

**BETWEEN:**

**PROFESSOR JO PHOENIX**

**CLAIMANT**

**and**

**THE OPEN UNIVERSITY**

**RESPONDENT**

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**WITNESS STATEMENT OF PROFESSOR SARAH EARLE**

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I, Professor Sarah Earle, of [REDACTED] say as follows:

**Introduction**

1. I am a Professor of Medical Sociology at The Open University (“the OU”).
2. My responsibilities and roles within the OU include the following:
  - a) I was Director of the OU’s Strategic Research Area in Health and Wellbeing from 2016-2022 (also known previously as a ‘Priority Research Area’ or PRA). The OU Gender Critical Research Network (“OUGCRN”) joined this Strategic Research Area in June 2021;
  - b) I am the OU’s Research Excellence Framework (“REF”) Strategy Chair for REF’s Unit of Assessment 20 (Social Work and Social Policy). I previously held this role as Co-

Chair with Prof Phoenix. (I have seen Prof Phoenix’s witness statement where she explains the REF and its importance to universities, so I won’t repeat that here);

- c) I am currently leading the ‘Living Well’ theme of the OU’s Open Societal Challenges (OSC) Programme. This is one of three interdisciplinary OSC themes within Activity 1 of the University’s Research Plan for 2022-2027.

### **Strategic Research Areas**

- 3. Strategic Research Areas, often referred to as “SRAs”, were thematic, interdisciplinary units that focused on areas of research prioritised by the OU. They were important vehicles for delivering the OU’s strategic research plan that was in place from 2018 to the end of 2022. This strategic research plan, which is set out in a document called “*Our Research and Enterprise Plan 2018-2023*” [314-328], says the following about Strategic Research Areas:

#### *“Strategic Research Areas*

*An important component of our REF strategy will be to build on the model established under the previous Research Plan, and to support cross-institutional thematic research capability where the University has critical mass and established reputation. We will remove the current distinction between Strategic Research Areas (SRAs) and Priority Research Areas (PRAs). Thematic-based research areas of this nature will be grouped together as SRAs and will continue to receive University funding through to REF 2021, albeit at a lower level than at present. Our SRAs will represent flagships of multi-disciplinary, challenge and mission-focused research capability at the OU that will exploit the large-scale opportunities in the current and emerging funding landscape, build purposeful relationships with external partners, and contribute strongly to a vibrant and distinctive research environment (which we will articulate in, for example, our REF 2021 submissions).” [319]*

- 4. At [4348-56] is the OU’s 2021 REF submission on the research environment at a University-wide level (as opposed to a specific disciplinary grouping which are called “Units of Assessment”). The format and structure of REF submissions is pre-determined and involves filling in templates with requested information for each of the three assessed elements,

namely research output, research impact and the research environment. For research environment at an institutional level, the submission requires universities to demonstrate aspects of the institution's environment that reflect institutional-level activity including institution-wide strategic objectives and cross-cutting structures and initiatives. The OU's 2021 REF submission on the institutional-level environment said the following about SRAs:

*"1.3 During the current REF period we invested £7.1M in five strategic research areas (SRAs) which encourage interdisciplinary collaborations across Faculties and beyond the University (see Section 4.1). They have leveraged £39.1M in income since 2015/2016. Faculty-based research groups sit alongside the SRAs enabling cross-fertilisation of ideas across disciplinary boundaries...."*

#### **4.1 Institutional strategies and supporting activities for generating research income:**

*Research Sustainability is a core priority of our Research and Enterprise plan (Section 2.1), to be achieved by meeting goals for increasing income and growing our academic and student base. To achieve sustained growth, academics are supported by both faculty-based and central teams who deliver a suite of services including training, networking facilitation and expert review of funding, as well as costing and pricing of proposals. Founding of the Graduate School (Section 3.4) was a key part of the plan. We also established five Strategic Research Areas (SRAs), with an initial investment of £7.1M, to form centralised cores around which research and enterprise activities can grow...*

*These five flagships of multi-disciplinary and cross-sectoral research address global challenges to enhance our social justice mission through engaged research. They have provided fertile environments for Research Fellows, Post-Doctoral Research Associates (PDRAs) and PGRs, building towards a fresh generation of ECRs. All the SRAs have active business programmes for developing large-scale bids and exploitation of funding opportunities. Particular emphasis has been on expansion in the number of collaborations with external partners (in professional practice, industry, business, the charity sector and governmental and non-governmental agencies), leading to diversification in income streams. Each SRA has its own distinctive imprint but the research boundaries are porous. This has allowed and encouraged synergies between the SRAs when developing new initiatives and attracting funding (e.g., an E3 grant in 2020 of*

*£6.7M from Research England to expand our capabilities to address the scientific, governance and ethical challenges associated with astrobiology brought together staff from three SRAs: C&G, IDII and Space & Exploration).*”

5. At **[4361-4382]** is our REF 2021 submission for Unit of Assessment C20 (Social Work & Social Policy) relating to research environment. In this submission, we were required to reflect on and provide evidence for the following: the successes of the previous strategy; the main objectives moving forward; staffing strategy and staff development, which encompasses the development of more junior academic staff in terms of their research; the amount of income generated; organisation of and support for research across the unit; how research impact is supported; and research infrastructure. In this submission, units of assessments will describe the structures through which research is enabled and supported. Typically, units of assessment will use this space to make an evidence-based case of how they support and enable research by describing research groupings and how they link to the research strategy of the university itself. The following are extracts from C20’s REF 2021 submission for research environment:

## ***“2. People***

### ***2.1 Staffing Strategy and Staff Development***

*...Senior academics in the Unit support more junior colleagues in a range of ways and particularly through collaboration in the various research groups...In addition, academics have opportunities to access both internal and external training opportunities; individuals and / or research groups can access ‘research support’ funding for this purpose.*

...

