

**BETWEEN:**

**PROFESSOR JO PHOENIX**

**CLAIMANT**

**and**

**THE OPEN UNIVERSITY**

**RESPONDENT**

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**CLAIMANT'S WITNESS STATEMENT**

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I, Professor Jo Phoenix, of [REDACTED] say as follows:

**Introduction**

1. I am a Professor of Criminology. My current role is Professor of Criminology at the University of Reading.
2. I am a lesbian and live with my life partner.

**Overview of my academic career**

3. I began my academic career relatively late, for reasons that I explain later. I obtained my PhD, "*Making Sense of Prostitution Today*", from the University of Bath in 1997, when I was in my early thirties. While working on my PhD, I supplemented my grant income by

working as an Associate Lecturer for The Open University (the "OU"). I continued as an Associate Lecturer for the OU after I obtained by PhD, up until 2003.

4. My first full Lectureship was at Middlesex University. I then went on to hold positions as Lecturer and Senior Lecturer at the University of Bath. In 2007, I took a post as Reader at Durham University, where I was promoted to Professor of Criminology in 2011.
5. At Durham, I was also Deputy Head of the Faculty of Social Sciences and Health from 2009-2011 and Dean of Queen's Campus, Durham University's second campus located in Stockton. In my role as Deputy Head of the Faculty, I acted as a fully deputised Pro Vice Chancellor ("PVC") for Queen's Campus. In this role, I chaired interview panels for Readers and Professors in the School of Law, Durham Business School, the School of Education, the Department of Anthropology and the School of Medicine and Health; I dealt with staff and student disciplinary issues and complaints; and I assessed departmental annual plans. Another major part of that role involved conducting a feasibility study to offer a new educational programme at Queen's campus. The feasibility study showed that developing a new Department of Pharmacy would fit with the University's strategic vision and so I was also responsible for writing the business case for the creation of that Department, presenting it to Senate and Council and then leading on its launch. This involved recruiting appropriate academic staff, leading on programme accreditation with the General Pharmaceutical Council and assisting with reconfiguring the space at Queen's Campus. My role as Dean for Queens Campus was a non-executive, pan-university role. My duties included developing and implementing the academic strategy for Queen's Campus as well as continuing to lead on the space reconfiguration, the development of the Department of Pharmacy, and recruitment of staff.
6. In 2013, I took up a new role as Professor of Criminology at the University of Leicester to move closer to family. I was Deputy Head of the Department of Criminology from 2014-2015 and then Head of Department from 2015-2016.
7. In 2016, I joined the OU as Chair in Criminology.
8. I have held my current post at the University of Reading since 1 January 2022.

9. I love building things within academia, both within my own areas of research and more broadly. In 2011, I set up Durham's Centre of Sex, Gender and Sexualities which I ran as its Founding Director until 2013 when I left to go to Leicester (although I remained on the Centre's Steering Committee until 2016). The Centre for Sex, Gender and Sexualities was a pan-university research centre located within Durham's Wolfson Research Institute for Health and Wellbeing. It functioned as an intellectual hub for anyone researching sex, gender and sexualities, providing support for post-graduate researchers and academic staff. It had an annual lecture, a pan-university seminar series, it ran an annual two-day conference for post-graduate researchers, as well as intensive workshops and seminars for training post-graduates in theory and methodology. Later, after I left Durham University, the Centre provided small research grants to its members (my work setting up and running the Centre is in the "*Research Capacity Building and Leadership*" section of my CV [4173]).
10. I applied for the Deputy Head of Faculty and Dean roles at Durham because it allowed me to really get involved in building things at the highest level. I think my biggest achievement in these roles was to conceive of and implement the new Department of Pharmacy. Universities seldom create entire new departments, so this was a rare moment.
11. At the Open University I co-founded the OU's Gender Critical Research Network for those researching how, when, where and why sexed bodies matter. I discuss this in detail later.
12. In my current post at Reading University, I was recruited as a senior Professor to expand Criminology provision in the School of Law. In addition to teaching and research, my administrative / leadership role is to build the Criminology teaching and research profile of the School. I have designed and launched a new Criminology degree from scratch, with the B.Sc. in Criminology approved in June 2022 for a September 2023 start. My target number of home students for the course was 25. We have had over 140 applicants and expect to recruit more than the targeted amount. I have led in recruiting three new members of staff to the new Criminology Department (one Associate Professor and two Lecturers). In addition to this leadership role, since appointment I have also been module leader for the final year optional module on Criminology for over 150 LLB students and I have contributed to teaching on two other modules. I am also the Director of the Criminology Programme and the Deputy Head of the School of Law. I supervise two PhD

students, and I have been a co-investigator on a Ministry of Justice funded piece of research on girls in the criminal justice system. In October 2023, I will be module leader for two modules and will teach on three other modules. I will also be Senior Academic Lead (line managing a team of academic staff who are each line managing other academic staff) as well as continuing to work on strategic plans to expand Criminology teaching and research. I include this information to give an idea of how little work I was given at the OU in comparison.

### **Why I joined the OU**

13. Many within academia would consider my move to the OU to be a backwards step, having been Head of Department at the University of Leicester and Deputy Head of Faculty (Queen's Campus) and Dean (Queen's Campus) at Durham University. They might also consider it a backwards move because I went from 'research intensive' Russell Group universities to a university that, at the time, was ranked much lower in terms of research. But for me, a professorship at the OU was my dream job. I had always understood the values and mission of the OU to be the democratisation of knowledge and learning, which are core to my values. Adult education gave me a way out after a terrible childhood; I owe the life I have now to adult education. The OU was also the very first place that I had lectured, both during and after my PhD. I learned my teaching craft from the OU. More, I had known many of the academics within the OU Social Policy and Criminology ("SPC") Department most of my working life and we got on well. Prof Louise Westmarland and Prof Steve Tombs I had known since we were PhD students. Dr Deb Drake, Dr Vickie Cooper, Dr David Scott, Prof Ross Fergusson, Dr Abigail Rowe, Dr Vicki Canning - these were all people I had known, worked with, gone to conferences with, shared meals with for many years. I considered them part of my criminological peer group and – in some cases – friends. Coming to the OU as a Professor towards the end of my career felt like coming home. I wanted to see out my working days and retire there.
14. In May 2019, I gave an inaugural lecture as part of the OU's 50th Anniversary Lecture series. Inaugural lectures are celebratory, public events which showcase the achievements of both the individual and the research/teaching excellence of a university. Professors only give one inaugural lecture in a career. I had turned down requests from both Durham and Leicester to do inaugural lectures, always hoping that the opportunity

would come to give one at the OU. In his introduction to my lecture, Ian Fribbance, Executive Dean at the OU, said the following:

*“...Jo is a living embodiment of both the spirit and the mission of the OU. She left school in Texas at 16 with no qualifications whatsoever and returned to the UK with just her passport and a small suitcase and made her way through part-time study in further education into university ....Jo describes the OU as her love match university and consequently turned down the chance of doing an Inaugural at both Durham and Leicester until she made it back here to the OU, her spiritual home, in a full-time capacity in 2016.”* (See transcript at [487]).

15. I then said at the start of my inaugural lecture, “...As Ian said I turned down previous opportunities and I can’t think of a better place to be giving an Inaugural Lecture than a place that I feel so at home with...” [488].
16. My desire to come to the OU was such that I took a significant pay cut. I was on a gross annual salary of £89,490 at Leicester University (see my payslip from Leicester [247]). My starting salary at the OU was £71,035 [240].

### **My early life**

17. I include this information because it helps to explain my beliefs, my commitment to the OU, and why the events that form the basis of my claim affected me in the way that they did.
18. My family emigrated from England to the United States when I was two years old and we lived in Texas from when I was five. I attended [REDACTED] Junior High School in [REDACTED], Texas, where I was involved in a school shooting. On [REDACTED], when I was 14, one of my classmates, [REDACTED], walked into the gifted and talented classroom with a gun and, in front of the entire class, he shot our teacher dead, literally blowing his head off. Our teacher was called [REDACTED]. He was 29 and had a young baby. I only include this level of detail about the shooting to explain my reaction to guns.

19. In December 1979, when I was 15 and in 10th grade of high school, I was raped by two boys at my school. I left school premises with them at lunch time, bunking off school. They took turns raping me and then dumped me back onto the school premises. It took me a week to tell my parents because I was so afraid I would get in trouble for leaving school. When I reported it, both of my rapists were arrested. As part of that process, I went through two grand jury indictment trials (these are where juries decide whether to charge the accused). I was cross-examined as part of this process. Both my rapists, one of whom was 18 years old and thus legally an adult, were indicted by the grand jury. The younger of the two (aged 16) pleaded guilty early in the process. He was given a non-custodial sentence. The older initially pleaded not guilty, only changing his plea to guilty on the morning of the trial. He was sentenced to six months in prison and 10 years' probation.
20. When preparing for trial, the District Attorney told me that a big obstacle in the case was that I had chosen to leave the school grounds during the school day with two black boys and that "*we will have to deal with that*". To understand this, you need to understand the profound racism of Texas in the 1970s. The KKK had marched on Austin only a few years before. I was a nice, polite, middle class white girl who had chosen to leave school property with two black boys. To many white people at the time, that meant that I was basically a 'bad girl', someone who was no longer nice, no longer polite, and a girl who deserves everything she gets. I think partly to counteract this view, the District Attorney told me to wear a pink dress to the trial. I remember so clearly the pink flowery dress I chose for the first day of the trial.
21. For the rest of that school year, I continued to go to school with the boys who raped me. The school didn't believe me and refused to exclude them. My parents, who dealt with the incident very badly, wouldn't let me skip school. The boys told everyone that it wasn't rape and it went round the school like wildfire that I had gone off and had sex with two black boys at lunch time. I was publicly shamed as the bad girl. The whole school institution was against me. Nobody stood up for me and many simply did not believe me, not my parents, not the school. My mental health disintegrated.
22. I ran away from home and from school shortly thereafter. I spent around two years homeless in Austin and Houston. At first I stayed with friends, then I lived in my car and eventually when I had no car, I found places to sleep – often very dangerous places where

there were dangerous people. This is the part of my life I find hardest to talk about. Suffice to say, it is hard to survive homelessness as a teenage girl in the early 80s in Texas. I saw more of life than a child ever should.

23. Many of my colleagues at the OU were aware that I was involved in a school shooting and that I was a survivor of sexual violence. As part of the interview for the post of Chair of Criminology, I had to give a presentation. I thought, I'm coming to my "home" institution where I hope to live out my working days, I will be surrounded by people I've known for a long time, I want to be fully "me" at the presentation and interview. So I talked about my early life, including the shooting and the fact that the shooter pled insanity and never stood trial (see the slides from my interview at [4124]). I also spoke about being a survivor of sexual violence before going on to talk about my later life, including my radical feminist politics of the 1980s and my time at Greenham Common Women's Peace Camp. Dr Downes<sup>1</sup> was at my presentation and asked me a question, and I seem to remember Deb Drake being there as well.
24. My background is something that I was open about, and my colleagues knew about it.

### **My research**

25. My main areas of research are sex, gender, sexuality, crime and justice (focussing on prostitution, prostitution policy reform and child sexual exploitation), youth justice and punishment. More recently, I have been working on prisoner placement policy looking at the placement of trans prisoners and policy reform in this area. Most of my empirical research is about categories of people (not individuals) who are understood within research and policy as both vulnerable \*and\* offenders, as is the case for children and women in the criminal justice system and women in prostitution. The approach I take is closest to organisational sociology in that I look at the effect of policies, guidance and laws relevant to these groups. In all cases, the main organisations and policies I study are *both* criminal justice *and* social welfare organisations and policies. Hence, I straddle many

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<sup>1</sup> Dr Downes at the time went by she/her and they/them pronouns, and went by the first name Julia. I understand now that Dr Downes only goes by they/them pronouns, which is what I will therefore use in this statement, and that they has changed their firstname. If I feel that using the word "they" might cause confusion at any point, I will instead refer to Dr Downes by their name.

different areas as criminal justice agencies deal with, for instance, children and women as victims as well as offenders and have to work closely with welfare agencies like social services, education, health and so on. All my academic life, I have worked at that interface where policies, practices and agencies have to deal with some of the most profoundly complex criminal justice and welfare problems where there are no easy solutions.

26. A few examples of my research are as follows. Prior to the year 2000, prostituted girls in the UK as young as 13 used to be arrested for soliciting and loitering for the purposes of prostitution. In 2000, the Department of Health and Home Office issued significantly different guidance (entitled *Safeguarding Children in Prostitution*). This guidance stated that anyone still legally a child (i.e. under 18 years old) was to be treated as a victim unless they were “*persistent returners to prostitution*”. I conducted two studies looking at the implementation of the new guidance and how practitioners understood the term “persistent returners”. When conducting the first study, funded by the Nuffield Foundation, I found that social workers, police officers and often the Crown Prosecution Service (“CPS”) spent much of their time grappling with the idea of consent and whether a girl could have chosen not to be involved in prostitution. A girl’s behaviour such as going back to violent exploiters and spitting and screaming at the police officers who arrested her would often be taken into account in deciding that prostitution was a “lifestyle choice” for her and that she didn’t want to be helped. I established that decision-makers would often categorise these girls either as “good girls, good women” i.e. blameless victims – or “bad girls” – blameworthy offenders. These informal assessments mattered a great deal, especially when dealing with girls over the age of sexual consent (i.e. 16 years and older) because they would determine whether a girl was dealt with via criminal justice (i.e. charged), listened to for the crimes committed against her and/or dealt with via social services (i.e. provided with welfare interventions). These informal assessments of girls who are being sexually exploited as ‘blameless’ or ‘blameworthy’ accounts for serious failings on the part of social services, police and CPS. This piece of research was a forerunner to the findings that came out as part of the Independent Inquiry in Child Sexual Abuse concerning, specifically, what is known as ‘the Rochdale case’.
27. I was asked to run a national conference funded by the Nuffield Foundation as a result of this work. At that same time, I completed a research project also funded by the Nuffield Foundation that created a list of all organisations (voluntary sector as well as social



services) that worked with young people in prostitution and child sexual exploitation across the UK. This was turned into a searchable, mapped database that provided names, contact details and key words that was housed by the NSPCC. It also highlighted gaps in service provision across the UK.

