7 of the Report); if it is, there has been no real academic freedom in the UK since 1988 when the Education Reform Act abolished it. What *are* necessary are adequate internal and legal procedures to ensure that no academic loses her job because of her exercise of academic freedom.

I am also not persuaded by the Report's conclusion (at p 80) that the absence of any significant constitutional and legislative protection for academic freedom in the UK probably explains the low level of protection it enjoys in practice here. Unfortunately the Report was submitted shortly before the recent

enactment of the Higher Education and Research Act 2017, section 2 of which does contain provisions relevant to academic freedom. But the freedom of academic staff to question and test received wisdom and put forward new ideas, etc, is treated in this legislation as an aspect of the institutional autonomy of higher education providers in England. Individual academic freedom is therefore bracketed with the institutions' freedom to determine the content of courses, and the criteria for the selection and dismissal of academic staff (see section 2(8) of the Act). As I pointed out in my book, *Academic Freedom and the Law* (Hart, 2010, pp 38-45) this is a recipe for conflict between academic institutions and their staff, both of whom will be able to invoke their statutory freedom! On a related point, the Lincoln academics' Report might have noted that many university statutes and Articles of Government do contain clauses protecting academic freedom; the question is whether they are respected in practice and if not, why not.

Well over half the Report is devoted to the recent survey (2016-17) of UCU members and a comparison of its results with the similar survey conducted from 2015 of academics in Europe, including some in the UK. (My observations here relate primarily to the findings about UCU members and do not deal with the EU comparisons.) Only 2340 responses were received from over 78,000 academic members of the UCU, just above the threshold required for an acceptable social science report (see pp 29-32 for the assessment of the response level and the study's compliance with standard social science practice). So this Report should be followed by a more comprehensive study – either

conducted by the UCU or by Universities UK itself, though the latter is as unlikely as it is desirable. Nevertheless the findings by Professor Karran and his colleague are striking. Among them are that 7 out of 10 UK academics had no idea whether their university had a policy at all on academic freedom, and the vast majority would welcome more information on relevant regulations, policies and practices. All universities now hold induction days for new lecturers and other members of academic staff, with mandatory training for teaching. They should feature a seminar on the importance of academic freedom, and how it is safeguarded at the institution. Information on academic freedom and how to protect it, as the Report recommends, should be provided to all academic staff just as they are given guidance on the discharge of their duties, teaching standards, requirements for promotion and so on.

The responses to questions about academics' personal experience of direct challenges to academic freedom reveal that the use, or threat, of disciplinary action as a sanction for, say, radical approaches to teaching or to the conduct of research is low, and it is only slightly higher with regard to the expression of general views about the governance of the institution: see Tables 17.1-17.5. But more people – about 1 in 8 – experienced what they considered to have been denial of promotion or the allocation of special administrative or different teaching duties because of their academic views, though it is unclear whether these views concerned the content of the syllabus or a particular course, or general university administration: see Tables 19.1, 19.4.

The most alarming conclusions from the survey of UCU members concerned the incidence of bullying and psychological pressure as a result of the expression of academic views. This was highlighted in the Executive Summary on the first page of the Report. No less than 23.1% of the UCU cohort reported bullying (see Table 19.17), while 26.6% of the cohort reported psychological pressure: Table 22.2. 10.6% reported the bringing of, or threats to bring, legal charges/civil proceedings against them because of their academic views. Finally, over a third of the UCU respondents – 35.5% - admitted self-censorship in the expression of their views from fear of negative repercussions for their teaching or research, for example, demotion, a loss of privileges, or a change to administrative or teaching duties: see Tables 23 and 24. Of course, one would like to know much more about the cases of bullying, psychological pressure and self-censorship; it is perhaps more likely that victims of administrative abuse will return answers to these surveys than members of the UCU who are content with their working environment. On other hand the claims of bullying should be taken seriously. The particular examples of bullying given in Table 21 suggest that the problem is a very serious one. The figures in this part of the Report are disturbing, comparing badly with the equivalent figures in the European Union survey.

Certainly, the Report makes a powerful case for a full inquiry into the present state of academic freedom in UK universities, including the threats to it posed by university authorities, and into the adequacy of procedures to safeguard its exercise. This is not a case of special pleading for the retention

of academic privileges. Every member of staff at a university – or indeed any work-place – should be adequately protected against bullying and abusive conduct by their employer. But academic freedom, especially the freedom to teach on the basis of professional standards and the freedom to pursue independent lines of inquiry in research, enjoys special protection because its exercise benefits society as a whole. It should be vigorously defended by the UCU, CAFAS, the Council for the Defence of British Universities, as well as by the universities themselves. They should begin by adopting the recommendations in this stimulating Report (summarised in the second paragraph of this commentary).

**Eric Barendt, Emeritus Professor of Law, UCL**

**Readers may see the full Report from the link:**

<https://www.ucu.org.uk/academic-freedom-in-2017>

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Cafas Update readers' comments on this report and/or on their experience of academic freedom would be most welcome.