### ***3.2 Organisation and Support for Research***

*The University has made significant investment in research during this assessment period, particularly in initiatives that support collaboration across the University and externally and especially in interdisciplinary research. Investment has been made in five University Strategic Research Areas (SRA), two of which contribute to this Unit: the Citizenship & Governance and Health & Wellbeing SRAs. The Citizenship & Governance SRA is led by an SRA Director, an Associate Director (**Gabb**) who spend 20% of her time*

*in this role and several research leads (**Boukli, Erel, Gabb**). The Health & Wellbeing SRA is led by the SRA Director (**Earle S.**) who spends 40% of her time on this, supported by additional investment of one Research Fellow (**Marston**) and a University Research Board with cross-discipline representation. Both SRAs have received additional investment for research administrator posts. The SRAs support several pan-University Special Interest Groups the majority of which contribute to this submission. The SRAs use strategic investment to create a collaborative interdisciplinary research environment within the University facilitating external grant income through initiatives such as 'Research Sandpits', 'Bidding for Funding Factories' and networking events with key stakeholders."*

*...These formal activities are in addition to the more informal day-to-day mentoring, support and collegiality that is found within research groups where more senior colleagues work alongside junior colleagues in the development of research proposals.*

*...*

### **3.4 Research Infrastructure**

*The strategic research areas and research collaborative form a key component of our research infrastructure allowing both discipline-based, multidisciplinary and interdisciplinary research to thrive. Participation in these groups is fluid and staff are often aligned to one (or more) of these groups. They also form a vital part of our infrastructure for income generation, as detailed below"*

6. The five Strategic Research Areas were Citizenship and Governance; Health and Wellbeing; International Development; Space; and Technology Enhanced Learning. All these Strategic Research Areas operated until the end of 2022 in line with the timeframe of the five-year research plan with the exception of Health and Wellbeing; for reasons I expand upon later in this witness statement, I decided to close the Health and Wellbeing Strategic Research Area early.
7. Research groups such as Strategic Research Areas are a common way for universities to formally organise and report on research. Academic work can be very autonomous, so it's important to have structures to bring academics together. Universities tend to make every effort to bring academics together into groups, which are often referred to as research

networks, clusters or centres. This fosters collaboration, challenge, and the sharing and development of ideas, all of which can and often does lead to new research initiatives.

8. At the OU, departments tend to focus on the development and delivery of curriculum, i.e. teaching, and research tends to be focused more into thematic groupings. The OU, like other Universities, places a lot of emphasis on interdisciplinary research, and thematic research groups that operate outside the departmental structure help to foster this multi-disciplinary approach.
9. The OU no longer has Strategic Research Areas as these have been replaced by the OSCs but research is still organised within these (and other) thematic areas.

### **Health and Wellbeing Strategic Research Area (“Health and Wellbeing”)**

10. Strategic Research Areas were made up of different research groups whose work was connected to the theme/s of the area in question. The Health and Wellbeing Strategic Research Area had, at different times, a total of seven different research groups (which were sometimes referred to as Special Interest Groups – “SIGs” - or research networks), namely Cancer Diagnostics and Therapy; Death and Dying; Digital Health and Wellbeing; Health Discourse; Mental Health; Reproduction, Sexualities and Sexual Health Research Group; and the Gender Critical Research Network.
11. Health and wellbeing are broad themes, and deliberately so. When I set up the Health and Wellbeing Strategic Research Area, it was a fundamental principle for me that it would be a ground-up, researcher-led initiative, and that there would be no top-down imposition of specific topics of research. An example of top-down management would be if I had said that the SRA would only look at digital health over the next five years. What I have found through many years of research management and leadership is that this approach doesn’t work very well, as you are trying to shepherd academics into narrow fields which might not align with what they want to work on. Academics are excited about their own research areas. You’ll be much more successful if you allow academics to build the areas they want to research from the ground up. It was from that principle that all the different groups and their activities emerged in Health and Wellbeing.

12. The breadth of research topics covered by the various groups within Health and Wellbeing was captured on the SRAs webpage (as it was in April 2021):

*“Although not an exhaustive list, OU’s Health and Wellbeing research areas are: Biomedical Sciences; Health Services Research; Human Computer Interaction; Digital Health; Personal Informatics And Wearable Technologies; Psychology and Counselling; Health Economics; Medical Statistics; Health Communication; Health Policy; Public Health And Health Promotion; Social Marketing; Sport and Fitness; Medical Humanities; Health Law and Ethics; Videogames and Gamification; Mobile (Health) Apps; Gerontology, Gerontechnology, Rural Ageing.” [934-5]*

13. Research topics within the sub-groups in Health and Wellbeing were also broad. The group that I started many years ago, the Reproduction, Sexualities and Sexual Health Research Group, for example, took the following approach as detailed on its section of the Health and Wellbeing website (as it was in April 2021):

*“Research on reproduction, sexualities, and health at the Open University is underpinned by a critical health studies approach in which we consider reproduction and sexuality not solely in terms of health but also in terms of intimacy and identity as well as the social, political, and governmental possibilities afforded by reproductive and sexual health policies and professional practice. Our research is organised under 5 substantive topic areas: reproductive control, HIV/AIDS, sexuality & disability, the experiences of lesbian, gay, bisexual, and transgender (LGBT+) people, and pregnancy, childbirth, and early motherhood. We, therefore, maintain fruitful research dialogues with other special interest groups based at the School such as Disability and Long-Term Conditions, Ageing and Later Life and Death, Dying and Bereavement. We are also active within university wide research themes such as the Private Lives, Public Intimacies stream of the Open University Citizenship and Governance Strategic Research Area.” [922-3]*

14. Examples of the research projects carried out by the Reproduction, Sexualities and Sexual Health Research Group are at [4065-4076]. These include *“Education to support LGBT+ communities in Georgia, Kyrgyzstan and Ukraine”*; *“Integrating Care for Trans Adults”*; and *“My Body My Life, a public engagement project, funded by the ESRC, that seeks to destigmatise abortion through abortion story-telling.”*

15. Health and Wellbeing, like other Strategic Research Areas, was run by a team of OU staff. As above, I spent two days a week, 40% of my working hours, on my work as Director of the SRA. Dr Hannah Marston, a Research Fellow, was also attached to Health and Wellbeing, and our work running the SRA was supported by two administrators, Gaynor Henry-Edwards who is a Research Manager, and one junior administrator, Chrispina Odunewu. Examples of the work that I, Hannah, Gaynor and Chrispina did for the SRA include the following:

- a) We supported both individuals and research teams within Health and Wellbeing in building research capacity, i.e. helping them to make their research ideas and projects more successful. For example, I would talk through ideas with individuals and offer suggestions on how their research could have more impact. I would also offer suggestions on where to look for external funding. If we didn't have expertise in the research field in question, we would put the individual or research team in touch with a colleague with relevant expertise.
- b) Part of Gaynor's role was to "horizon scan" for the team (i.e. identifying external funding opportunities). Also, if a group within Health and Wellbeing wanted to do work on a particular subject, Gaynor would identify colleagues with expertise in that area and introduce them.
- c) If enough research groups within Health and Wellbeing wanted a particular type of training, we would organise and pay for it. For example, we put on an event with an external consultant to provide training on research impact as defined by the REF in health.
- d) When groups in Health and Wellbeing wanted to put on events, such as a seminar, we would provide all the administrative and technical support required to hold the event. This involved, for example, creating distribution lists of invitees, preparing and sending the invitations, liaising with speakers, and arranging and administering the event itself whether that was online or in person (post-pandemic, events were online). Many academics struggle with administration as they don't have the time for it, so this support with events was important for the research groups.



- e) The team, and Hannah Marston in particular, helped to maintain the Health and Wellbeing website, including the sections for each of the different research groups. Hannah would update the website to include the latest information on research projects, events and seminars, as well as uploading podcasts. Hannah also maintained the Health and Wellbeing YouTube channel, uploading videos of seminars and a Twitter account.
  
- f) Health and Wellbeing had a budget each year of approximately £20,000 - £30,000 for strategic research funding. Anyone in the university could apply for a grant from this fund. I would convene and chair a sub-group or the Health & Wellbeing SRA board to decide who should be awarded funding.

### **Benefits to academics of the Health and Wellbeing Strategic Research Area**

- 16. In addition to the above support and resources available to groups within Health and Wellbeing, these research groups and the individuals within them benefited from being part of an official OU research network that sat within an OU research structure and had an OU external-facing webpage. This gave the researchers and their groups the credibility and visibility necessary to carry out successful research-related activities, including organising seminars, engaging with external stakeholders and making bids for funding.
  
- 17. In terms of events such as seminars and conferences, it is very difficult to organise such events without having an organisational structure behind it. It's normal for speakers to be invited to talks held by a group or organisation, for example as part of a seminar series or for the launch of that group. That's what speakers and audience members expect; otherwise, it's just an academic who's booked a room or arranged an online conference, which is unlikely to attract the same number or calibre of speakers or attendees.
  
- 18. I should explain here that conferences and seminars are a key part of academic research; it is at events like this that academics can try out new arguments and have them tested, where new ideas are generated through debate, discussion and challenge, and where researchers meet potential collaborators for new projects. This is particularly important for junior researchers who benefit from collaboration with more senior academics, especially when it comes to bidding for research funding: funders are much more likely to fund

research when at least one member of the research team is established and has a track record of delivering on funded research projects. These invited talks are also typically listed on academic CVs as evidence of the esteem with which that person is held within their academic community and are usually included in applications for promotion or in job applications.

19. The visibility and credibility of being an official university research group is also extremely important when developing relationships with external stakeholders. Relationships with external stakeholders are often important when carrying out research projects and can affect the potential impact of the work, with impact being a factor assessed by REF. A good illustration of this is work recently undertaken by the OU Gender Critical Research Network. The OUGCRN were approached by an NHS Trust who wanted to consult the network about the Trust's new LGBT+ toolkit, which would be used for staff training and development. The NHS Trust in question (who I won't name because I owe them a duty of confidentiality) were concerned about this new toolkit because they wanted to ensure that sex-based rights were also upheld. They wanted to discuss with the OUGCRN the use of language and issues of inclusion. This work only came about because the OUGCRN was an official part of the OU and was visible to the outside world through its OU webpage. Further, this is exactly the sort of work that universities want and encourage, because it goes to the usefulness to society of academic research funded by the taxpayer. This would be scored in the REF under impact.
20. When grant-makers make decisions about which research to fund, funders want to make sure that their money is secure and that the people receiving the money will deliver the research being funded. As part of this, funders will expect there to be a visible presence for the research. An official university research group provides this presence and gives reassurance to funders that there is a research structure that will support the individuals when carrying out the funded research.
21. Further advantages of official university research groups to both individual academics and universities are the career benefits that accrue from being part of such research networks. Prospective employers will look at what research groups applicants belong to in their current role, and when you make an application to work in an academic role, you will say a) what contribution you can make to the department and then b) you will look at the

research clusters / groupings and say what contribution you can make to these. When it comes to recruitment, it also helps universities to have a vibrant research infrastructure with different research groups / networks, as this will help to attract future stars who will want and expect this kind of infrastructure to conduct and develop their research.

22. When my colleagues signed letters calling on the OU to prevent the OUGCRN from being part of a Strategic Research Area and from having any kind of official OU presence, they were asking that the university deny the OUGCRN and its members all the benefits I've just described.

### **The OU Gender Critical Research Network: joining Health and Wellbeing**

23. There was no formal process for setting up a new research group in Health and Wellbeing. The website at the time simply said, *"If you are interested in knowing more about this strategic research area or are interested in working with us, please contact us via the details on the Contact Page"* [932]. This contact page linked to my contact details as well as to Hannah Marston's and Gaynor Henry-Edwards'. If an academic was interested in setting up a research group in Health and Wellbeing, the normal thing for them to do was to get in touch and then discuss it with me, which is what Prof Phoenix did.
24. I want to stress here that there was nothing remarkable about Prof Phoenix's desire to set up a research network. On the contrary, this is exactly the type of work that Prof Phoenix as a senior academic at the university was expected to do; there was an expectation that she would bring junior researchers together with other researchers and lead that research. And, as I've explained above, research is generally done through groups and networks.
25. When Prof Phoenix got in touch about setting up the OUGCRN within Health and Wellbeing, she and I explored the type of work that the group was interested in doing. When I asked Prof Phoenix about the group's fit within the SRA, she said that the theme of the network is fundamentally about sexed bodies and how, why, and when they are relevant in society. She spoke about her prisoner placement policy research, specifically the placement of transwomen which, as a medical sociologist, spoke to me about prisoner safety and wellbeing. We also spoke about Jon Pike's work on sport, specifically his work on the safety and fairness of including trans women in female sport, and in rugby in particular. This was

also about safety and the risk of harm to female bodies. Another member of the network, Laura McGrath, is a health psychologist who researches mental health.