28. More recently, my work and research has focussed on prisons, including looking at the placement of trans prisoners, particularly male prisoners who identify as women, from the point of view of the prison, prison officers and female prisoners. This continues my interest in looking at how the state treats those who are both victims and offenders. Women's prisons are where we see the strongest concentrations of victims who are also offenders. It is well established in criminological literature that women's criminality is significantly linked to their histories of being victimised by men. It is also well established that women in prison have profound experiences of victimisations. By way of example, a recent report published by the University of Glasgow stated that 78% of women prisoners in Scotland have a history of significant brain injury, mostly caused by domestic violence ([957]). The same Glasgow study reported that 95% of women prisoners in Scotland have a history of abuse, with more than half having experienced sexual violence in childhood and just under half having experienced it in adulthood [958]. These patterns are not new; they have been discussed since the beginning of feminist criminology in the 1980s.
29. In 2013, I was appointed by The Howard League to be a Commissioner, alongside several other UK academics, on their Commission on Sex in Prison. The Commission ran for two years and received evidence and published reports about consensual and coercive sex in prisons in England and Wales. It was notable that sexual coercion between female prisoners was almost unheard of in the female prison estate in the UK.
30. In November 2018, I attended the American Society of Criminology Annual Conference in Atlanta, Georgia. At that conference, I had coffee with Professor Rose Ricciardelli, Professor of Sociology and Criminology at Memorial University, Newfoundland. She and I have known each other (and each other's work) for a long time. Rose Ricciardelli leads a longitudinal study on the mental health and wellbeing experiences of correctional officers (prison officers) employed by Correctional Services Canada [4077-8]. This study is funded by the Canadian government. During our chat, Rose and I turned to the topic of trans prisoners and prisoner placement policy. This was a salient topic in the UK at the time,

following the recent controversy of Karen White. White was a convicted paedophile and, while on remand awaiting trial for multiple rapes and other sexual offences against women, GBH, and burglary, White was placed in the women's prison at HMP New Hall, in Wakefield. White identified as a woman but had not undergone any surgery and was still legally male. While in the female estate, White sexually assaulted two women. White was convicted of these offences, amongst others, in October 2018 (see the Guardian article at the time at [376-9]). During our conversation, Rose Ricciardelli told me that Canada had a full self-ID policy for prisoners: that prisoners were housed in the male or female estate according to their self-declared gender identity, not their biological sex. This policy had been introduced in December 2017. Rose told me that as part of her study on the mental health and wellbeing of prison officers, they had a lot of qualitative data (interview transcripts) from prison officer trainees dealing with the challenges of trans prisoner placement. Rose knew that I do a lot of work researching how those working within the criminal justice system understand and discharge their obligations, particularly how they make sense of the contradictions that arise in the course of their employment and especially when dealing with groups of offenders who are also victims / vulnerable. She also knew that I did a lot of work on gender and justice generally. She therefore invited me to participate in the study, specifically looking at the data from prisoner officer recruits in relation to their experience of trans prisoner placement.

31. My participation in this study was paid for by the research funding Prof Ricciardelli received. This funded my stay in Newfoundland. During that trip, I presented a paper to members of Memorial University outlining the different context in the UK viz-a-viz transgender prisoner placement as well as the increasing challenges academics were faced with when wanting to talk about these matters within universities. The presentation in Newfoundland was refined following feedback and discussion, and it formed the basis of the talk I was due to present at Essex University in December 2019, a talk which was unlawfully cancelled by Essex (I return to this in more detail later).
32. This research using Rose Ricciardelli's study data on the mental health and wellbeing of Canadian prisoner officer recruits was published in January 2020 in the Howard Journal of Crime and Justice, one of the leading peer-reviewed criminology journals. This article, co-authored by Rose Ricciardelli, me and James Gacek, is at [4586-4605]: *"It's Complicated": Canadian Correctional Officer Recruits' Interpretations of Issues Relating to the Presence*

*of Transgender Prisoners*". In this article we reported our findings that prison officers thought that they were facing an impossible situation in relation to transgender prisoner placement, where there were no solutions that did not put at risk one group or another. They also described their ambivalence of supporting a policy of self-identification in principle while recognising that in practice there were problems. They did not support females being in male prisons and recognised that male bodied trans identifying individuals with histories of sexual violence could pose threats to the female prison population. In general, they expressed a high level of empathy with transgender individuals (prisoners and general population) but also recognised that not all transgender identifying prisoners were the same. For them the issue of anatomical sex was ever present, and they recognised that the Canadian policy of giving transgender identified individuals the choice of whether to be accommodated in the male or female prison created problems for them in the day-to-day management of prisoners and prisons.

33. In March 2021, I was called as an expert witness by the claimant in the judicial review of *FDJ, R (On the Application Of) v Secretary of State for Justice (Rev 1) [2021] EWHC 1746 (Admin)*. This was a challenge to a policy that allowed some transgender women who have been convicted of sexual or violent offences against women to be placed in women's prisons. I gave evidence about the conclusions which can be drawn from the available data about the risks to women of including transwomen, that is male prisoners who identify as women, in the female estate. My view then, which is summarised at paragraph 50 of the judgment, was that the qualifying population for allocation to the women's estate in accordance with the policies was the known transgender women prisoner population, over 50% of whom had committed sexual offences. It is known that a history of sexual offending is an indicator of a risk of future sexual offending. It follows that it can be concluded from the available data that transfer of transgender women prisoners from the male estate into the women's estate is likely to introduce into the women's estate a level of risk of sexual offending which does not otherwise exist.

### **My beliefs**

34. My belief in the immutability and importance of biological sex comes from the fact that being female is core to who I am and to my life experience. It is also central to my academic work as a sociologist and criminologist.

35. My experiences of rape as a child, including the fact that I was raped in the first place; my treatment by my school and my peers who labelled me a “bad girl” and didn’t believe me; my treatment by the criminal justice system who told me to wear a pink dress at the trial of my rapists to counteract perceptions of being a bad girl: all of this happened because I was female. If I were a boy, none of this would have happened.
36. Being homeless in Texas as a girl and then as a very young woman, and doing what I had to do to survive, makes one acutely aware of the significance of biological sex, particularly in relation to the biologically based vulnerabilities and risks that accompany being female (being physically smaller and the ever-present threat of male sexual and physical violence).
37. In the 1980s, I was part of the radical feminist movement and was very aware of how expectations placed upon female bodies to act and behave in certain ways – as much as expectations placed on male bodies – constrained and shaped individual lives. I took part in many of the protests organised by the Greenham Common Women’s Peace Camp. I was also involved in the Campaign Against Pornography in Bristol because I felt strongly about the normalisation of male sexual aggression, dominance and violence that sits underneath a lot of pornography and the casual commercialisation of women’s sexuality. Throughout my 20s and early 30s I was involved in one form of radical feminist activism or another.
38. Working my way up the academic career ladder unfortunately made it impossible not to notice the disadvantage of being female. At Durham, I’ll never forget entering a room of a committee I was to chair for the first time. Only one or two of the 20+ people (almost all men) in the room knew me. One of the men who did not know me, turned to me when I was helping myself to coffee and said “*Mine’s white with two sugars please*”. This is just one example of overt sexism amongst far too many.
39. I have been an out lesbian since 1979. I am exclusively attracted to female bodies. This means that I have experienced the specific type of prejudice afforded to lesbians for most of my life. When I was younger, a lot of the harassment that I and other lesbians endured related to men telling us that we would enjoy sex with a man if we would only give it a go

(although obviously in much cruder terms). Another very common form of harassment I experienced was men telling me that they would like to be a lesbian. I literally lost count of the number of times a man came up to me in my youth saying this. One particularly bad incident occurred when I was walking with my partner at the time, holding her hand. A man came up to us on a moped, got out his penis and said, whilst masturbating, “I’d like to be a lesbian”.

40. In terms of my research, biological sex is absolutely key to understanding prostitution, prostitution policy reform, child sexual exploitation, and the social regulation of sexual activities. Most of what I have studied is about the commercial exploitation of women and girls and where the commercial exchange of sex for money becomes sexual violence. Sexual violence is about sexed bodies, and the commercial exploitation of women and girls is pretty much as sexed as it gets. This is about men buying access to female bodies or using their greater strength to subordinate and coerce women, often through violence, into the most awful and exploitative relationships. Institutional responses by social workers, the police and the CPS to girls and very young women involved in prostitution is shaped by the fact that they are female and normative ideas about what girls and young women ‘ought’ to do (and ought not do to) underpin so much about how these professionals respond.
41. As both a survivor of rape and a criminologist who researches welfare responses for prostituted women and girls as well as aspects of prisons, I am acutely aware of the importance of single-sex spaces and services for women, including rape crisis centres, domestic violence refuges and prisons. The trauma of male violence very often provokes a trauma response to the presence of male bodies, particularly when women already feel unsafe. This includes when they are incarcerated and so cannot escape. This trauma operates on an instinctive level and it is a response to sexed bodies, not to internal identities. On a more intellectual level, we obviously know that “not all men” are violent, but we know that a lot of men are and we do not know which men are safe.
42. Considering the issue of single-sex spaces first from my perspective as an academic, I do not believe that we need single-sex provision just to manage the risk of males (however they identify) who may also be predators – although such strategies are necessarily going to work if all males are excluded. My belief is that, especially in relation to criminal justice

and victims' services, we need to maintain single-sex provision in order that women offenders and women as victims are best served. Looking first at prisons, women make up less than 5% of the prison population. Feminist criminology from the 1980s onwards established that most criminal justice policy caters for the notional male offender. The main drive of several decades of research was to show that female offenders come from backgrounds, social circumstances, have life opportunities, chances and most importantly needs that are not the same as male offenders and this is a result of the combined effects of biology (sex) and culture (gender), especially as these intersect with class, race and age.

43. These research observations formed the basis of what is called 'gender-responsive' or 'gender-informed' programmes of interventions in custodial and noncustodial settings (both prison and community punishments). The phrase 'gender-responsive' or 'gender-informed' does not refer to 'gender-identity', it refers to biological sex. An example of this research influencing policy in the UK is the 2007 Corston Report which confirmed the need for separate services and regimes and provision for female offenders to reflect their different needs [188-203]; Baroness Corston described this as a "*distinct...woman-centred approach*" [188].
44. Gender-responsive programmes of intervention for female offenders involve teaching women life skills necessary to deal with male violence, to raise and feed their children, to talk about male violence and sexual violence and the relationship between that and their offending, and to give them skills in learning how to live independently from exploitative and violent men. In other words, these programmes are designed to 'empower' women relative to men in a sexist society. The presence of a biological male in these settings will stop women from being so open and disrupt the relationships formed in women-only settings.
45. Feeling safe from male violence is a pre-requisite for the success of gender-responsive programmes. This requires single-sex prisons. In 2018, The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a factsheet on women in prison. Regarding accommodation, they state that:

*"In the CPT's experience, although violence among women in prison can certainly occur, violence against women by men (and, more particularly, sexual harassment, including*

*verbal abuse with sexual connotations) is a much more common phenomenon. Women in prison should, therefore, as a matter of principle, be held in accommodation which is physically separate from that occupied by any men being held at the same establishment.” [330]*

46. The crux of why I believe female prisons should be female only (including staff) is because it is through the provision of female prisons that we are best able to provide services tailored to female prisoners’ unique experiences and needs. Another related point, which is often overlooked, is that if you start housing males in female prisons you will almost inevitably start to see some female prisoners becoming pregnant.
47. Turning to services for victimised women in the criminal justice and welfare system, I have seen first-hand in my professional life how this philosophy of single-sex, gender-responsive service provision can produce amazing effects in the lives of women. In 2015, I supervised Kirsty Tate’s research project (funded by the Griffin Society which funds practitioner-led research) entitled “*Losing my voice: A study of the barriers and facilitators to disclosure for sex-working women in residential drug treatment*”. This was a unique research project, conducted by a practitioner who had her own experiences of being a drug-addicted sex worker. Ms Tate is a practitioner working in a single-sex drug service and knew that there was a constituency of women who were unable to talk about one of the main drivers of their drug issues – their involvement in sex work. As a result of her research, her employer, the Nelson Trust, created two programmes of intervention: the Griffin Programme and the Phoenix programme. These programmes drew on the extensive research literature about the need for sex-specific, trauma-informed environments to create a service that specifically focused on reducing the shame of disclosure (of sex working, of histories of violence and abuse and all the other aspects of being a sex worker in contemporary England). These environments are single-sex. The success of both programmes was confirmed in an independent review [678-80].
48. In terms of my personal experiences and how they inform my beliefs about single-sex spaces, a lot goes back to my experiences in the 1980s and 90s. In the 1980s there was a feminist motto: the personal is political. This motto encapsulates two key tenets of feminism. Firstly, our experience of disadvantage and discrimination is not just about what happens in the public world of work, education, pay, formal politics and law but is also

about our personal, intimate and sexual lives. Secondly, to understand how our personal experiences are shaped by wider social structures of sex-based disadvantage and discrimination, we need to examine our lives as women-as-a-sex-class together. Thus, women-only space becomes a shorthand not just for services that are single-sex for safeguarding purposes but to create a space where women qua women, can discuss their experiences of disadvantage and form connections with each other. These connections may take the form of mutual support as much as they may take the form of being a 'safe space' to explore aspects of being a woman that they cannot share with others who have not experienced it. In the 1980s, it was common to have 'consciousness raising groups' or similar where women talked about their relationship to their sexuality, to their body, to ideas of motherhood and love and to their identity as women, as mothers, as girlfriends, without judgment and without the intrusion of men's assessments of them.

49. Where intimate matters of sexuality, sexual violence, male violence, and sexism are concerned, although the forms of disadvantage may be different, females within a patriarchal society will share common experiences. One of these common experiences is the way 'shame' is used to control women. Women are socialised into feeling shame about most of their bodily experiences. Women-only spaces allow women to discuss these matters freely and openly and understand that their experiences may be part of wider social processes. I had access to these spaces as part of the radical feminism lesbian 'scene' of the 1980s and 1990s. It was through those spaces that I was able to make sense of the male violence I had experienced (and the way that my behaviour as a victim was judged), the shame I felt about it as well as the shame I felt about being a lesbian in a society where lesbians were still not accorded the right not to be discriminated against. It also helped me understand that my sexual desire for women was something many others shared and that there was no shame in being a lesbian. It was in the women-only spaces of Bristol of the 1980s and 1990s that I did most of my 'healing'.
50. For most of my life, the importance of biological sex, and the importance of single-sex spaces and services, were obvious and not controversial. But in recent years, perhaps over the last decade, there has been an increasingly powerful social movement which denies the importance of biological sex (indeed sometimes even denying the existence of biological sex), and which asserts that gender identity – a person's internal sense of being male, female or neither – is always more important than biological sex. It is in that context



that my belief in the importance and immutability of biological sex has come to the fore, along with my belief that biological sex and gender identity are entirely different things and that there are occasions when biological sex is more important than gender identity. Biologically, socially, politically, sociologically and criminologically, women and transwomen – i.e. males who identify as women - are different. By immutability of sex, I mean that being male or female is a biological fact that cannot be changed and I believe this biological fact has objective social consequences.