Eric Barendt is author of *Academic Freedom and the Law* (Hart, 2010) (eds)

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## WEB ITEMS FROM CAFAS MEMBERS

**Received from Kirit Patel, 9 May 2017**

Some links are global like the first one – you click on the map to get an idea of what's going on. Others are more UK based – and some are general.

1. **Academic Freedom Monitor**, Scholars at Risk, Hosted by New York University  
<http://monitoring.academicfreedom.info/>

2. **The College Fix**

*'Judge botches professor group's academic freedom principles to rule against conservative prof'*. Greg Piper, May 8, 2017

<http://monitoring.academicfreedom.info/https://www.thecollegefix.com/post/32508/>

or:

<https://www.thecollegefix.com/post/32508/>

3. **'Academic Freedom and the Corporatization of Universities'**

Noam Chomsky, University of Scarborough, April 6, 2011

<https://chomsky.info/20110406/>

4. **Social Science Space**: Network Blogger

*'What's wrong with Academic Freedom in the UK?'*

By Daniel Nehring, Published May 28, 2015

<http://www.socialsciencespace.com/2015/05/w-hats-wrong-with-academic-freedom-in-the-uk/>

5. **Campaign for the Public University**

*'Academic Freedom and the Corporate University'*

Posted by John Holmwood on July 4, 2014

<https://publicuniversity.org.uk/2014/07/04/academic-freedom-and-the-corporate-university/>

6. **University and College Union**

Downloads of:

*Academic Freedom in the UK: Legal and Normative Protection in a Comparative Context*, **Report for the University and College Union**, by Terence Karran and Lucy Mallinson, May, 2017

<https://www.ucu.org.uk/academic-freedom-in-2017>

[2017](https://www.ucu.org.uk/academic-freedom-in-2017)

7. **For other UCU academic freedom reports, most of which appear in the above link (6):**

<https://www.ucu.org.uk>

Search for: Academic freedom reports.

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

**Items do not necessarily reflect the views of the Council.**

## Note

This issue is devoted to Academic Freedom. We urge you to read the Report on it by Terence Karran and Lucy Mallinson and join in the discussion.

In the next issue or earlier, we hope to report on a long-standing Cafas case. Please keep an eye on the website [www.cafas.org.uk](http://www.cafas.org.uk) for it and other articles. PB, GT

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## Digital Newsletter

**CAFAS needs to try and identify areas for reducing its expenditure as it is run by volunteers and on a shoestring budget. We can minimise costs by e-mailing you the newsletters thus making savings on postage. If you would like to receive a digital copy (exactly the same as the hard copy) please e-mail us your full name to [cafasonly@gmail.com](mailto:cafasonly@gmail.com) stating that you would be happy to receive digital copies rather than hard copies. The e-mail address you provide will only be used to send newsletters. Thanks.**

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## NOTICES

### AGM & Meeting

**Saturday 1 July 2017, 2.00-5.00 pm**

**The Magdalen Hall, St Mary's Church,  
Eversholt Street, London NW1 1BN**

#### **AGM 200-2.30**

**Reports and elections**

**Please send nominations for all committee positions to the Chair, John Fernandes. [johnfernandes500@gmail.com](mailto:johnfernandes500@gmail.com)**

#### **Ordinary Meeting 2.30-5.00**

##### **Agenda**

- 1. Apologies**
- 2. Minutes of previous meeting**
- 3. Academic Freedom**
- 4. Casework**
- 5. AOB**

## 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 'world-class'?
- 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 organization 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: Kirit Patel, Tel: 0208 427 9770, [kiritone@live.co.uk](mailto:kiritone@live.co.uk) If you would like a speaker from CAFAS to address a branch meeting, contact: John Fernandes, 07551823361 [johnfernandes500@gmail.com](mailto:johnfernandes500@gmail.com)**

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## CONSTITUTION

CAFAS' aims are outlined on the membership form. The full constitution can be obtained from the Chair or [www.cafas.org.uk](http://www.cafas.org.uk). CAFAS was founded in February 1994. It depends on subscriptions and an active membership. It meets in March/April, June and September/October.

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## Have you paid your SUBSCRIPTION?

Please send your cheque or standing order to the Membership Secretary, Kirit Patel, 19 Greenhill Road, Harrow, Middlesex HA1 1LD [kiritone@live.co.uk](mailto:kiritone@live.co.uk), Tel: 0208 427 9770

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### Next deadline: 3 September 2017

Please send letters, news items and articles to:

**Pat Brady**  
[patrick.brady28@gmail.com](mailto:patrick.brady28@gmail.com) &  
**Geraldine Thorpe**  
[thorpegm@gmail.com](mailto:thorpegm@gmail.com)

You can also send us items at any time for earlier publication on the website.

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### Next Meeting

Please check the website for venue and date.

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## Committee

**Chair:**

**John Fernandes**

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**Secretary:**

Please contact the Chair

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**Website**

**Ian Hewitt, Rashid Mehmood**

**Founding Members**

**Michael Cohen**

**Colwyn Williamson**

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## Defending-Academic-Freedom JISCMail List.

All members are encouraged to participate in the CAFAS discussion list.

It can be accessed through the Cafas Website:

[www.cafas.org.uk](http://www.cafas.org.uk)

or directly through the JISCMail website.