26. I thought that the OUGCRN, with its focus on sexed bodies, was a good match for Health and Wellbeing. A lot of the work already done in Health and Wellbeing before the OUGCRN joined was implicitly about sexed bodies – how they are viewed, expressed, and controlled by others - even if that was not the principal lens through which people did their work. For example, we had carried out significant work on abortion, sexual health and supported sex and intimacy. We had also supported work on the integration of care for trans adults.
27. The SRA had funded work on sport before the OUGCRN joined, specifically Dr Ben Langdown’s work on physical literacy, and a golf athlete monitoring app. And shortly after the OUGCRN was formed, the SRA funded work on the female body in sport (by Lecturer Wendi Bacon, in the STEM Faculty and Kath Woodward, an Emeritus Professor in FASS [4130-35]). Dr Pike’s work on sport was a natural addition to the work of the Health and Wellbeing SRA.
28. It was also clear to me that the issue of sexed bodies was becoming significant in health and social care, for example the use of single-sex rather than mixed-sex wards within the NHS and the role of sexed rather than de-sexed language in service provision where the sexed body is highly pertinent (for example, in relation to gynaecological care or maternity services provision). Prof Phoenix has recently published a report which found that more than 6,500 rapes and sexual assaults were recorded in hospitals in England and Wales over a period of nearly four years [4055-6]. This report gained national press coverage [4051-54]. This is a finding which engages the topic of single-sex wards. In terms of sexed language, there is increasingly an issue of balancing clarity of language with language which is seen to be inclusive. For example, there has been criticism of cervical screening communication which refers to “anyone with a cervix” rather than women, as many women do not know what a cervix is (see, for example [3007-10]).
29. I was asked during the investigation into Prof Phoenix’s grievance about how the OUGCRN fitted with the Health and Wellbeing SRA. This was my answer, in full:

*“On the subject of strategic fit, as an SRA we have deliberately chosen to not impose definitions or understandings of ‘health’ and ‘wellbeing’ onto our research community.*

*When you lead a very large multi-inter-disciplinary group I think it's quite important to do this. Indeed, the very concept of 'wellbeing' is quite contentious in particular fields so it is important for researchers to locate themselves within it as they see fit. We feel that this approach to interdisciplinary research is then as inclusive as possible of the very different types of disciplinary research that exist within the OU.*

*As Director of the SRA my understanding is that sex and gender both have a really important part to play in our understandings and experience of health and wellbeing. So, I would expect to see gender critical perspectives to be part of debates in these areas of research. Some examples of this might include: Biological sex (whether you are born male, female or intersex) is determined by chromosomal, hormonal and metabolic differences and these sex-based differences help shape distinctive patterns of morbidity and mortality. There are also a number of sex-specific diseases that are only expressed in particular types of sexed bodies – this would include things such as cervical cancer, or prostate cancer. Reproductive health and gynaecological health-care services are fundamentally about sex-based healthcare. Biological sex is relevant to the epidemiology of disease. It therefore has a part to play in the planning, organisation and delivery of health care services.*

*There is also plenty of evidence indicating that biological differences between groups of people affects the incidence, symptoms and prognosis of disease although of course this then intersects with gender (for example, the way in which we might stereotype people based on their actual or perceived biological sex).*

*There is also some really interesting literature on the gender bias of medical research and the implications of this for health. So, for example, research done solely on those born as men which is then applied to both men and women but leading to poorer outcomes for women (e.g. in the area of coronary heart disease). It is unclear whether this longstanding problem is about sex, gender or the intersections between them but it has really big implications for things like clinical trials and the validity of research. [There are similar debates in other areas such as critique of the use of BMI for populations that are not white, because the baselines were based on white (male) populations. Again, this is about biological differences between different types of bodies – it's not about issues of ethnicity or racism].*

*Rick, I could go on but this should give you an idea of why gender critical research is part of an inclusive research community in health and wellbeing. I've focused above very much on the strategic fit of gender critical perspectives with 'health'. I haven't begun to explore the fit with the wider and more contentious concept of 'wellbeing'. However, this would include a very wide range of potential biopsychosocial issues such as social welfare and social care, safety, security, safeguarding and so on..” [2698-2701]*

### **Launch of the Gender Critical Research Network and the aftermath**

30. The events that followed the launch of the Gender Critical Research Network were like nothing I have ever experienced before. It was easily the worst experience of my professional life. I felt like I was caught up in a whirlwind, with the overwhelming feeling being one of panic. Many years ago I was a victim of domestic violence and abuse. Following the launch of the OUGCRN I felt as threatened as I did then.
31. The incident which stands out most strongly for me is that, as a member of the Reproduction, Sexualities and Sexual Health research group (sometimes referred to as “RSSH”), I was copied into emails about the letter that would later be published on 24 June 2021 signed by many members of RSSH [1517-1519]. (I understand that this letter is being called the WELS Statement in these proceedings as it was published on the Wellbeing, Education and Language Studies section of the OU website). This letter said the most appalling things, associating the OUGCRN with an environment where trans people are raped and murdered, and suggesting that the OUGCRN contributed to an environment which harms trans people’s health. The letter went on:

*“It is very disappointing that in the midst of this crisis, with human lives at stake, and while colleagues are working so hard to counter these trends, the OU’s Health and Wellbeing SRA should choose to create and support a Gender Critical Research Network, that has already repeated transphobic tropes.” [1624]*

32. By implication, as Director of the Health and Wellbeing Strategic Research Area, my colleagues were accusing me of one of two things: being sympathetic to an initiative which put trans people’s lives at risk, or, being too incompetent to prevent it.