51. For me, sex and gender are fundamentally different, although I recognise that the term 'gender' has often been used to refer to sex and recently has become confused with the term 'gender identity'. 'Gender', in my view, refers to all those cultural normative expectations and understandings of sexual differentiation. In societies marked by profound sex-based inequalities like our own, those expectations come with specific forms of regulation and control. Gender therefore is a set of imposed understandings about what males and females 'ought' to do and be as well as a set of social controls that can have devastating consequences, especially for women and girls. Gender is therefore culturally-defined constraints placed upon males and females that differentially affect their freedoms and life chances.
  
52. I need to say something here about my email to Tim Blackman of 31 May 2021 [959] where I was talking about the Reindorf Review and then said, *"For me, the hilarity is that I am now publicly known as a gender critical feminist – which I most certainly am not! Hilarious. I have long since left my radical feminist roots behind – probably at Greenham's blue gate."* I have gender critical beliefs and I also consider myself to be a feminist, but for me "gender critical feminist" as a term implies radical feminist campaigning (hence the acronym TERF – Trans Exclusionary Radical Feminist). Radical feminism is predominantly a campaigning movement informed by the concept of patriarchy; as well as believing that sex is material, radical feminists often campaign against male violence against women, against pornography and against prostitution. For me, campaigning radical feminism reduces a lot of complex problems for women to overly simple political solutions. Years ago I got asked to leave a day-conference on prostitution organised by a radical feminist charitable organisation after I said that, in my opinion, prostitution is a viable option for some women depending on their circumstances. After the Reindorf Review came out, I felt that I was being "claimed" publicly by certain campaigning groups that I did not want to be

part of. People were also putting me into a box as a “campaigner”, along with public gender critical radical feminist campaigners. I did not want to be in that box because I am not a radical feminist but mainly because I am an academic, not a campaigner. I want to be able to talk about the nuance. This is partly why I did not want to include feminism in the name of the Gender Critical Research Network – because for me, gender critical thought in academia was an emerging theoretical perspective which is wider than feminism. In terms of why I said “hilarious” – I meant it was ironic. Ironic because for me, one of the defining features of the Essex cancellation and blacklisting was that I was cancelled for things I had not said; rather, it was what other people wrongly thought I would say. I had not had a chance to discuss my beliefs. Following Reindorf, once again I was known for things I had not said.

### **The denial of the importance of biological sex**

53. Stonewall, I believe, is central to the recent strand of thought which has gained traction in certain institutions and sections of society, including universities; this is the belief that gender identity is always more important than biological sex, and that it is gender identity, not biological sex, that determines whether someone is a man or a woman.
54. Stonewall defines gender identity as “*a person’s innate sense of their own gender, whether male, female or something else (see non-binary below), which may or may not correspond to the sex assigned at birth*” [4162]. Stonewall defines gender as “*Often expressed in terms of masculinity and femininity, gender is largely culturally determined and is assumed from the sex assigned at birth*” [4161]. Stonewall’s definition of a transgender woman is “*someone who is assigned male at birth but identifies and lives as a woman. This may be shorted to trans woman, or MTF, an abbreviation of male-to-female*” [4166]. Stonewall’s definition of a transman is the same but in reverse.
55. Stonewall championed the slogan “Trans Women Are Women” (and, although to a lesser extent, “Trans Men Are Men”), which encapsulates the belief that it is someone’s gender identity, not their biological sex, which makes them a man or a woman; see, for example, the Pink News article from September 2018 at [366-368], “*Trans Women Are Women, Get Over It! Stonewall takes on anti-trans rhetoric*”. This slogan, “*Trans women are women, get over it!*” invoked Stonewall’s famous slogan “*Some people are gay, get over*

*it!*", suggesting that those who disagree that transwomen are literally women are prejudiced in the same way as those who think that homosexuality is wrong.

56. In an interview on BBC Radio 4's Woman's Hour on 18 November 2021 with Nancy Kelley, then-CEO of Stonewall, there was the following exchange:

*"Host: Do you believe that literally or metaphorically, that trans women are women?  
Nancy Kelley: Literally." [3298]*

57. The belief that it is not biological sex but gender identity, and whether one "lives as" a man or woman, that determines whether you are a man or a woman leads, as a matter of logic, to certain conclusions. These conclusions include the view that it is wrong to exclude transwomen from any spaces or services or sports reserved for women, in the same way that it would be wrong to exclude any other type of woman, for example disabled women, or black women. In August 2015, Stonewall submitted written evidence to the Women and Equality Select Committee Inquiry on Transgender Equality. In it, Stonewall supported an end to provisions in the Equality Act which allow for single sex spaces and sport [232]. Stonewall's website summarises their submission to the parliamentary inquiry:

*"A review of the Equality Act 2010 to include 'gender identity' rather than 'gender reassignment' as a protected characteristic and to remove exemptions, such as access to single-sex spaces." [233-4].*

58. A further example of the logical consequences of the belief that transwomen are literally women is Nancy Kelley's response to a BBC investigative piece about how some lesbians are being pressured to have sex with transwomen [3137-3155]. The Stonewall CEO compared lesbians who do not want to have sex with transwomen to not wanting to date people of colour, fat people or disabled people:

*"Sexuality is personal and something which is unique to each of us. There is no 'right' way to be a lesbian, and only we can know who we're attracted to.*

*"Nobody should ever be pressured into dating, or pressured into dating people they aren't attracted to. But if you find that when dating, you are writing off entire groups of people, like people of colour, fat people, disabled people or trans people, then it's worth considering how societal prejudices may have shaped your attractions.*

*"We know that prejudice is still common in the LGBT+ community, and it's important that we can talk about that openly and honestly." [3147]*

59. In other words, a lesbian stating that she is same-sex attracted and so won't date transwomen because they are male is a form of prejudice akin to racism, according to the former CEO of Stonewall. It is worth stressing here that the available evidence suggests that most transwomen have a penis (see extracts from the 2015 US Transgender Survey to which 25% of the 27,715 respondents reported undergoing some kind of transition-related surgery – [238-9]). Stonewall itself stresses in its *"Truth About Trans"* section of its website that *"You do not need to have had any surgery or medical intervention to be trans...It's important to remember that being trans isn't about having a particular appearance or particular body parts. It's something that's absolutely core to a trans person's identity and doesn't alter – whatever their outward appearance might be."* [4079].
60. Some people who believe that gender identity should always trump biological sex label transphobic those of us who believe in sex-based rights for women. It is common for individuals and for groups who seek to promote, or even simply to analyse, sexed bodies and sex-based rights such as single-sex spaces to face protests, calls for cancellation and threats of violence, all because these views and discussions are deemed to be "transphobic".

### **My growing awareness of the debate and my decision to sign the letter to the Guardian in October 2018**

61. In July 2018, the Government opened a consultation on reform of the Gender Recognition Act 2004 (the "GRA"). This consultation looked at proposals to change the process for acquiring a gender recognition certificate (a "GRC") to make it easier for those who identify as trans to change their legal sex. This became a debate about self-ID, that is

whether a person should be able to change their legal sex simply by making a declaration, thus removing the requirement for a medical diagnosis of gender dysphoria as well as removing the requirement to live in the “acquired gender” for two years. The debate about self-ID and its implications for trans people and for women, in particular for single-sex spaces, services and sport, seemed to be everywhere in 2018, and so I started to read up on it and to ask questions.

62. Around the summer of 2018, I started to look at Stonewall’s position on the issue, notably its stance that transwomen are women and that there should be full self-ID (this was encapsulated in Stonewall’s response to the GRA consultation which advocated for the removal of any medical diagnosis and of any qualifying period, such that the only legal requirement to change legal sex would be to sign a declaration – [765-6]) . The OU was at the time, and still is, a member of Stonewall’s “Diversity Champion” scheme. I looked at the Stonewall guidance that was on the OU’s website at the time and I read the OU’s policy on gender identity. The OU’s Gender Identity Policy and Guidance is at [3872-3898]. The “significant changes” made to the policy from 2017 are noted at [3874-5]. This policy required staff to “respect the dignity of all students and their self-identified gender status” [3879]. I have always respected students’ self-declared gender identity in terms of referring to them by their preferred pronouns, for example. But taken together with membership of Stonewall’s Diversity Champion scheme, Stonewall’s position on the issue, and the increasingly vicious response I was observing to those who questioned the concept of gender identity and who stressed the importance of biological sex (which I describe below), I began to worry about the implications for my work and for academic culture and research more generally.
63. So much of my research is about women and girls as a sex class. It is impossible to understand the experiences and the treatment of women and girls in prostitution without acknowledging that it is mostly female bodies that are being bought and exploited almost exclusively by males, and that their subsequent treatment by the state is shaped by the fact that they are female. But my University had signed up to an organisation that tells us that being a woman is nothing to do with biology but is instead defined subjectively – by a subjective sense of being a woman. So I worried that my work, which expressly looks at women and girls as an objective social category and sex-class, could leave me open to complaints from students and from other staff members. I also worried that any future

empirical research that I might want to conduct would be censored if I applied to the University research ethics committee and defined women as adult human females. Given that I was increasingly interested in the effects of the introduction and implementation of a policy of self-ID in the women's criminal justice sector, I was extremely worried that the ethics committee would refuse permission for me to study the complications presented by self-ID to sex-segregated services to service providers, as well as to the women who would be forced to share their resources and spaces with males who identified as women.

64. I worried too about how this would affect the study of sociology and criminology in general. Sociology and sociological criminology cannot exist if we do not study social categories. It is a fundamental tenet of sociology that we all exist within social structures and that most modern societies are profoundly shaped and organised by sex and, specifically, by sex-based inequalities. Biological sex is an objectively grasped category and a fundamental category of human sense-making (culture) and social organisation in all human societies (even if not everyone fits neatly into one category or another). Identity on the other hand is a subjective state of being and changes over time. Societies are not organised according to identity because identity is a characteristic of the individual. Take the study of prostitution. Not everyone who is prostituted is a female. There is male prostitution. But the issues, experiences (and responses to) male prostitution are completely different to female prostitution. These are matters of objective categories.
65. I also thought that this is a subject matter crying out for free academic debate and research. The implications for society in implementing self-ID across a range of social settings and in changing the definition of woman from one based on biology to one based primarily on subjective self-identity are stupendous, and, from my perspective as a criminologist, fraught with difficulty. One of these implications which stood out was the recent policy of housing males in the female prison estate if they identified as women. Within my expertise was the 1823 Gaol Act which introduced sex segregation in the prison system in England and Wales to protect female prisoners from sexual violence and degradation and was based on the understanding that women offenders' needs were different to men's. This change of introducing males into the female estate introduced a risk for women in prison that had not existed since 1823, specifically the risk of being raped by a male bodied prisoner.

66. The very concept of gender identity also raises huge questions which would normally be exactly the kind asked by academics, for example: What is gender identity? Do we all have an innate gender identity? What importance should society place on gender identity rather than biological sex? How can competing claims of “rights” be conceptualised and potentially resolved? But, for reasons that I illustrate below, I felt that universities generally were not places where these questions could be explored in the way that other academic questions are considered. Any research activity that even suggests that gender identity might not always be as important as biological sex risks being smeared as transphobic. Arguments and evidence are not met with counter-arguments and counter-evidence in the normal academic fashion; rather the debate is shut down with allegations of bigotry.
67. The politicisation of the debate also means that the full complexity of rights, emancipation, liberations, struggles for justice and the highly complex relationships between bodies, identities and governance has been reduced to a simple binary political choice: transwomen are women, on the one hand, or transwomen are male and therefore not the same as any other category of woman, on the other hand.
68. I felt, and still feel, that universities’ association with Stonewall was, and remains, a significant factor in stifling free and healthy academic debate because it is used by academics to justify interference with free speech and academic freedom of expression. I had been trained in academia by my mentor that there are no questions that are off limits. The task of producing knowledge starts first and always with a question. In the social sciences – where there are few facts like “water boils at 100C” - repeatedly asserting a statement *as though it is true* is the opposite of producing knowledge. Academic knowledge must be open to falsification and question. For me, academia is the one area that must always hold the line and allow free intellectual enquiry, especially when free discussion in other areas of society is under attack.
69. Stonewall’s approach was diametrically opposed to this concept of free intellectual enquiry. During the period of consultation about GRA reform, there was a petition which asked Stonewall to change its approach, including asking the charity to “*commit to fostering an atmosphere of respectful debate, rather than demonising as transphobic those who wish to discuss or dissent from Stonewall’s current policies*” [369-371]. In an

article on the Stonewall website published on 4 October 2018 [372-5], then-CEO Ruth Hunt wrote the following in response to this petition:

*“The petition also asks us to acknowledge that there is a conflict between trans rights and ‘sex based women’s rights’. We do not and will not acknowledge this. Doing so would imply that we do not believe that trans people deserve the same rights as others. ...*

*The petition also calls for respectful debate on this issue. That is something we can sign up to wholeheartedly: the debate as it stands is not respectful. It has become demonising, divisive and shaming. We will always debate issues that enable us to further equality but what we will not do is debate trans people’s rights to exist. This is not and will not ever be respectful. It is also an issue that is already settled in law: trans people’s right to equality is already clear and has been since 2004. To have similar debates around any other part of a person’s identity protected by law is unimaginable: debating whether gay people exist, or whether people of a certain faith should be able to access services, would rightly not be tolerated. It is the same for trans people.”*

70. There were numerous events in 2018 which made me concerned about the ability to discuss these issues freely, both in academia and society more broadly. Several of these related to an organisation called Woman’s Place UK (“WPUK”). As stated on their website, WPUK was set up in September 2017 *“to ensure women’s voices would be heard in the consultation on proposals to change the Gender Recognition Act”* [4029-4030]. WPUK’s original five demands are at [356-7], the first of which was *“Respectful and evidence-based discussion about the impact of the proposed changes to the Gender Recognition Act to be allowed to take place and for women’s voices to be heard.”* A major concern of WPUK was the impact that self-ID would have on single-sex spaces and provision.
71. In June 2018, a bomb threat was made against a WPUK event due to be held in Hastings. Sussex police told SussexWorld on 20 June 2018 that, *“We are not disclosing details of the investigation or of our discussions with the organisers, however the threat is being taken seriously.”* [345].
72. Professor Kathleen Stock, who was Professor of Philosophy at the University of Sussex at the time, spoke at a WPUK event in Brighton in July 2018. Ahead of this event, Prof Stock gave an interview with a local paper, The Argus [350-1]. This article described as



“controversial” Prof Stock’s view, which she expressed in the context of single-sex spaces, that transwomen are male and that some retain male genitalia. It also described the upcoming WPUK event as “controversial”. The article went on to include quotes from a trans activist who said that Prof Stock’s presence on campus was harmful to students.

73. Pink News reported Prof Stock’s interview with The Argus in an article entitled, “*University Lecturer criticised after declaring ‘trans women are still males with male genitalia’*”, stating that “*trans rights activists heavily criticised Stock’s views.*” [352-3].
74. Professor Stock came under fire from activists and from fellow academics for expressing these beliefs. In September 2018, it came to light that a researcher at Goldsmiths University, Natacha Kennedy, had set up a closed Facebook group which listed academics who disagreed with her views on sex and gender and discussed plans to target those academics by making complaints to their respective universities. Extracts from the Times Article which first reported this Facebook group are as follows:

*“The online forum, seen by The Times, also revealed that members plotted to accuse non-compliant professors of hate crime to try to have them ousted from their jobs. Reading, Sussex, Warwick and Oxford universities were among those deemed to have “unsafe” departments because they employed academics who had publicly disputed the belief that “transwomen are women” or questioned the potential impact of proposed changes to gender law on women and children.*

*Ms Kennedy said that the list was necessary so that students could avoid accepting a place on a “dangerous” course...*

*Members of the group claimed that the philosophy department of the University of Sussex was “clearly an unsafe environment” because of the presence of Kathleen Stock, a professor who has argued against redefining the category of woman and lesbian to include men.*

*“File a hate crime report against her, and then the chairman and vice-chair,” advised one. “Drag them over the f\*\*\*ing coals.”*

*Rosa Freedman, an expert in human rights law at the University of Reading, had also upset activists by saying that biological males should not have access to a woman's refuge. One activist said she tried to lodge a complaint but was told that Professor Freedman had a right to free speech. "I'm replying a little more strongly and using the words 'hate speech' a few times," she told the group." [358-362].*

75. I, along with Richard Garside (who I discuss below), later appeared on this list, but I no longer have a copy of it.

76. Outside academia, I was aware that the threats of violence against women who spoke out about the need for single-sex spaces and sex-based rights had spilled over into actual violence. In April 2018, a 26-year-old transwoman called Tara Wolf was convicted of punching 60-year-old feminist, Maria MacLachlan, at Speakers' Corner. This was reported by Helen Lewis in the New Statesman, who wrote:

*"You would have thought that a feminist getting punched in the face would be reasonably large news – particularly if her attacker had boasted online earlier of wanting to "fuck up" some feminists, comparing them to fascists. But the conviction of the person who attacked 60-year-old Maria MacLachlan at Speakers' Corner last year didn't trouble the pages of the Guardian, where I would normally expect to hear about something that veers close to being a hate crime, or the LGBT website Pink News. Why? A clue comes in the fact that MacLachlan was slapped by a 26-year-old transgender woman called Tara Wolf, who explained to the court that MacLachlan was a "TERF" ." ([340-1]).*

77. The word "TERF" is an acronym for "Trans Exclusionary Radical Feminist" and, as I began to discover over the next few years as I became immersed in the debate, the term is often accompanied with threats of violence against women who believe in single-sex provision. Hundreds of examples of such threats of violence and violent imagery on social media have been collated on a website called "terfisaslur". Some extracts are at [4147-56]. A few typical examples of these messages and images are as follows: "Just to clarify, and I cannot stress this enough, no TERF deserves teeth. Punch any you see as hard as you can..." [4149]; "I will punch a TERF in the face. I will totally do it" [4153]; "I'd punch a TERF" [4153]; "punching a TERF a day keeps the doctor away" [4154]; "'trans women aren't real women" ya know what'll be unreal? ur pain when my fist meets ur face" [4148]; "I will

*personally punch every TERF in the throat if I become president of the universe” [4150]; “Any trans allies at #PrideLondon right now need to step the fuck up and take out the TERF trash. Get in their faces. Make them afraid. Debate never works so fuck them up #Pride #TERFsOut” (Tweet by Cathy Brennan on 7 July 2018, [4148]); “Also, if you’re a TERF, you can get fucked with the business end of the barbed-wire wrapped baseball bat” ([4148], with an image of a barbed-wire wrapped baseball bat); “Terfs can choke on my girl dick” [4147]; “I want @bossmaiden to correctively rape all the TERFs” [4151].*

78. In the summer of 2018, Kathleen Stock contacted me to ask if I wanted to be part of an informal network of gender critical academics and whether I wanted to sign a letter to the Guardian. I said yes to being part of the network and that I would consider the issue further before signing the letter. The informal group was a Slack messaging group, where academics discussed their experiences at work, including facing calls for dismissal and no-platforming and the anxiety they felt at the prospect of either coming out or being outed as gender critical. Seeing these discussions as well as the events playing out in 2018 convinced me that there was a serious problem in terms of academic freedom. I agreed to sign the letter to the Guardian, which was published on 16 October 2018 [384-387].
79. In the weeks and months after the publication of this letter to the Guardian, there were further reports of gender critical academics being targeted that shocked me. To see fellow academics being targeted in such a way was deeply unsettling. Many of these were detailed in an article in the Guardian on 30 October 2018 [393-397], including reports of how Rosa Freedman, a Professor of Human Rights Law at the University of Reading, had been harassed by a student on campus who shouted at her that she was a “transphobic Nazi who should get raped” [393]. Prof Freedman is Jewish and has been open about the fact that she is a survivor of sexual violence [404]. Soon afterwards, I read reports that someone had covered Professor Freedman’s office door with urine after she had participated in debates about reform of the GRA and expressed concerns about how self-ID might affect women’s rights – see, for example, the BBC article at [403-405].
80. My initial concerns when I entered this debate were about academic freedom and freedom of speech. But as I became more involved and saw events unfolding, I realised there was something darker at play. At the extreme end of all these protests against gender critical women was violent, misogynistic language and imagery and it was spilling out into actual violence against women. There was a febrile atmosphere being stoked and

I worried, and still worry, that it will only take one broken person to be spurred on by this violent rhetoric and do something very serious.

### **Internal emails about the GRA consultation – October 2018**

81. On 14 October 2018, shortly before the deadline to submit a response to the GRA consultation, Dr Downes sent an email entitled “Gender Recognition Act – Public consultation” to all staff in the Department of Social Policy and Criminology, copying in Jiten Patel, then the OU’s Head of Equality, Diversity and Inclusion [380]. In this email, Dr Downes started by acknowledging that there were “*different opinions on transgender issues raised in the wider debate that the Gender Recognition Act raises*”, but then went on to say, “*I thought I would share some information on the GRA for academics written by Dr Ruth Pearce. I would be interested in putting together a collective response that is positive of trans rights, be it from a department/discipline, research cluster or other special interest group of academics.*” The “information” that Dr Downes included from Dr Ruth Pearce is at [380-383]. This portrayed opposition to the GRA as “*anti-trans*” and “*hostile to trans rights*” and associated those who objected to self-ID with anti-abortion American fundamentalist groups and the far right. These claims were presented as incontrovertible facts.
82. Dr Avi Boukli, replying “all”, wrote to thank Dr Downes for “*instigating a collective response*”, adding, “*It is really concerning to see this wider anti-trans movement*” [392].
83. When these emails dropped into my inbox, I realised two things. Firstly, that the attacks on academics in the UK were not just ‘out there’. For the first time, I saw it as happening ‘in here’, in my own institution. Secondly, that I was going to be forced to start speaking up internally on the issue. Dr Downes’ email acknowledged difference of opinion on this issue, but they then went on to endorse a message which did not acknowledge any legitimate opposition to the proposal to bring in self-ID. Groups which had formed to oppose self-ID, such as Woman’s Place UK, were being depicted as anti-trans and not real feminists, which was not my experience of them at all having watched some of their speakers online (WPUK was not named by Dr Pearce but in my view was clearly being alluded to, as it was the main such group to form in opposition to the proposed reforms to the GRA). I remember reading this email thinking, I’m a feminist, I don’t have connections to the far right, I am pro-choice, but I don’t agree with self-ID. I had concerns

for women's spaces if all it took to change legal sex was a declaration, and those views – my views - were being associated with the far right and being hostile to a highly marginalised group. I also had a lot of questions at the time, and still do, about what exactly was the right amount of bureaucracy to change legal sex given that it had such potentially huge consequences, but those concerns were also being portrayed as invalid and anti-trans.

84. Given that Dr Downes' email was sent to so many of my colleagues, copying in the Head of Equality, Diversity and Inclusion, and suggested an institutional response to the consultation along those lines (which is what a collective response from an OU department or discipline would have been), I felt that I needed to say something internally against such an institutional response, which I did in an email to Deb Drake, my Head of Department, on 15 October 2018 [380].
85. Dr Downes was able to send this email to all Departmental colleagues, copying in the Head of Equality, Diversity, and Inclusion, without receiving any visible pushback from Deb Drake or anyone else. For example, there was no response "to all" from Deb Drake, Jiten Patel or anyone else appropriately senior saying, for example, that it was not appropriate to share such a partisan and hostile depiction of those who opposed reform to the GRA when even Dr Downes acknowledged that there were differences of opinion amongst colleagues. This was typical of the space that was given to Dr Downes to express their views and contrasted to how I was treated, as I will demonstrate throughout this statement.

### **Cancellation of The Centre for Crime and Justice Studies Conference – March 2019**

86. For me, everything changed when the OU cancelled a conference in March 2019. This is when the attacks on academic freedom I had seen elsewhere started to directly play out at the OU and to affect me personally, and I realised then that I had to speak out more fully than just expressing my concern to my Head of Department.
87. Richard Garside was, and still is, Director of a charity called The Centre for Crime and Justice Studies ("CCJS"). At the time, the OU had a longstanding formal relationship with the CCJS dating from 2010. This collaboration was governed by a Memorandum of

Agreement between the CCJS and the OU dated 11 June 2015, which extended the formal relationship for a further five years until 30 June 2020 [697-703]. As the Memorandum of Agreement sets out, the CCJS is *“the foremost criminal justice forum for research and policy debate in the UK. It is a research active unit with a high national and international profile”* [697]. The CCJS also owns the peer-reviewed British Journal of Criminology, published by The Oxford University Press, one of the leading academic criminological journals in the country.

88. The 2015 Memorandum of Agreement listed the “Collaboration Drivers” as follows:

*“1. This collaboration will continue to create a significant range of opportunities for the Parties, and particularly for the Social Sciences’ research centre known as The International Centre for Comparative Criminological Research (ICCCR”) at the OU. It will develop activities around grant capture, knowledge transfer and public engagement and enhance and broaden the external profile of ICCCR in particular and the OU in general...*

*2. Potential benefits to the OU include:*

- Co-investigators on bids for external funding;*
- Exposure in journals such as the British Journal of Criminology and Criminal Justice Matters;*
- OU inclusion in the CCJS email/mail distribution list of circa 8,000 members worldwide;*
- Participation in related policy and academic seminars, conferences and promotional events at Westminster and elsewhere”* [697-8].

89. After this Memorandum of Understanding, the ICCCR was replaced by the Harm and Evidence Research Collaborative (“HERC”, a cross-Faculty research grouping which was the main research group for criminological research at the University and, at the time, directorship sat within the Social Policy and Criminology Department).

90. In December 2018, the CCJS announced a two-day major conference on prison abolition in collaboration with the OU’s HERC and in partnership with Professor Joe Sim of Liverpool John Moores University, an influential Criminologist who was soon to retire. The

conference was due to be held on the OU campus in Milton Keynes on 23 and 24 May 2019. The conference announcement is at [406-7]. I was a member of HERC but was not involved with this conference as prison abolition is not in my area of interest.

91. On 26 February 2019, CCJS released a statement on transgender prisoners [410-12]. In my view it is a model example of how to conduct respectful debate in this area and yet it was deemed by my colleagues to be transphobic because the CCJS advocate for males who identify as women to be housed separately from female prisoners (while acknowledging that there may be exceptions to this, for instance post-operative transwomen).
92. Richard Garside had also published a blog post on the issue of transwomen in the female estate in September 2018, where he argued against the inclusion of male prisoners in women's prisons [363-65]. This, in my view, was a statement made within the rules of academic debate – it was *argued* – and was also measured and respectful.
93. In the last week of February 2019, I was in the Department and met Deb Drake informally in the kitchen whereupon she told me that there was a group of abolitionist and trans rights activists who were threatening to protest the conference. I said something along the lines of, surely security could deal with it.
94. On 6 March 2019, eight days after the CCJS statement on transgender prisoners, CCJS announced on their website that the two-day conference on prison abolition had been cancelled [415-6]. This statement was vague on the reasons for cancellation, stating that *“Unfortunately, one of our conference partners has, in recent weeks, been subjected to concerted pressure by those intent on disrupting the conference. In the circumstances, they felt they had no option but to pull out.”*
95. This CCJS statement was the first I had heard about the cancelled conference, even though I was a member of HERC. A university cancelling a conference because of protests is very serious. I was deeply concerned when I saw the CCJS statement and sent Steve Tombs, Victoria Cooper (who were at the time the directors of HERC) and David Scott (who I took to be a key member of staff organising the conference) the following email on 7 March 2019:

*“...Just seen this: <https://www.crimeandjustice.org.uk/news/conference-cancellation-prison-abolition-uk>*

*Will this be discussed within the department? Will HERC members be informed? Does this have to do with CCJS not being an abolitionist organisation? Or does it have to do with issues connected with transgender people? What is HERC’s official position? I am deeply shocked by the implications of this! A university cancelling a conference because of possible political disruption? I remember when university’s acted like that in the 1980s, except it was being used by those espousing a right wing ideology to censure and shut down the political opposition.*

*Not that it matters in the grand scheme of things, but I am afraid that I am seriously thinking of resigning my membership of HERC if the decision to cancel the conference is not openly discussed. If this is connected with CCJS and Richard’s position on transgendered issues, then I will absolutely have to resign my membership. Not sure I want to be part of a research collaborative at a university that is supposedly open to ideas, people, places and methods but that is nevertheless prepared to bow to political pressure (for whatever side) to silence diversity of opinion.” [419-20].*

96. Steve Tombs replied to me that same morning saying that the cancellation of the conference was an item on the agenda for a Departmental meeting on 14 March as well as at a HERC meeting the same day, adding that *“We shall provide chapter and verse at these meetings or, if I see you before, then.”* [419].
97. On 11 March 2019, I recall Deb Drake sending two emails to the Department. The first contained two attachments – transgender staff guidance and transgender staff policy. The second contained a statement by Deb Drake, David Scott and Steve Tombs [421-22] (I do not currently have a copy of these two emails, I have only the statement, but my recollection is supported by Dr Downes’ reference to the guidance cited below). The statement started by saying that the original rationale for the conference was to pay tribute to and celebrate the work of Prof Joe Sim. Moving onto the CCJS, it included the following:



*"The relationship with CCJS began to attract some controversy once the conference publicity began. This was related to a statement that had been made in September 2018 by Richard Garside, the Director of CCJS on Transgender prisoners – <https://www.crimeandjustice.org.uk/resources/transgender-prisoners> - as well as his relatively high profile interventions on this issue via social media. There were rumbling, if fairly low level, rumours that some individuals and organisations would refuse to attend the conference on the basis of this association. Then, on 26 February 2019, a further statement on this issue was made by the CCJS - <https://www.crimeandjustice.org.uk/news/statement-transgender-prisoners> - which immediately sparked intense anger which was communicated directly to each of us. Social media chatter and WhatsApp discussions also intensified. Some frankly awful statements were made; one stated that anyone participating in the conference was "complicit in state killings of transgender prisoners".*