33. The letter asked for a *“full enquiry...into the process of approving this network for inclusion as part of the HWSRA e.g. whether an equality impact assessment and risk assessment were undertaken.”* It also said that one of the reasons that the signatories of the letter questioned the *“good faith of this network’s aims”* was because *“The network was launched with no prior notification to colleagues across the OU who are currently working on matters related to health, wellbeing and gender. There was no attempt by the network’s founders to engage any of these colleagues in conversations about what purpose such a network would serve, nor any invitation to join it or help set it up. It has been presented as a fait accompli.”*
34. From my perspective as Director of Health and Wellbeing, I did not expect the OUGCRN founders to contact all other academics in the OU who worked on health, wellbeing and gender before they founded the network. The network was already cross-Faculty and interdisciplinary, although small. Indeed launching the network was the way that I imagined the network would grow, both within the OU and externally. The web pages that formed part of the launch actually encouraged involvement: *“We encourage membership from across all faculties and from outside the University. We also encourage involvement from PGR, academics and researchers who are interested to understand and know more about what is meant by ‘gender critical’ research”* [4108]. It is incorrect to say that there was no invitation to join it and research networks or groups could never be described as ‘fait accompli’ as they always evolve over time as membership changes, grows or shrinks.
35. Another reason given by the signatories for questioning the “good faith” of the OUGCRN’s aims was that *“Neither co-convenor currently researches health and wellbeing, and only one member appears to. Only one affiliated member undertakes research on health and wellbeing topics, and not on topics related to gender. Given this, we query why it is appropriate for this group to make its home within the Health and Wellbeing SRA.”* In response to this I would say that the purpose of the OUGCRN as stated on its webpage was to research sexed bodies and how, when and why they matter in its members’ respective fields of research. Both co-convenors, Prof Phoenix and Dr Pike, were carrying out research related to sexed-bodies that fell squarely within the themes of the SRA, as I’ve described above. This work was detailed on the OUGCRN webpage at the time [4109-10; 4118-9]. How any academic can say that the study of the sexed body has nothing to do with health and wellbeing is beyond me. The only reason I can see is that other people objected to the

beliefs held by Prof Phoenix and other members of the group, and critiquing where the group was positioned was simply a hook to have them cancelled, which is what they called for.

36. The letter went on to say that if the OUGCRN was not removed from the Health and Wellbeing SRA then the signatories of the letter had *“voted to disband the Sexuality and Reproduction SIG and will instruct the HWSRA to remove any reference to us or our work from their online presence and other materials. We would also urge other academics associated with the Health and Wellbeing SRA to do the same, and we would boycott all HWSRA events and encourage others to do the same.”* This was a threat to try to destroy the Strategic Research Area that I had created, led and put so much energy into over the last five years of my life. Receiving these emails from colleagues about what they were about to do in terms of publishing the letter tipped me over the edge. I felt unable to function and I went to bed in the middle of the day. I am generally a very resilient person; it takes a lot to make me feel like that. If I had worked in a face-to-face environment, I don't think I could have continued going into work.
37. The reaction to the launch of the OUGCRN put immense pressure on me and my team in the SRA. In summary, we had to deal with the Reproduction, Sexuality and Sexual Health SIG disbanding as a research group within Health and Wellbeing, requesting that all references to them and their work be removed from the Health and Wellbeing website, and encouraging all other academics to join them in their boycott of SRA events; then the mental health SIG also asked for all of their material to be removed (this was co-chaired by Mathijs Lucassen who signed the WELS letter); we received deeply unpleasant emails and at times frightening messages on social media; and we had to deal with KMi's numerous emails about their intention to stop supporting the OUGCRN webpage on KMi servers. I personally had to turn to my line manager at the time, Prof Regine Hampel, for support in dealing with the fall-out, having previously sought support from Kevin Shakesheff (Pro-Vice-Chancellor) and Caragh Molloy, Group People Director.
38. On 30 June 2021, following the decision that the OUGCRN would remain as a research group in the Health and Wellbeing SRA, I received an email from Dr Victoria Newton confirming that the Reproduction, Sexualities and Sexual Health SIG had voted in favour of disbanding the SIG and asking that the SIG and all associated references be removed from the Health and Wellbeing webpage as soon as possible [1864] (also see the email



from Dr Victoria Newton and Dr Tom Witney to Chrispina Odunewu of 24 June 2021 asking for removal of all references to their SIG from the website “urgently – no later than **5pm on 30 June.**” [1671])

39. On 1 July 2021, the Faculty of Wellbeing, Education and Language Studies published a link to the WELS Statement in the Faculty newsletter, referring to it as the “*position statement of the WELS Reproduction, Sexualities and Sexual Health Research Group*” [1846]. In response to this, Gaynor Henry-Edwards emailed Kevin Shakesheff as follows:

*“Dear Kevin,*

*I want to bring to your attention a further development regarding the new network in the Health and Wellbeing SRA.*

*In the latest WELS faculty newsletter an open letter signed by members of the WELS Reproduction, Sexuality and Sexual Health Research Network, which calls for a wholesale boycott of the Health and Wellbeing SRA, has been published as a ‘position statement’. I am concerned that this is not appropriate.*

*Best wishes,*

*Gaynor”* [1839]

40. In relation to the messages that were sent to me and the team, we received deeply unpleasant emails including two to the Health and Wellbeing inbox (I was also sent one to my personal email but I no longer have a copy of this). The first of these emails was sent on 16 June 2021 and included the following:

*“I am deeply concerned about the starting of this “gender critical research network”. It’s akin to the Open University starting a group to research the benefits of phrenology or apartheid....*

*Please reconsider whether it is appropriate for the Open University to host such a group. I worry they will exploit the good name of the Open University to promote a kind of bigotry akin to the “gay panic” of the 1980s”. [1179]*