*...One speaker communicated that they felt unable to proceed with participation, two others were considering pulling out. What had begun as a 'negative' boycott soon turned into a more active one and then into a situation where it was certain that direct action would be taken at the conference. At least one Departmental colleague wrote to us with concerns about our relationship with CCJS in terms of the conference. Beyond this, some members of HERC expressed concern at its formal institutional relationship with CCJS. As organisers, we did our best in a very concentrated period to respond to the concerns which very quickly engulfed the conference, engaging in numerous conversations and also offering some of the event's fiercest critics the opportunity of a panel at the event to air their criticisms directly and to engage in discussion of the issues at stake (something we now believe was a mistake). None of this had any effect on the level of controversy.*

*Within about a week of the second CCJS statement being released, we decided to cancel the conference...With the greatest of sadness we had come to the conclusion that going ahead with the conference would only deepen division and conflict...But much more important than that was that we felt, collectively, two things had happened which could not be retrieved.*

*First, that the event had been hijacked into being about one kind of controversy, transgender issues, prison reform, CCJS, and so on, when what we had planned was to focus upon another kind of controversy: abolishing prisons and developing alternative forms of justice.*

*Second, related, but most important, the event that we had planned for Joe was no longer possible. There was simply no way the event which we'd planned and wanted could have taken place. Our specific motivations for planning the event – in honour of and to acknowledge the work of Joe Sim – had been subsumed, lost, irretrievably tainted..."*

98. When I read this statement, a few things stood out. The decision to cancel was taken just a week after the controversy began and with the conference still more than two months away, so it didn't seem that those involved in cancelling the conference had tried particularly hard to ensure that it could go ahead. It appeared as though the conference was cancelled because the organisers refused to stand up to the protestors and protect the space for the conference to go ahead. However, the conference organisers provided no details about the supposed threats and who they were coming from, despite my repeated requests. This made it impossible to assess the decision to cancel. All Universities have risk assessment processes in place to deal with matters like this. These processes, when used properly, are important in protecting academic freedom. Some academic work has always attracted threats of protest and disruption (such as, for instance, vivisection research). At the Departmental meeting on 14 March 2019 where Steve Tombs, David Scott and Deb Drake were present, I asked for precise details of the threats to the conference, but there was a reluctance to answer my questions. I had privately asked Steve Tombs before this meeting but also had not got an answer. This lack of transparency over such an extremely serious matter was one of the reasons I resigned from HERC, as I set out in my resignation email sent on the afternoon of 14 March 2019 to the members of the HERC Board:

*"Thank you, Steve, for leading the conversation today. Sadly, I am resigning my membership of HERC effectively immediately. I feel desperately sad about this and I am trying to figure out a way to act within and according to my own principles whilst also being collegial and supportive, so please take none of what I say as a direct criticism of people I consider to be my friends and colleagues. My reasons for resignation are as follows:*

*It is impossible for me to weigh up what the reputational damage to the department or HERC, as an academic research collaborative located within the OU, would have been*

*had the conference carried on because there has been very little transparency about the nature of the threatened protest and disruption and or who was making these threats. Reading University, Essex University, Sussex University have all taken the line that freedom of speech in these matters outweighs the disruption caused by protestors – even when those protests have taken the form of dirty, ongoing and high profile protests. Indeed they have gone to some lengths to keep open a space where individuals who are well known for their gender critical stance can partake in debate and discussion. I do not understand why there has been a reluctance for the names to be named or the **exact nature** of threat or potential reputational damage to be made clear to departmental, and in my case, as HERC members. Even when asked. Of course, weighing up one harm against another, one set of reputational risks against another is a deeply political act and in this case – esp given the THES (!! ) involvement now – I do not want to associated with what I understand to be academic research collaborative that lacks transparency when making such delicate and ultimately political and ethical judgements.*

*In the discussion that played out today in the departmental meeting, it was clear that part of the subtext was whether Richard was amenable to listening to all positions, or indeed might potentially want to change his mind in light of discussion. I found this deeply problematic. Not long ago we had a discussion about no platforming the screening of the film Justice. One of the arguments for no platforming it was that the individual concerned did not show enough remorse. Are we now basing our actions (as a collective called HERC) on assessments of how open minded Richard / CCJS are to an ideology that, in Richard's case, he deeply disagrees with?*

*Please do not think I am resigning in protest at implicit accusation that RG and CCJS are transphobic (which I personally believe there is no possible way to avoid that and there never was going to be). This has far more to do with lack of governance and process and accountability of the actions of a research collaborative that my name is connected with.*

*I know that all you guys wanted to do was to do something lovely and nice for Joe. I do think it was naïve to advertise a penal abolitionism conference inviting discussion of controversies and for the committee not to be fully prepared for want that would unleash especially given the CCJS public statement in Sept 2018, Richard's high profile*

*twitter status and his very well-known gender critical perspective – but naivety is nothing I would ever criticise people for.*

*It is what the handling of the problem says about the governance of HERC that swung my decision to resign. Indeed, the continuing handling remains a problem. WHAT exactly was the nature of controversy? So far we have not been told. WHO threatened disruption? WHAT was the nature of the disruption? WHAT was your assessment of the reputational and ongoing risk and conflict to our research collaborative and/or to us as academics? So far all we know is that some people threatened something that is worse than the reputational damage and/or risk that we now find ourselves, **collectively** engulfed within..” [451-2].*

99. I never received a response to my questions about the exact nature of the supposed disruption and the assessment of the reputational risk to the research collaborative.
100. I have never seen minutes of the Departmental meeting on 14 March 2019 and suspect that, given the controversial discussions, no minutes exist. However, during the meeting several of us made comments in the chatbox function about cancelling the CCJS conference (which I later found in my outlook items). The comments are disjointed because they were made in tandem with the discussion during the meeting, but you can see from Dr Downes’ comments in the chatbox that Dr Downes was accusing Richard Garside of making harmful and disrespectful comments about trans people and that he had not changed his mind:

**“Jo Phoenix 12:09:**

*Can I ask another question*

*So are we accusing them of transphobia?*

**AGREED!**

**Julia 12:12**

*I think from the guidance circulated there are grounds to suggest that the language used in the CCJS statements constitute disrespect towards trans people.*

*I have been quietly having conversations with Richard Garside about this in terms of the potential harms to trans people to no avail.*

**Julia 12:15**

*My position on this is that the continuing relationship between HERC/SPC/OU and CCJS without some accountability from CCJS could also lead to reputational harm esp. considering Abi and I are trying to develop a project with trans prisoners.” [449]*

101. At this meeting I spoke out against cancelling the conference, saying that it was a serious infringement of academic freedom and a reputational risk.
102. After this meeting, Dr Downes’ attitude towards me became cold. She would often ignore me, including in Departmental meetings, and I do not recall her addressing me unprompted after this point.

#### **Woman’s Place UK Talk – 15 April 2019**

103. It was my alarm at the cancellation of the CCJS conference and the implications this had for academic freedom that led me to give a talk at a Woman’s Place UK event in Leicester on 15 April 2019. My talk was about sex-based rights, the impact of some trans rights activism and the curtailing of academic freedom. A full transcript is at [466-78].
104. I was rushed for time towards the end of the talk. For clarity, I meant to say that there was no research whatsoever (at that time) about what women in prison think about the presence of males who identify as women, nor was there any research about the problems and challenges the prison service itself faces when housing male prisoners in women’s prisons.

#### **Event on women’s sexed-based rights at Edinburgh University: protests, calls for cancellation and attempted assault of one of the speakers – May / June 2019**

105. Just over a month after my talk at Woman’s Place UK, a group of staff and students at Edinburgh University publicly petitioned to shut down an academic event on the topic of women’s sex-based rights, and endorsed a protest against the event which used the slogan “No TERFS on our turf” (see below). When the event went ahead, there were credible reports that a protestor tried to attack one of the speakers and had to be restrained by security guards.

106. The event in question was called, *“Women’s Sex-Based Rights: what does (and should) the future hold?”*. It was held on 5 June 2019. The text of the online flyer for the event which described the event, the topic of discussion and the speakers is at [513-4].
107. The announcement of this event led to a petition on change.com headed, *“Edinburgh University transphobic event is unacceptable”*, stating that *“The recent announcement of a **transphobic ‘Women’s Sex-Based Rights’ event** hosted by Edinburgh University Moray House on the 5th of June is unacceptable”* and asking for the event to be cancelled by the University. This petition was started by a “student and staff collective” and gathered 1,467 signatures. The full text of the petition is at [499-502]. At the end, the petition said, *“For those wishing to support trans rights, we encourage attending the Rally for Trans Solidarity on the day of the event (5th of June; more info <https://www.facebook.com/events/423232341560610/> as well as the ‘Transgender: Intersectional/International’ Conference being organised by University students & staff on May 28th and 29th (<https://transgender-intersectional-international.com>)”*.
108. The “Rally for Trans Solidarity” Facebook page had the banner *“#NOTERFSONOURTURF: RALLY FOR TRANS SOLIDARITY”* [517].
109. Following the event, I became aware of reports via social media and the Slack group for gender critical academics that one of the speakers at the event, Julie Bindel, had narrowly avoided being physically attacked by one of the protestors after security intervened. The following are extracts from an article in The Scotsman published on 6 June 2019, the day after the event (the full article entitled *“Feminist speaker Julie Bindel ‘attacked by transgender person’ at Edinburgh University after talk”* is at [521-525]):
- “Today Ms Bindel said... “He was shouting and ranting and raving, ‘you’re a f\*\*\*\*\* c\*\*\*, you’re a f\*\*\*\*\* bitch, a f\*\*\*\*\* Terf” and the rest of it. We were trying to walk to the cab to take us to the airport, and then he just lunged at me and almost punched me in the face, but a security guard pulled him away.*
- “I got my phone out to film him to get evidence and he went for me again. It took three security guys at the stage to deal with him.”*

*...A spokesman for Edinburgh University said: "An incident occurred after last night's event. Our security staff acted swiftly and professionally to ensure that no one was harmed and the event concluded peacefully."*

*After the attack, it was revealed on social media platform Twitter that her attacker was a transwoman called Cathy Brennan, who it has been reported has previously advocated violence against women....*

*...Brennan has previously tweeted in support of violence against women who believe that changing the Gender Recognition Act to allow people to self-identify as any gender, rather than needing a medical diagnosis, would endanger women's rights to safety, privacy and dignity by doing away with single-sex spaces. One tweet read: "Any trans allies at #PrideLondon right now need to step the f\*\*kup and take out the terf trash. Get in their faces. Make them afraid. Debate never works so f\*\*k them up".*

110. Cathy Brennan was charged with threatening and abusive behaviour and later accepted a conditional fiscal fine. Cathy Brennan confirmed this on Twitter on 23 June 2021 [4082].

**Letter to the Times – “Stonewall is Stifling Academia” - 16 June 2019**

111. I signed the letter to The Times at [536-8], as did Dr Jon Pike, Senior Lecturer in Philosophy at the OU. This letter argues that membership of the Stonewall Diversity Champions programme is in tension with academic freedom.
112. I was informed by Dr Pike that he had received a death threat on social media following the publication of this letter, something that the Dean, Ian Fribbance confirmed to me.
113. I later learned from Jon Pike that an email had been sent by colleagues to Ian Fribbance asking for Jon and me to be disciplined for signing the Sunday Times letter. I spoke to Ian Fribbance about this and I understood Ian to confirm that there had been such an email, although I did not see a copy of it at the time. Ian told me that he could not disclose the names. I have seen this email as part of these proceedings [568-9]. It is entitled “*Standing with our trans, intersex and non-binary staff and students in the wake of the Stock letter*” and states that the signatories are “*deeply concerned to note that signatories to the letter*”

*included two Open University academics". The email calls on the OU to respond to the Times letter with a public statement affirming its commitment to the Stonewall Diversity Champions programme and to the rights and dignity of trans and non-binary staff and students. The email also complains about a particular sentence in the letter to the Times, specifically "In our teaching, we're exhorted to "ask the pronouns" of students. Yet many of would deny that pronouns refer to an inner feeling of gender identity, and wish to say so." This, the email complains, "at the very least is in clear conflict with the OU's policy on gender identity, which states that all OU staff have a responsibility 'To respect the dignity of all students and their self-identified gender status'."*

114. I disagree with this characterisation of the Times letter, as did Ian Fribbance in his reply [566-7]. This letter does not say that any of the signatories would refuse to respect a student's self-identified gender status. This is explicitly about "asking the pronouns" of students, something I disagree with for a number of reasons. First, I don't want to ask a student their pronouns because they may not be "out". They may be struggling with their identity. It's like asking someone's sexuality. It's asking a trans person to come out. Second, I don't know if I agree with the idea of gender identity, and asking for pronouns is a way of signalling that you do. I remain unconvinced that we all have an authentic, innate thing called gender identity known only to ourselves separate from socialisation. Rather, I believe that gender and associated identities arise through the process of socialisation. Third, asking for pronouns generates an expectation that I will then give "my pronouns". If second wave feminism taught us anything it's that gendered names and pronouns, and drawing attention to these, form part of the tapestry of unconscious bias. That's why I often sign formal docs as Prof Phoenix, not Prof Jo Phoenix.

#### **Union debates and comparison of gender critical views to holocaust denial – October 2019 and January 2020**

115. In October 2019 and January 2020, union debates were held at the OU about academic freedom, which I attended. A colleague, Allison Penn, had put forward a motion reaffirming support for academic freedom policies. A set of counter motions were put forward by members of the University in favour of limiting academic freedom where the work was considered to be discriminatory, including "transphobic". Speakers in favour of the academic freedom motion were Dr Jon Pike and Dr Laura McGrath, a Lecturer in the



OU's School of Psychology and Counselling. Dr Downes and Dr Boukli spoke in favour of restricting research which they deemed to be discriminatory, with Dr Downes advocating to limit what someone could say or do research-wise if Dr Downes considered it to be transphobic. Two other speakers in favour of restricting research were Kit Power, a Curriculum Manager, and Dr Rowan Thomas.

116. During the second debate in January 2020, Dr Thomas repeatedly compared gender critical views to holocaust denial and said that anyone who held them was responsible for violence. This distressed a lot of people involved. Jon Pike kept asking Dr Thomas whether they were saying that gender critical views were akin to holocaust denial, and Dr Thomas kept saying yes. Nobody on Dr Thomas' side of the debate spoke up to disassociate themselves from this argument, including Dr Downes who held an EDI role at the OU.
117. I mentioned Rowan Thomas' comparison with holocaust denial the next day in an email to a colleague on 17 January 2020 [650-1]. The argument that gender critical beliefs are as morally reprehensible as holocaust denial is relatively common amongst some trans rights activists. This accusation was levelled at Professor Rosa Freedman, a Professor of Human Rights Law, by a member of Essex University when she was due to speak at a Holocaust Memorial Week event at the University (see the Reindorf Review at [4480], which is discussed in more detail below). Indeed, in 2021, Nancy Kelley, CEO of Stonewall, compared gender critical belief to antisemitism, for which she was criticised – see, for example, the Observer article at [1123-1126] and the Jewish Chronicle [1160-1].
118. Jon Pike told me that after the January 2020 debate where he argued against the comparison of gender critical beliefs to holocaust denial, he received two death threats and was assigned a counter terrorism security advisor by the police.