41. Another email also sent on 16 June 2021 to the Health and Wellbeing inbox said:

*“I’d love to know why the Open University is platforming Gender Criticism aka transphobia as part of a Health and Wellbeing committee. Please do provide a response so I know whether or not to never recommend you to trans friends who would not feel safe at your establishment. And no way am I providing my real name as a trans person to you. This is disgraceful – would you platform racists and homophobes? Are you this unaware of the constant attack on trans ppl in this country? I hope you all hang your heads in shame when you realize exactly what you’ve done here. I hope to get a response and an apology to my community” [1178]*

42. There were also highly abusive messages on Twitter. As I said in my written response to the grievance investigation panel’s questions, *“Very soon after the launch of the OUGCRN I received a couple of email message from members of the SRA about concerning messages and comments on Twitter. For example, an email from an SRA board member on the evening of 16<sup>th</sup> June 2021. I took a look at these Twitter messages and was very alarmed by their tone and content.” [2704]*

43. John Domingue, Director of KMi, also sent me messages that he had received criticising KMi for hosting the OUGCRN on their server (see, for example, [1409-10]).

44. I spoke to Regine Hampel about all of this on 21 June 2021. I remember Regine being shocked by the turn of events and how nasty people were being. Following my conversation with her, Regine emailed Fary Cachelin, saying:

*“Hi Fary,*

*Just to keep you informed,*

*I talked to Sarah today and she told me that the network was discussed by the Health & Wellbeing SRA and the group decided to support the research network; rejecting it would have been discriminatory. The network has not had SRA funding but we cannot refuse if they apply for it; again, we'd be discriminating against them.*

*The use of the OU logo was an error and it has been removed.*

*People seem to be scared to join the group now.*

*Sarah herself has been worried about her safety as well as about Jo who has had anonymous death threats. She had asked HR for support last week and they have now responded to Sarah's email. Sarah is only prepared to communicate with the LGBT+ group if this is what HR advises. Shaun's email as co-chair of this group very obviously implied criticism of what Sarah and the group have been doing. He expresses quite strong views but gives no details. Neither Shaun nor his co-lead Heather have contacted Sarah directly.*

*There have been two very recent cases where gender-critical views were upheld. The first one related to the University of Essex which had invited Jo Phoenix to give a talk in 2019 and subsequently cancelled the talk; this has just been found to be a breach of her right to freedom of expression and Essex has apologized (see University of Essex apologises to professor over trans-rights cancellation - BBC News). I think that I sent you the info on Maya Forstater (see Gender-critical views are a protected belief, appeal tribunal rules Law The Guardian) where a tribunal ruled that gender-critical views are a protected belief.*

*It would be great if you could send Sarah an email and offer her some support.*

*All best,  
Regine" [1420]*

45. The email from Shaun Daily that Regine Hampel mentions in her email above was sent on 18 June 2021 from Shaun Daily and Heather Cook-Hannah in their capacity as Co-Chairs of the LGBT+ Network. Initially this email was sent to Ian Fribbance and others and said:

*"Dear colleagues*

*Our network committee met yesterday to discuss posting a response to our network on Yammer, and to VCE members copied here, about the creation and promotion of the*

*GCN. As you can imagine it was a very emotive discussion especially for our Trans and gender non-conforming members, however I'm pleased to say it was also very constructive and considered.*

*We have a few questions we hope you may be able to answer in order for us to position the message accurately.*

- 1. We are assuming the Network is now 'funded' by the OU as one of the 7 KMI Health & Wellbeing 'Special Interest Groups' but wonder if any of you know whether this is the case or not? Whilst we are not exactly happy if this is so, we are also mindful that Gender Critical beliefs are now a protected category and for us to ask for these to be cancelled in any way would itself be discriminatory towards fellow colleagues and would potentially lead to questions about OU funding and governance of research in many areas.*
- 2. GCN say 'external funding is coming soon' on their page, if and when this happens does that change the nature of their group and their remit, and what governance is there around where the funding comes from?*
- 3. We've looked on social media and the only one of these research groups we can find with an OU branded twitter account is the GCN, so we want to know if this is within agreed policy and if so what consideration of the impact of this on other staff members was given and what process was followed for this to be approved? Two of our members are in WELS comms and note that this 'bypassed' the usual process for a research network creation and promotion.*
- 4. We also note (though please correct us if wrong) that the subject of this research is the only one of the 7 that has had recent court rulings warning that discrimination was a distinct possibility arising from these beliefs and has to be carefully considered and monitored by organisations and their leadership.*
- 5. Given question 3 and point 4, what consideration of both timing (during Pride month) and alerts and support for likely affected staff took place and at what level?*

*I know you are all aware of the immediate backlash the OU is now facing from students and staff alike because of this, and we will try to be as balanced and*

*considered as we can, however as Network Chairs Heather and I also need to make the very strong feelings of our committee and members known clearly.*

*I've also copied in Rob Macey for a view on whether we've overstepped our stating of recent court rulings.*

*It would be very helpful if we could have a response today so that we can put out a considered message to our network asap.*

*Thanks*

*Shaun & Heather" [1299-1300]*

46. Ian Fribbance wasn't able to answer many of these questions (see his reply at [1297-8]), so Shaun Daily forwarded the questions to Kevin Shakesheff and Fary Cachelin, saying:

*"I am writing to you in my capacity as Co-Chair of the OU LGBT+ Staff Network alongside my Co-Chair Heather, and because from the email trail below you can see neither we nor Ian Fribbance (our VCE Sponsor) know what the process and approval for the creation and promotion of the Gender Critical Network as an OU branded Special Research Area has been.*

*As you can see below, and I imagine you're being made aware via other channels, the way this has been done, the timing and the implicit OU backing with its branding is causing much distress amongst staff and students and we would like to know your thoughts on how best to respond to these questions and support our network." [1296-7]*

47. Fary Cachelin then forwarded this email to me and Regine Hampel simply saying,

*"Hi Sarah and Regine,*

*I think it might be helpful to have a conversation with them.*

*Thank you,  
Fary" [1296]*

48. Regine Hampel then replied:

*"Hi Fary,  
Who are you suggesting? Presumably Sarah, you and I should have an initial chat.  
Possibly also with Jo. And then probably with Kevin – or Tim. This is getting increasingly  
vicious." [1295]*