**My cancellation by Essex University and subsequent blacklisting – 5 December 2019, and Reindorf Review May 2021**

119. In summary, a seminar that I was due to give at the University of Essex on the topic of trans rights, imprisonment and the criminal justice system was cancelled because there were credible threats that students planned to barricade the room in protest. There were initially plans to rearrange the seminar, but following a vote of the Department of Sociology at Essex, it was decided to rescind the invitation and not to invite me to future

seminars; in other words, to blacklist me. The barrister Akua Reindorf (now KC), was engaged by Essex University to carry out an independent review of my treatment, as well as its treatment of another gender critical academic, Prof Rosa Freedman. The conclusion of that review, which was published in May 2021, was that Essex University had acted unlawfully in cancelling my talk and then blacklisting me, and that my human rights to freedom of expression had been breached **[4476-4584; executive summary 4479]**.

120. On 5 December 2019, I was due to give a talk at Essex University's Centre for Criminology. The title of the talk was *"Trans Rights and Justice: complicated contours in contemporary sex, gender and sexualities politics when talking about issues of justice and punishment"* which was advertised on Twitter by the University's Centre for Criminology on 2 December 2019 **[4486]**. My slides and notes for the talk are at **[4286-4315]**. This was a similar talk to the one I'd given at Memorial University, Newfoundland, but refined following discussions and feedback. My talk at Newfoundland was well received and the audience included trans people. There was certainly no accusation that anything I said was unacceptable or transphobic.
121. On the evening before I was due to give the talk at Essex, a member of Essex University staff tweeted, *"I don't think this is going to have much to do with trans rights given that the speaker is a well-known part of the anti-trans lobby, signing \*that\* guardian letter among other things. What a way to return to work."* **[4488-9]**. Further tweets, either posted or retweeted, by members of academic staff at Essex then followed. These are set out at **[4489]** and included the following: *"@UniofEssex @UoECrim Phoenix signed this letter against the Stonewall Diversity Champions which we add a [sic] campus community are proud to support. Her invitation itself may even be counter to the guidance"; "Hey @UniofEssex this speaker is part of anti-trans platform – free speech is 1 thing but trans rights are human rights, & we shouldn't be debating human rights...the campus must be a safe place for trans people. There's a speaker vetting policy, how did this slip through?"; "don't hashtag trans right when you're giving a platform to a TERF"; "Sending up the bat signal again to all trans and queer allies @UniofEssex that this talk is happening today, so you can all go and ask tough questions. Phoenix believes that trans rights are in opposition to "sex-based rights"!"*

122. I was alerted to this Twitter activity by one of the organisers on the morning of the talk. I was anxious about what disruption there might be, so I emailed the other organiser at Essex University to ask what the University would do if there was an attempt to disrupt it and whether security arrangements would be put in place [4490]. I was also concerned about the effect any disruption would have on people who attended who genuinely wanted to hear what I had to say. My concern for security included security for attendees.
123. That morning, a flyer was circulated on the University campus showing a cartoon character pointing a gun at the viewer with the words, "SHUT THE FUCK UP, TERF". The flyer contained further text which included the following: "*Jo Phoenix is a transphobe who should not be invited to this university. You can't call yourself a feminist if you don't respect trans women! Delegitimising trans people is a part of a misogynistic, colonialist and violent ideology.*" The flyer is at [1577]. I was not aware of this flyer at the time of the planned seminar.
124. Numerous complaints were raised internally at Essex on the morning and early afternoon of the planned seminar, which was scheduled for 4pm. These are set out at paragraph 43 of the Reindorf Review [4491-2] and include the following: an email saying that "*There needs to be push back against this. They will claim 'academic freedom' but trans rights should not be up for debate*"; an email saying that I was "*a vocal member of the transphobic lobby which has emerged in academia*" and that "*Trans rights should not be up for debate*"; an email saying that I was "*known to publicly express views which many consider to be transphobic, and that I believe conflict with the University's commitment to equality.*"
125. In her review, Akua Reindorf said at paragraph 44 that:
- "None of the people who raised complaints or concerns about the seminar knew what the content of Prof Phoenix's talk was likely to be, beyond what had been said in the promotional material. Nor were they familiar with any academic work done by Prof Phoenix on the topic of trans prisoners (or trans issues generally), since she had not at that stage published any such work. The evidence upon which the objections were based was: 44.1 That Prof Phoenix had signed a letter published in the Guardian on 16 October 2018 entitled "Academics are being harassed over their research into transgender*

issues”; 44.2 That Prof Phoenix had signed a letter published in the Sunday Times on 16 June 2019 entitled “Stonewall is stifling academia”; 44.3 That Prof Phoenix was allegedly affiliated with Woman’s Place UK...;44.4 That Prof Phoenix had given a speech to WPUK on 15 April 2019 on the topic, “A Woman’s Place is Made to Last.” [4493]

126. The Reindorf Review continued at paragraph 45, “The judgments derived from this evidence included that Prof Phoenix’s seminar was likely to amount to “hate speech”. [4493]
127. Late on the morning of 5 December 2019, Essex University got wind of plans amongst students to block the entrance to the seminar room to prevent the seminar from going ahead. There were also plans discussed on Facebook to “block the entrances” and “rattle” Prof Phoenix” [4495], but I didn’t see those at the time.
128. I was informed of the decision to cancel the seminar by Prof South of Essex University who told me that it was cancelled because of threats to block the entrance [4496]. I was also told that day or the next that there would be a discussion at the Sociology Department meeting on 11 December about rescheduling the seminar. There is a summary of that meeting in the Reindorf Review [4500-1]. The meeting included students and members of the LGBT forum as well as academic staff. It was apparently said in this meeting that the “trans community was boycotting the Sociology Department” [4500]. At the meeting an apology was made on behalf of the Centre for Criminology “for the hurt caused to the Trans Community members on Campus”, that lessons needed to be learned, and that the external speaker notification process would be followed in future [4501].
129. On 11 December 2019, I was told over the phone by Prof Canessa at Essex University that I was not going to be invited back to speak at Essex. As I summarised in a follow up email after this telephone call, I was told that there was strong and vocal LGBT student/staff contingent that felt I was too transphobic / that the talk I might give was transphobic and that the students were boycotting the Department [4501-2].
130. The Reindorf Review found that those who voted to rescind my invitation “had almost no knowledge of the content of the seminar” ([4548]) and that there was no convincing evidence that those who voted to blacklist me had any real knowledge of my views on sex

and gender [4549]. The Review concluded that there were no reasonable grounds to believe that I was going to engage in unlawful speech. It went on to recommend that Essex University should apologise to me and that I should be invited back to present a seminar at the Centre for Criminology [4559].

131. Essex University's Vice-Chancellor, Professor Anthony Forster, issued me a public apology, saying that "*we have made serious mistakes and need to do our very best to learn from these and ensure they are not repeated*". This was reported in numerous media outlets including the BBC on 19 May 2021 [978-980]. However, even though Essex University and Prof Forster did not challenge the findings of the Reindorf Review, Prof Forster did subsequently row back from his apology to me, issuing a further statement on the University's website on 2 July 2021 about the Reindorf Review. This statement was headed "*Our commitment to our trans and non-binary staff and students*" [1893-5], and included the following:

*"I met with trans non-binary students and staff last Friday and we discussed the Reindorf Review, the publication of the Report and the actions agreed by Senate and Council in response to the recommendations in the Review, and the impact they have had on both the trans and non-binary community and the wider Essex community. In the meeting we discussed how hurt people feel about the outcome and the very negative impact that this has had and continues to have on trans and non-binary staff and students..."*

*I have been asked to provide a number of apologies including: to anyone who felt excluded from or affected by the process of contributing to the Review; for the manner in which the Reindorf Report was released, and in particular for the timing of the release at the start of the examination period and for how this has felt during Pride Month... and for any harassment or bullying that has taken place and for anyone having been made to feel unsafe as a result of the Review. I am sincerely sorry for this. We have a zero-tolerance approach to harassment and bullying and I am committed to taking action when needed to ensure that we treat everyone in our community with dignity and respect. I have been asked to make apologies to three students and will do this today, and I will also send an apology to our trans and non-binary staff through the LGBTQ+ staff forum Chair."*

132. For me, this statement speaks volumes about the pressure that senior leaders at many universities find themselves under when it comes to the question of trans rights. An independent review found that Essex University had acted unlawfully and that my human right to freedom of expression had been breached after I was cancelled and blacklisted, and yet here we have the Vice Chancellor apologising for the hurt caused to other people by the finding that I was treated unlawfully.

133. I was devastated by these events. I had never in my entire professional career known of a single academic who had been blacklisted. Being blacklisted as a speaker in a university is something which I only ever knew in relation to extreme far-right non-academic speakers like those whose views are associated with Nazism. Those are the kind of people that I was being bracketed in with.

134. I describe the reaction of my OU colleagues to the cancellation, the blacklisting and the Reindorf Review in the section below on departmental relationships.

#### **Gender Critical Oxford Professor given security guards on campus, January 2020**

135. In January 2020, soon after my cancellation by Essex University when students threatened to barricade the room and spoke of “rattling” me, it was widely reported that Professor Selina Todd, Professor of Modern History at Oxford University, had been given protection while on campus following threats of violence from activists. For example, a BBC article reported that security staff accompanied Prof Todd to her lectures, stating that *“Professor Todd said the threats came from some campaigners who believe her views on the need to protect women’s spaces, such as single-sex refuges, from people who self-identify as women but are anatomically male are unacceptable...The university, she said, carried out its own investigation and found there was enough evidence to provide her with protection.”* [663-665]

#### **Termination of the OU’s formal relationship with the CCJS – April 2020**

136. On 30 April 2020, I was informed by Prof John Wolffe, Associate Dean for Research, that a review panel had decided not to renew the Memorandum of Understanding with the CCJS [see email at [692]]. Prof Wolffe sent me the report of the review panel [686-7]. This

report noted that “some specific difficulties had arisen in 2019, related particularly to both (a) Richard Garside’s public statements on the management of transgender prisoners in women’s prisons, and (b) the cancellation of a planned joint conference” but went on to say that “although events last year had placed a short-term strain on good working relations” between the OU and CCJS, “they were not the basis of the review, nor were they considered as potential grounds for discontinuing the collaboration”. The review instead claimed that the reason for discontinuing the relationship with the CCJS was because collaboration with CCJS had been limited in recent years:

*“The submission from the co-directors of HERC noted that actual collaboration with CCJS had been limited in recent years and had been impacted by the departure of key members of CCJS staff. Since 2015 CCJS had only been directly involved in 3 out of around 30 events run by HERC. HERC therefore believes that a looser relationship would be more appropriate in the future, in the context of their own strategy to develop ‘less formal and more fluid partnerships with different organisations.’ Moreover, the panel noted that Criminology’s heavy commitments to module development and presentation meant that colleagues in this area would in any case be unlikely in the immediate future to be able to commit significant time to implementing a new MoU of CCJS.”*

137. In his email to me of 30 April 2020 attaching the report, John Wolffe said that he very much saw the strategic value of the connection with the CCJS, adding “I am sorry we could not recommend renewing the MoU but if we were to do that we would need more people to own it on the OU side than currently seems to be the case.” [692]

138. I replied to Prof Wolffe the same day, saying how disappointed I was and noting that we had treated the CCJS poorly, including that “some of our staff have accused the Director of being transphobic for taking a perfectly legitimate position.” [691]

139. Prof Wolffe replied the next day, on 1 May 2020, saying:

*“I very much understand and indeed share your disappointment. However, we had to come to the conclusion that a formal renewal of the MoU was just not feasible at present – to have attempted this in the face of HERC’s sense that the relationship had run its course (and they say this NOT just because of last year’s events – they note that*

*collaboration in recent years had been quite limited) and at best lukewarm interest from others apart from yourself would have been internally divisive and raised expectations with CCJS we would not have been in a position to fulfil.*

*We have though tried to keep the door very much open to collaboration and indeed renewal of formal relationship in the future. You might want to consider how you can build on your own close association to get some broader OU ownership from [word obscured by punch hole] ongoing connection.” [691]*

140. In my reply to Prof Wolffe, I said the that *“I feel desperately disappointed, if I am being absolutely honest, with my colleagues in SPC. I’m not sure that it is up to me as an individual to find new synergies with CCJS when the one main focal point wants nothing to do with it and thinks the relationship has run its course. I genuinely believe my colleagues to be disingenuous in this regard and can name several events and things that they have benefitted from with the time I have been at OU.” [690-1]*

141. I had lots of reasons for believing that my colleagues were being disingenuous for claiming that the CCJS relationship had simply “run its course”. For a start, my colleagues in HERC had collaborated with CCJS to arrange a major two-day conference on prison abolition which they had planned to take place on 23 and 24 May 2019, less than a year before the decision to terminate the relationship with CCJS. A two-day academic conference is a massive endeavour. For context, the British Society of Criminology’s annual conference is two and a half days, and the Howard League for Penal Reform’s annual conference is two days. The decision to collaborate on a major conference is a sign of a healthy academic relationship with that partner. If the relationship had really run its course, then they would not have planned this conference.

142. Further collaborations between the OU and the CCJS are included in CCJS’s submission to the OU in favour of a new Memorandum of Association, dated 23 January 2020 [659-62]. This submission is referred to in a note of a meeting between the OU, including John Wolffe, and the CCJS that took place on 11 March 2020: *“John asked for the meeting to be used for CCJS to provide an honest reflection of recent relationships without being bogged down by specific recent difficulties. CCJS shared a working document prior to the meeting which captures the main outputs and will provide a starting point for future collaboration.”*



**[681-2]** The “main outputs” of the OU/CCJS relationship are listed at **[660-1]** in the CCJS submission, and included co-hosting a major, four-day international conference on prison abolition with the OU in June 2018.