49. Fary Cachelin then replied to Regine:

*"Sorry, I meant Sarah and Jo and perhaps you with Shaun to answer his questions below,  
to help him craft some messaging for the wider community. He has asked several  
questions in his original email." [1295]*

50. I replied to Fary on Sunday 20 June:

*"Thanks for your email. Apologies for emailing over the weekend.*

*I need to discuss this with Jo as I don't have all the answers on this. Also, given Jo's  
complaint to us that OU staff have defamed her, other OU members of this network, and  
external members, I am going to have to take advice before I respond.*

*I was absolutely shattered on Friday night from dealing with all of this." [1294-5]*

51. During this time, I also had to deal with an ultimatum from John Domingue, Director of KMi, about the removal of the OUGCRN webpage from KMi servers. John Domingue first contacted me about the OUGCRN on 17 June 2021, when we had the following email exchange:

*"Hi Sarah, it's been a long time since we communicated – I hope you are doing well.*

*Sorry that this first email is something negative but I have a number of KMi researchers who are not happy with the negative publicity we are receiving and the perceived direction of the Gender Critical Network subgroup of the Health and Wellbeing research area...*

*Whilst obviously all researchers are free to pursue areas they deem appropriate I've asked our web development team to remove the KMi logos from the site for the time being." [1231]*

To which I replied:

*"Hello John, It's lovely to hear from you. It has been a little while and I hope you are well too.*

*I'm sorry that some of your KMi researchers are not happy with the negative publicity. The launch of the research network yesterday afternoon has certainly caused a great deal of interest, much of it positive, but of course not all of it. I am seeking advice and support from the University with respect to some of the negative interest as colleagues within the network have been subject to harassment and have received threats of violence.*

*I don't agree with your decision to remove the KMi logos but appreciate that you must act as you see fit. Like you, I agree it is appropriate for researchers to pursue their ideas. The role of the SRA is to facilitate research in health and wellbeing across the OU without sanction or favour.*

*If you haven't already I would urge you to listen to the podcast that launched the research network. I found it fascinating and it made me recall some of my (much) earlier research on women's right to abortion vis a vis a disability rights perspective. Some of these debates are incredibly complex and are often very polarised.*

*I'm sure that Jo Phoenix who co-leads the new research network would be happy to chat to you about it and I've cc'd her here to facilitate that introduction." [1231]*

52. On 18 June 2021, John emailed me again, condemning the harassment and threats, and then saying the following:

*"...As well as KMi researchers I've now been contacted by the Head of Physical Sciences and the Head of Environment, Earth and Ecosystem Sciences who have the same concerns as my staff. We're also receiving negative publicity on twitter [1] and receiving complaints via email from OU staff and externals (see below).*

*The issue has been raised with the STEM Exec Dean and the OU Dean for EDI.*

*There is also an OU petition at:*

<https://forms.gle/pEgicztwQtvwt19Z6>

*As I mentioned in my previous email I strongly support academic freedom. We will though continue to disassociate KMi from the new network and have asked for a new URL to be generated which does not point to us." [1244-5]*

53. On 21 June 2021, John Domingue emailed me and Prof Phoenix again to say:

*"Hi Sarah and Jo, as you might imagine I've had a number of discussions with the senior research staff in KMi and our systems team over the last days. Also with a number of Heads of Schools across STEM and the issue came up in this morning's STEM Exec meeting.*

*The overwhelming view from KMi is that we want to be disassociated with the research network for the combined reason that it causes distress to a number of our staff and a hit on our reputation.*

*KMi's strategic objectives are to be an excellent research and innovation unit for key areas related to the OU's business of teaching at a distance. We do sometimes create, maintain and host websites as a favour to internal and external colleagues but this is very much a sideline for us above and beyond any objective or expectation from my seniors.*



*Given the above we would like to stop hosting the Gender Critical Research Network as soon as possible. We would be happy to carry on hosting the rest of the Health and Wellbeing Research Area and naturally leave it to you how you manage the separation.*

*I'd be grateful if you could let me know your concrete plans on where we should move the content to by Monday July 5th.*

*Sorry to be the bearer of bad news but as I mentioned above this is the unanimous view of the KMi senior staff." [1383]*

54. I replied on the same day:

*"Thank you for your email. Please let me give it some thought. I'm concerned that what you are suggesting might be unlawful and you will understand that I need to take some advice on this. The group have every right to be part of the SRA and to be hosted on the SRA website – to act otherwise would probably be discriminatory. I think that agreeing to host the new research network somewhere other than the SRA website would fall foul of the University's position statement on this matter.*

*I will get back to you as soon as I receive advice from the University. Thank you again for getting in touch with me." [1382-3]*

55. John Domingue emailed me again on 24 June 2021:

*"Hi Sarah, we've become increasingly alarmed here in KMi at the real distress caused by GCRN to the mental health of some of my staff and PhD students and also staff and students across STEM and the OU as a whole. Also KMi's reputation continues to be damaged.*

*I have been making my own enquiries to have the URL changed or the content moved with no luck so far. In particular I have been in conversation with Jackie Kavanagh-Ward who looks after the OU digital estate.*

*I also found the OU's central Health and Wellbeing website [1] to which the content could easily be moved.*

*Given the above I'd like to let you know that next Friday (July 2nd) we intend to remove the GCRN content from our servers as we await a new place where it can be hosted.*

*Please do let me know if you find any place and my team will support the transfer.*

*best*

*John" [1600]*

56. I replied on the same day:

*"Hello John, thank you. I have spoken with Kevin (Shakesheff) and I know that he has matters in hand re the website. I hope also that your staff and students are OK.*

*I appreciate that you and colleagues have kindly hosted the SRA website over these past few years and do hope we will continue to work together on future projects." [1600]*

57. Given KMi's insistence that they would not continue to host the OUGCRN's webpage on its server, the OU had to transfer all the Health and Wellbeing web content to a different server in order to avoid targeting the OUGCRN.