143. More generally, the notion that there was no more mileage in a relationship between the Criminology Department and the leading criminal justice research charity which publishes the British Journal of Criminology is not credible. There were huge benefits to this relationship to the OU, including the following: CCJS is a Research Excellence Framework (“REF”) nominating body and had successfully proposed that Prof Steve Tombs become a member of the REF 2021 assessment panel for Social Work and Social Policy. I explain REF and its importance to universities later in this statement. The benefit of having a colleague on the REF panel is that it gives internal intelligence that can be used in future REF submissions, and it helps build internal expertise in how to successfully present REF submissions. Former REF panel members often get paid consultation fees to go to other universities to talk about their experiences; indeed, as part of my work on the OU’s REF 2021 submission, discussed below, the OU paid for Rob MacDonald (a professor I knew from Teesside) to come to talk about REF assessments of outputs on the basis of his experience from the 2014 REF panel. This is why a good working relationship with a REF referral body is so valuable. Other benefits to the OU of continuing to work with the CCJS included using the CCJS’s distribution list to advertise OU job vacancies, seminars and conferences, and degrees; the ability to publish blogs, commentary and articles on the CCJS website; grant income generation (research funders like to see involvement of the third sector on grants, and the CCJS, because they’re so well connected across the policy field, broker introductions with other third sector organisations); impact development from a REF perspective– because of the CCJS’s connections in the practice and policy world, they can connect academics with practitioners and policy-makers to allow academics to translate their research findings into realistic policy and practice suggestions; dissemination of research through posting on the CCJS’s website and via CCJS-hosted seminars (online and in person). These were benefits which the OU did not even have to pay for beyond the provision of library access for staff members of CCJS.
144. The other reasons given in the report for not renewing the formal relationship with the CCJS are similarly implausible. Staff commitments to module development and presentation were no heavier in 2020 than they were in previous years when the CCJS

relationship had not been questioned. Indeed, recruitment to the Social Policy and Criminology Department since 2018 arguably meant that the workload in 2020 was less demanding than in previous years.

145. It was clear to me that the real reason that the OU had decided not to renew the Memorandum of Understanding with the CCJS was because of Richard Garside's gender critical beliefs and the position that the CCJS had taken on the issue of transwomen in women's prisons. I feel that Prof Wolffe effectively told me this when he said in his emails that more people at the OU needed to "own" the relationship with CCJS to make it viable and that to continue the relationship would have been "*internally divisive*" considering the "*at best lukewarm interest from others apart from yourself.*" Prof Wolffe also accepted that the issues surrounding the cancellation of the conference played a part in the discontinuance of the Memorandum of Understanding when he said that the decision was not "just" because of last year's events.

### **My responsibilities and work at the OU**

#### ***My role as Professor of Criminology***

146. I don't think I ever had a formal job description. The closest thing to a job description that I can find is a section of the job advert for my role called "Further Particulars" [240-246]. The standards I was expected to meet as a professor are, however, set out in detail in the OU's Promotion Profiles for Professor Bands 1 and 2 [206-228]. I came into the role at Professor Band 1 and was promoted to Band 2 in September 2019. Relevant extracts from the promotion criteria for Professor Band 2 are as follows:

#### ***"Key criteria: academic leadership***

*Leadership demonstrated at a strategic level in any context (teaching, research, knowledge exchange, service or management) meeting the following criteria:*

- a) Excellent and significant leadership with major, demonstrable results that have enabled others to succeed with achieving objectives.*
- b) Successful driving of major initiatives or changes within and beyond department or centre level.*

- c) *Major contributions of analytical and strategic thinking that have solved problems within and beyond department or centre level.*
- d) *Excellent mentoring, management or development of others, demonstrating supports of others' career development.*
- e) *Active membership and significant, valued contributions to University-level groups, boards or committees or equivalent in external bodies."* [219-220]

147. At the OU, like most other universities, academics are hired to do research, teaching and administration / leadership. The proportion of time allocated for each academic to these three areas of work is done in annual cycles. At the OU the formula is measured in days. A central academic will be allocated 79 days for research each year (44 days' study leave and 35 days for research [4798]), with the rest of the 250 devoted to teaching and administration.

### ***Teaching and curriculum development***

148. The OU functions differently to most other universities in that the OU's central academic staff don't directly teach students, in that they don't deliver lectures and seminars. The task of teaching students and marking is done by Associate Lecturers. Instead, it is the responsibility of the central academic staff to develop and update distance learning course module materials, design the assessments, oversee the assessment process and to monitor the Associate Lecturers in the delivery of distance learning. It takes about two years to produce a new module and each module runs for ten years. In addition to module development, central academic staff are also responsible for setting all of the assessments, monitoring the marking done by Associate Lecturers, dealing with student issues, and running examination boards and moderation meetings. Occasionally central academic staff run online sessions for students, but this is an exception rather than the rule. For central academics at the OU, these responsibilities come under "teaching".

149. The OU's method of producing curricula is the most complex I have ever come across. For each OU course there is at least one, often more, printed books as well as a website to support learning which includes interactive exercises, videos and audio features. In addition to academics, module production teams include learning and development staff, IT staff, digital content producers, librarians, and staff responsible for video and audio

content. A team dedicated to the production of a module would generally consist of around 8-10 people, around half of whom were academics and half from central services. Module production at the OU is the most intense piece of teamwork I have ever done because it involves so many academic and non-academic support staff from across the University.

150. The teams producing new modules are led by a Chair, who will be an academic. The Chair is effectively the project manager and is often assisted by a Deputy Chair. A curriculum manager also assists the Chair and Deputy with all the administrative work involved in the production of a new module.
151. Once a module is developed and in presentation (i.e. being taught to students), the staffing of module teams changes. Support staff involved in production drop off and they are replaced with the team of Associate Lecturers who do the teaching, one or two central academics and additional staff tutors.

#### ***Research Excellence Framework (“REF”)***

152. From 2017, I was Strategic Co-Chair of the OU’s Research Excellence Framework (“REF”) panel for Unit of Assessment C20 (Social Work and Social Policy).
153. The REF is the system for assessing the quality of research in higher education institutions (“HEIs”). The first REF assessment was conducted in 2014 and the second in 2021.
154. The REF is conducted jointly by the higher education funding bodies for England, Wales, Scotland and Northern Ireland. The REF results are really important because they affect the amount of government funding a university receives as well as a university’s ranking in national and international league tables. Thus REF outcomes have a direct impact on universities’ reputations and standings – which also impacts their student numbers. As stated on the REF website, *“The primary purpose of REF 2021 was to produce assessment outcomes for each submission made by HEIs. These outcomes deliver the wider threefold purpose of the exercise: To inform the selective allocation of the four HE funding bodies’ grants for research to the institutions which they fund, with effect from 2022-23; To provide accountability for public investment in research and produce evidence of the*

*benefits of this investment; To provide benchmarking information and establish reputation yardsticks, for use within the HE sector and for public information.” [4385-6]*

155. Each year, there is a pot of money made available to universities to fund research. The amount given to each university depends on performance in REF as well as other quantitative measures. So the better a university does in REF, the more money it gets. The highest three universities ranked in terms of research power in 2022-2023 received in excess of £80m each. The medium ranking three universities received around £4.8m with the lowest ranking universities receiving less than £100,000. The amount of funding can also vary significantly based on even relatively small changes in REF results. For example, in academic year 2020-2021 (the last year of the REF 2014 formula funding), the University of Birmingham received £26,983,662 from a total pot of £1,060,710,491 (representing a total of approx. 2.54% of the total funds available). In academic year 2022-2023, and after the University of Birmingham rose three places in the relevant REF ranking, it was granted £34,931,244 from a total pot of £1,265,619,314 (representing approx. 2.74% of the total funds available). This increase in quality research funding by 0.2% of the total funds available will be recurrent for the life of that REF cycle.

156. While universities receive an ‘overall REF score’, the exercise itself is done by discipline-based units of assessments. These units of assessment are defined and set by the REF. As above, the Unit of Assessment for which I and my Co-Chair, Prof Sarah Earle, were responsible was C20, Social Work and Social Policy. Submissions for each Unit of Assessment require standardised information for three separate elements – research outputs, research impact and the research environment. These three elements are then assessed and a combined score reached to produce an ‘overall quality profile’. The REF website says the following about each of these three elements:

a) Research Outputs

*“Outputs are the published or publicly available products of research, which can take many forms. These include books, monographs, chapters in books and journal articles...Outputs account for 60% of the overall outcome awarded to each submission and are assessed against three criteria: originality, significance and rigour.” [4386-7]*

b) Research Impact

*“For REF 2021, impact is defined as the effect on, change or benefit to the economy, society, culture, public policy or services, health, the environment or quality of life, beyond academia. HEIs were required to submit impact case studies that demonstrate the impacts their research has had beyond academia....Impact accounts for 25% of the overall outcome awarded to each submission. Impact case studies were assessed against two criteria: reach and significance.” [4387-8]*

c) Research Environment

*“For REF 2021, ‘environment’ means the environment for supporting research and enabling impact within each submitting unit. Environment accounts for 15% of the overall outcome awarded to each submission and is assessed against two criteria: vitality and sustainability.*

*HEIs were required to submit narrative evidence of the environment to support research and enable impact within each unit, alongside data on research income, research income in kind, and completed doctoral degrees...*

*HEIs were also required to submit an institutional level environment statement as part of a pilot of the assessment of institutional environment.” [4388]*

157. Each element is scored from 4\* to unclassified. REF defines 4\* as “world-leading” and 3\* as “internationally excellent”.

158. Research environment covers everything which helps to foster high quality research. This is often referred to as “research capacity building”. This includes, for example, infrastructure such as research groups (variously called networks, centres, collaboratives) which bring academics together and facilitate events and collaboration which help to produce applications for research grants and ultimately lead to funded research projects. Research networks / hubs are also brilliant places for developing the next generation of academics. All of us need to be challenged in our thinking, and all of us need to see the excitement of our ideas in other people’s eyes, but this is particularly so for those who are relatively new to academia. Networks and hubs help to provide a type of intergenerational informal mentoring. Events held by research groups also provide a forum for junior

academics to meet and collaborate with more senior academics on funding bids, which increases the likelihood of success (fundors like to know that their money is in safe hands, and someone with a track record of delivering on funded research projects provides that reassurance). More generally, research networks facilitate discussion, provide opportunities for ideas to be critiqued and improved, and often lead to new ideas and collaborations. Academics also often present draft versions of papers, books and articles within research networks in order to get feedback. All of this helps to improve the quality of the research produced.

159. My role as Co-Chair of the OU's C20 REF panel involved deciding how to approach the C20 Unit of Assessment, leading the work involved in deciding which research should be included in the submission to the 2021 REF, and preparing that submission. The first decision that Prof Earle and I took as Co-Chairs was to radically change the approach to the OU's submission to the REF for several related disciplines (sociology, economics, psychology, criminology and zemiology, social policy). In the 2014 REF, criminology was included in a submission to the Sociology Unit of Assessment which didn't do particularly well (coming joint 16<sup>th</sup> out of 29 universities). This 2014 submission was relatively small and, in my experience, small REF submissions rarely do well. So Prof Earle and I spent a lot of 2017 thinking about, and successfully making the case for, a much bigger submission to the C20 Unit of Assessment, bringing together research from six different departments and two different faculties (Departments of Health, Wellbeing and Social Care, Social Work, Psychology, Economics, Social Policy and Criminology and Sociology from across the Faculties of Arts and Social Sciences and Wellbeing, Education and Language Studies). This was possible under C20 as Social Work and Social Policy is very widely defined.
160. After the decision was taken to enlarge the C20 submission to such a wide range of academic disciplines, Prof Earle and I spent the next two and half years compiling a database of the research outputs of 66 academics and arranging for the quality of those outputs and the potential impact case studies to be internally and externally assessed and scored. We chaired the C20 'panel' committee – which was a group of academics who discussed the approach, the challenges and the problems we faced in producing a good submission. We worked with senior leaders in the University as well as all the academics within the C20 group to support impact work and to support their writing projects and other research. This enabled us to decide which outputs to include in the submission,

including which impact case studies to use. The adjudication of other academics' work was done by a range of colleagues (external and internal to the OU). My role in the adjudication process was to allocate assessors and to act as a third adjudicator where two other people's scores deviated significantly. Finally, Prof Earle and I made the final decision on which impact case studies would be included after consulting with our external reviewers and impact leads.

161. The OU's C20 REF 2021 results were extremely good. In REF 2014, the OU's C20 submission was ranked joint 31<sup>st</sup> (out of 62). In REF 2021, our C20 submission was ranked 24<sup>th</sup> out of 76 – climbing from bottom half of the 'league table' to top tercile. When ranked according to research power, the OU ranked 5<sup>th</sup> in the REF 2021 C20 league table- the highest for the University in that REF cycle and I think the highest of any REF unit of assessment at any time for the OU.

162. My role as Strategic Co-Chair of the REF C20 panel wasn't just to pull together the submission for REF for C20, but also to lead by example to help create the events, activities and mechanisms to succeed in the REF. For example, Prof Earle and I led separate writing retreats for colleagues where editors of various journals spoke about the peer review process. We also ran events where speakers spoke about the difference between 1-4\* outputs and a host of other workshops where we helped people understand the new methodology for REF 2021.

### **Relations within the Social Policy and Criminology Department**

163. From around the time of the cancellation of the CCJS conference when I defended Richard Garside against accusations of transphobia and argued against the cancellation of the conference, things became very difficult for me within the Department. I felt like I was being frozen out. Dr Downes in particular became cold and would try to avoid speaking to me. Many others became frosty towards me, including my Head of Department, Dr Deb Drake, my Deputy Head Prof Louise Westmarland, Dr Avi Boukli, Prof Steve Tombs, Dr Gerry Mooney and Dr Vickie Cooper. I found it very difficult to make conversation; I found their responses overly formal and less than forthcoming, certainly not the warm collegiate discussions that I was used to having throughout my career. I felt uncomfortable because I sensed people's discomfort in talking to me. I remember discussing this with my partner



sometime in 2019 and saying how hard it was, and my partner saying something along the lines of, *“maybe they just don’t like you”*.

164. At a writing retreat I ran late in September 2019, two members of the department, Dr Lynne Copson and Dr Dan McCulloch told me that I made Dr Downes feel very uncomfortable because of my views on trans issues. In separate conversations with Lynne Copson and Dan McCulloch, they both made it clear that they did not agree with my views although I did not think that they knew exactly what my views were.

165. From various conversations I had with Deb Drake and others, it became clear to me that Dr Downes had a lot of influence within the Department. It seemed to me that many people within the Department saw Dr Downes as in need of protection. Deb Drake often stressed Dr Downes’ frailty / vulnerability to me. I feel that this gave Dr Downes a form of power within the Department, as not only did many senior people agree with Dr Downes’ views on trans issues, they ‘protected’ Dr Downes from having to hear perspectives which Dr Downes disagreed with and found distressing, to the point where I was asked not to speak about my research on trans prisoner placement, as I set out below.