58. My team in Health and Wellbeing were extremely distressed by all of this. There were a lot of tears and I needed to hold extra meetings with them to provide support.

59. I also spoke to Prof Phoenix a lot on the phone during this period, trying to help her through it. It had a huge effect on her. She was unable to function, she couldn't sleep, she was crying all the time. It was a traumatic period. I remember that she felt strongly that there was nowhere for her to turn within the OU because her department was hostile to her and the institutional environment was hostile to gender critical beliefs.

60. However, I should stress that the reaction to the OUGCRN was by no means all negative. We also received a lot of expressions of interest and positive feedback about the new group. It was striking, though, how many people who were supportive of the new group, or who were simply interested in it, were anxious about being seen to be involved with it. I have spoken to lots of people at the OU, academics and others, who are interested in the issue but are too afraid to be associated with the OUGCRN in any way. Some people have said that they are afraid of what happened to Prof Phoenix / the OUGCRN from happening to them. These conversations are generally one-to-one, private discussions where people feel it's safe to say that they have gender critical views.
61. Some colleagues at the OU told me that they were interested in the network but did not want to have their name on an OUGCRN mailing list in case this got out. Others who were slightly less afraid but still anxious wanted to be on the mailing list for OUGCRN-related matters but asked whether that fact could be kept confidential. In the end, Hannah Marston had to create two separate lists for distribution of OUGCRN events and things of interest – names who could be made known to others, and those who wanted to remain secret. Hannah Marston informed me of this secret distribution list because I was her line manager. I never saw a copy myself because I was not a member of the OUGCRN and it was not deemed safe for the list to leave the OUGCRN.
62. There is a culture of fear to be associated with any aspect of gender critical belief. You can't say you're in the middle of the debate either, as then you still risk being attacked and called a transphobe. Because of this culture of fear, people who are interested but take a middle ground view, or are perhaps interested in the issues but undecided, generally won't participate in the discussion for fear of what happened to Prof Phoenix and her colleagues happening to them. This is clearly detrimental to academic debate.

### **The decision to close the Health and Wellbeing Strategic Research Area early**

63. Both the Open Letter and the WELS Statement called for the removal of the OUGCRN from the Health and Wellbeing Strategic Research Area. Hundreds of my colleagues signed the Open Letter. Both letters were circulated on social media. The comments on Twitter about the group were horrendous. The WELS Statement called on colleagues to boycott Health and Wellbeing events, which is what happened. People didn't want to be associated with the Health and Wellbeing SRA and the SRA ceased to be able to function. I therefore

decided to close Health and Wellbeing early, in July 2022. The four other SRAs continued until their planned closure date in December 2022.

64. I told Kevin Shakesheff, the Pro-Vice-Chancellor for Research, that I was planning to close the SRA early in one of our regular meetings. I explained to him that the SRA had effectively been cancelled and that we couldn't do the work of an SRA. I would have ordinarily also discussed this with my line manager, Prof Lesley Hoggart, but this was impossible as she was one of the authors and signatories of the WELS letter. Examples of the barriers I and my team faced when trying to run the SRA are as follows.
65. Following the launch of the OUGCRN, we tried to carry on with business as usual running the Health and Wellbeing SRA but eventually had to cancel all of the events we had planned due to low attendance. We had never had to cancel events before and we typically ran several through the year. For example, we had organised an EDI panel to talk about equality and diversity in research. We cancelled that. We organised a panel to talk about research funding. We cancelled that. And we had to cancel our annual research event, which we had held every year since the beginning of the SRA. Nobody was signing up to come to the events we would previously have run successfully and with considerable interest. For example, the annual SRA research event usually had around 30-40 participants each year. Effectively the SRA was cancelled by colleagues because they wanted us to dissociate from the OUGCRN.
66. My team in Health and Wellbeing team often relied on assistance from the marketing and social media team in the Faculty of Wellbeing, Education and Language Studies. Hannah Marston in particular relied on this assistance in her management of the SRA website, often going to a particular member of staff for help. Following the launch of the OUGCRN, Hannah needed help converting a Zoom seminar recording into a different format so that she could upload it onto the Health and Wellbeing Youtube channel. However, the individual concerned told Hannah that he didn't want to help, because then he would be associated with the OUGCRN and he was afraid that he would lose his job (I am choosing not to name the individual here because he was afraid). This individual worked in the same Faculty as many of the signatories to the WELS Statement, including the two professors Lesley Hoggart and Peter Keogh. Hannah raised this with me by email on 18 June 2021:

*“I wanted to inform you that I have been contacted directly by a colleague of ours in the Faculty of WELs about the GCN network and the vitriol across the Twitter platform etc. and who feels torn because they offer technical support to the SRA regarding YouTube podcasts/seminar recordings etc.*

*This communication was conducted over Skype for business approximately 15mins ago (of this email been written), and has left me feeling upset.” [1268]*

67. Following a conversation with Hannah, I then replied to her email as follows:

*“Thank you for letting me know about this, also, thanks for ringing me to discuss. What concerned me is when you said to me on the ‘phone that this individual was ‘worried about their job’ if they helped us with the SRA podcasts and digital content etc! I know that you are upset about this so I’m copying in Regine and Fary so that they are aware about the impact of this on you and other colleagues within the Faculty.*

*Do try to ‘switch off’ now – I know that’s hard – but good luck with your house move this weekend!!!!!!!!!!!!” [1268]*

68. Another incident occurred sometime between the launch of the OUGCRN and its closure (in the Autumn of 2021). Someone at the OU approached Gaynor Henry-Edwards asking her whether they could apply secretly for some of the SRA’s strategic research funding and not be seen to have applied for or been awarded the funding (this person had successfully applied for SRA funding previously in the usual manner, before the launch of the OUGCRN). Gaynor told the person immediately that this wouldn’t be possible, but then double checked with me that she had done the right thing in giving this answer.

**Statement of Truth**

**I believe that the facts stated in this witness statement are true.**

A handwritten signature in black ink, consisting of several overlapping, stylized strokes that form a cursive-like shape.

Professor Sarah Earle

23<sup>rd</sup> August 2023

Date