#### ***Comparison to the racist uncle at the Christmas dinner table – 23 October 2019***

166. A meeting in person with my Deputy Head of Department, Prof Louise Westmarland, was scheduled in advance for 23 October 2019, but Louise didn’t tell me what it was about. On 17 October 2019, I emailed her asking *“any chance you can give me a sense of the dept matters you wanna chat about? It’ll give me a chance to organise thoughts – or is it just a natter?”* Louise replied saying, *“just a bit of a natter about how we keep everyone in the Department happy – no need to prepare anything.”* [619]

167. There are parts of the conversation that followed that I remember painfully clearly, but there are other things I don’t remember. The meeting lasted about an hour. When I wrote my grievance, I thought I remembered more clearly the order of the conversation and how Louise came to make the racist uncle comment, but now that I’ve looked at the WhatsApp messages that I sent after the meeting I’m no longer sure that what I wrote in my grievance about this is exactly right. I can’t remember the order of what was said or how exactly things were linked, and I can’t remember the whole conversation. What I do

remember is the following. At the start of the meeting, Louise said that although she was Deputy Head of Department she was not speaking in a management capacity. Louise told me that she was extremely upset with me. She told me that she was extremely upset that I signed the Sunday Times letter and I should have knocked on people's doors and let them know that I would be signing it. She told me that she loved the OU and that I had implied that academic freedom at the OU was curtailed, which wasn't right. She told me that the Department was like a family. We discussed my views on trans issues. Louise said that having me in the Department was like having a racist uncle at the Christmas dinner table. That expression is seared in my mind. I became extremely upset in this meeting and I spoke about how I had been ostracised. When I started crying, Louise told me she could put me in touch with the OU's counselling service.

168. I left this meeting shaking and crying. I felt confused, hurt and bewildered.

169. On the drive home later that day when I was stuck in traffic, I dictated WhatsApp messages about the meeting to a WhatsApp group of colleagues [5332]. In the messages I said, *"the bit I objected to most, was when I was likened to the racist uncle in the family that everyone had to just tolerate"*.

170. I then wrote, *"I'm okay. Just pissed off. Needed to rant. I am however going make Louise put her suggestion about how I should act in the department on paper. She just wants to create a happy department. I suppose I understand that. And I think she thinks the best way she could do that is to have maybe quiet ["maybe" is a dictation typo: I think I said "me be" quiet]. Anyway thanks for reading and responding. I really will be okay."* [5332]

171. I was much more upset than I was letting on in this message. I was devastated by what had been said and by what was happening more generally in the Department. As I described earlier, this job at the OU had been my dream job. I had such hopes for it. I wasn't willing yet to let those hopes go, to accept that things were as bad as they were. I wanted to try to make things better, and I think that is reflected in my attempt to try to understand where Louise Westmarland was coming from.

172. I wrote a follow up email to Louise Westmarland later that evening at 19:07 [620]. I wanted to try to make things right and to try to make my life in the Department bearable,

which is why I went for the soft approach that I did, and why I said at the end of the email *"All the very best (and I mean that!)"*. I so desperately wanted things to be OK. That was the main reason that I didn't refer to the racist uncle comment directly (I think it was encapsulated in the sentence, *"There was a lot said and I just want to disentangle it all, make sure I haven't misunderstood."*). Putting the racist uncle comment in writing would not have helped me try to smooth things over. I was also afraid of being that direct with Louise, because if I put that in writing to her then there might not have been a way back in terms of repairing the professional relationship. Mentally I wasn't ready to accept this outcome. I also couldn't bear to lay out the pain that comment caused me and again have a former friend fail to acknowledge or validate it.

173. As I detail later, Louise Westmarland wasn't the only person to compare me to a racist. In a phone call in 2021, Deb Drake compared me to the highly controversial American sociologist Charles Murray. After my call with Deb, I followed up with an email which covered a lot of our conversation, but I didn't mention the Charles Murray comparison [1170-1]. In my email to Deb I wanted to raise important issues but I also wanted to try to maintain my working relationship with her, and I didn't think mentioning her comparison of me with Charles Murray would have been helpful.

174. I mentioned the racist uncle comment a few times in written communication before I raised it in my grievance on 24 June 2021 and before I included it in an email directly to Louise Westmarland on 5 August 2021 [2237-8]. I mentioned it on the morning of 5 December 2019 when I was discussing on WhatsApp the unfolding events at the University of Essex: *"Okay. Good to know. Please impress on everyone the need to ensure safety and security" / "(I am so ground down by this shit. Two weeks ago I got likened to a racist uncle at the Xmas dinner table)"* [636] (It was of course more than two weeks ago; I was never good on dates.)

175. I also mentioned the comment to Ian Fribbance in an email on 10 February 2021. Ian was a friend as well as a colleague. After talking about the challenges of my mother's terminal illness, I said the following:

*"...the trans stuff at work is a source of massive stress for me. I feel so trapped by Julia and the collective weight within the department. Not sure if I told you, but Louise once*

*told me I was like the racist uncle at the xmas dinner table. I daren't challenge any of the trans politics because I know that Julia will go off sick and Deb will have words with me about being respectful of Julia's frailty. It's all just so hideous. I'd love to write something for Open Learn but I daren't Ian. My emotional reservoirs just aren't what they used to be and my department, for better or worse, are very good at making people feel isolated.*

*I've probably said too much. I'm tired Ian. Really tired of it all."* [805]

176. I also raised Prof Westmarland's racist uncle comment in my email to Deb Drake of 11 June 2021, in which I expressed my concerns about working under Prof Westmarland as Head of Department [1170-1].

#### ***Departmental meeting 12 December 2019***

177. On 12 December 2019, a week after my cancellation by the University of Essex, there was a Departmental meeting which I attended in person. During this meeting Louise Westmarland admonished me publicly for swearing. I do swear a lot but so did my colleagues. Swearing at Departmental meetings, in the Department and generally in the OU was really common. I was taken aback when Louise told me off for swearing. I have never, before or since, seen an academic admonish another academic for swearing. It made me feel small and humiliated. After this incident I witnessed many other colleagues swear in front of Louise Westmarland and Louise say nothing to them. Prof Steve Tombs in particular swears all the time.

178. In the research update section of this Departmental meeting, I reported that I had been included in a Canadian medical board research grant of \$1M per year looking at training prison officers, although this money would go to Memorial University in Newfoundland rather than the OU. I also mentioned the talk I had given at Memorial University on prisoner officer recruits and their experience of trans prisoner placement, saying that this had gone well. I then added that I had been due to give a seminar on the same topic at Essex University but that this had been cancelled following protests and accusations that I was transphobic. I remember being met by a cavernous silence when I said this. My colleagues did not offer me sympathy or solidarity for having been cancelled, which is a really serious and professionally damaging experience for an academic. Nor was I offered

any congratulations for my inclusion in the Canadian grant. Deb Drake, who was chairing the meeting, then turned to Dr Downes and asked Dr Downes to tell the meeting about their success in writing their trans prisoner research grant application, which Dr Downes was yet to submit (and which was ultimately unsuccessful). Dr Downes was praised in the meeting for writing the grant application. The disparity in treatment was glaring and I felt was done deliberately to show “support” for Dr Downes after I had spoken about trans prisoner placement.

179. After the meeting finished I had planned to go back into my office, but I had to leave because I knew the tears were coming. I had put out there the worst thing that had happened to me in my professional career and no one said anything about it being wrong or a problem. In fact the opposite. Their silence told me that they did not see there was any particular problem with what had happened. Once I got into the car, I started crying and cried all the way home (from Milton Keynes to Chippenham which was more than a two-hour drive). By the time I got home, I was pretty much inconsolable. The silence and lack of support was bad enough, but it was compounded by the congratulations to Dr Downes. It made me feel, once again, like I was the problem. I felt judged and did not feel like anyone in that Department had my back. I just had to get on with my suffering in silence.

***Instructed not to speak to the Department about my research or my treatment by Essex University***

180. I can't remember the exact date, but I think it was shortly after this Departmental meeting, I spoke to Deb Drake by telephone. In this conversation, Dr Drake told me that going forward I should not speak within the Department about the cancellation of my talk at Essex, about accusations I was a transphobe or my research on trans prisoners because it was “*too challenging*” for members of the Department. I felt very upset and angry by this conversation. I felt a growing sense of injustice that Dr Downes' views and research were given space and support while my experiences were treated as a problem – especially given that most of my Department researches harms done to individuals by powerful institutions and organisations. The irony of the situation just made the growing sense of anger (and betrayal) bitter – especially coming from people I once called friends.

181. I found Departmental meetings increasingly distressing and difficult after this because of the unfairness of the situation. My colleagues were able to chat freely about their research and political initiatives or developments that interested them, while I was told that I couldn't speak about my current research on trans prisoner placement or about what happened to me at Essex.

### ***Reindorf Review and Apology from Essex University***

182. After the publication of the Reindorf Review and the apology from Essex University, the OU did not issue a public or even an internal statement supporting me even though my unlawful treatment had become a news story. I also did not receive any formal message of support from the OU. As I said at the time in an email to Tim Blackman and Marcia Wilson on 24 May 2021, *"there has been no official response to me from the University that employs me or indeed any statement of support. This makes me exceptionally sad, particularly given the traction that the story has had."* [961] Very few of my colleagues mentioned it, let alone actively reached out to support me for having been unlawfully cancelled and blacklisted. As far as I can recall, the only person to offer support and empathy was Keir Irwin-Rogers. My treatment by Essex was a hugely detrimental experience for me personally and professionally, and my colleagues knew this. An independent review by a barrister found that I had been treated unlawfully and that I should not have been cancelled or blacklisted. Normally colleagues in this situation would warmly welcome such a finding for a colleague and would reach out to that colleague with supportive messages.

183. Louise Westmarland, my Deputy Head of Department and soon to become my Head of Department, did not contact me at all about the Reindorf Review, either before or after I sent an email to the Department on 19 May 2021 about it [972-3]. Deb Drake did reply to my email [994], but did not publicly offer sympathy, support or solidarity for the fact that I was treated unlawfully. The most she could bring herself to do was to note that it was evident *"[f]rom Jo's email and the investigation that Essex University conducted"* that I had been negatively affected on a personal and professional level and to note that *"from the information Jo has provided from Essex University"*, laws around freedom of speech and / or academic freedom had been broken. Deb then went on in her email to talk about how fraught and difficult the issue of transgender rights was and how *"deeply and*

*personally felt amongst numerous members of our department”*; she mentioned different sides of the debate; and then she implicitly criticised me for sending an all-email by saying that *“I ask that people not ‘reply all’ to this email or to Jo’s because emails are not the most productive or sensitive way to discuss contentious issues, etc. and even if we mean to reply with the best of intentions, it may not feel like that to all recipients.”* There had only been two “all” responses before this from Abi Rowe and Alison Penn, both very short and bland and fairly neutral, but friendly towards me [974-5]. Deb’s email was forbidding anyone from sharing a statement with the Department that was positive and sympathetic towards me, even though I had been treated unlawfully when doing my job. She was also implicitly criticising the two colleagues who had replied to me in a friendly way.

184. On 9 June 2021, Deb Drake emailed asking for good news to share at the upcoming School meeting (the Department sat within a School along with other departments) [1159]. I replied asking for the Reindorf Review outcome to be included, saying *“The bottomline is that the external reviewer found absolutely no legitimate reason for people judging me to be transphobic quite apart from everything else the review said. I would have thought that the lifting of that cloud from one of our academics would be good news.”* [1159] Deb replied to this saying, *“As you may imagine, I (and others) have been dealing with reactions to the news, indicating that this would not be a “light-hearted” good news item...So, yes, it is good news and it was all over the press, in some very prominent places. Given that, and the feelings of others in the Department and School, who may see this as a little too much like ‘I told you so’ and that the debates continue to be so controversial and potentially hurtful to others, it might be best to leave it as it is.”* [1158]

#### ***Call with Dr Deborah Drake on 11 June 2021***

185. On 11 June 2021 I spoke to Deb Drake by phone about my treatment within the Department. The EAT Forstater decision had come out the day before and I felt able to raise these issues now I knew that my beliefs were protected in law. In this conversation, I raised the fact that I had not been allowed to speak about my research on trans prisoners or about cancellation and blacklisting by Essex University. Deb said it was a difficult situation because for many people in the Department my views on trans issues were “toxic” and “harmful” and if I had been allowed to speak about these things it would have created a toxic environment for my colleagues. She expressed this as an either / or

situation – either it was toxic for my colleagues, or it was toxic for me, acknowledging implicitly that it was toxic for me. What Deb was saying is that she had decided that it was easiest to silence me because of the numbers who don't like my gender critical views, and the cost of appeasing those colleagues was a toxic environment for me.

186. When talking about how people in the Department saw me and my views, Deb said I was like Charles Murray. Charles Murray is a highly controversial Sociologist who has argued that racial inequality is partly attributable to biological differences between the races. He co-authored a book called *The Bell Curve* in 1994 which argued that IQ is largely inherited and plays an important role in determining socio—economic status. He is seen by many as a racist. At [332-9] is a Guardian long read, "*The Unwelcome Revival of "Race Science"*", which includes commentary on Charles Murray. Murray's work has been debunked by other academics. At [174-80] and [181-187] are two academic reviews of *The Bell Curve*. The review by Howard F Taylor, Professor of Sociology at Princeton, includes the following:

*"America now contains what Herrnstein and Murray call a "cognitive elite" consisting of those with high IQs and prestigious jobs, given the moderately strong correlations between IQ and occupational prestige rank. This cognitive elite is hence more likely, though not exclusively, to consist of upper-class white males, and this elite is on average more likely to possess the genes for higher or superior intelligence. In this respect, the Herrnstein-Murray argument is not unlike the nineteenth-century eugenics arguments of Galton and others who asserted that society's elites are elite because their genes (their "inherent constitutions," according to Galton) compel them to be so, and that the downtrodden nonelite masses are such because their genes doom them to be so...*

*... the authors argue that a number of social policy recommendations grow out of all of the above analyses. Affirmative action programs in education and for jobs should be eliminated or severely curtailed, since affirmative action programs are based on the supposition that minorities have historically been held back by the social environment (via racism and discrimination in education and in jobs) rather than by their genes..*

*The Bell Curve is provocative and it is indeed a thought exercise. It is therefore unfortunate that the work is so methodologically flawed--with faulty reasoning, faulty*



*inferences, incorrect data analyses, selective citing of literature and totally ignoring pertinent research and literature, some arithmetically incorrect calculations and inferences, and arbitrary and implausible assumptions used in certain calculations, particularly those cited in estimating IQ heritability.” [182]*

187. Another review by American Sociologist Robert M Hauser starts as follows:

*"The Bell Curve is a massive, ideologically driven, and frequently careless or incompetent assemblage of good science, bad science, and pseudo-science that is likely to do great damage both in the realm of public policy and in the conduct of social research. In the policy realm, The Bell Curve will be used to argue against affirmative action in education and the labor market, to discredit public schooling, and, worst of all, to argue the futility of investing in education and training, especially of racial and ethnic minorities and immigrants.” [174]*

188. I pushed back when Deb Drake compared me to Charles Murray, saying that she was equating my views with racism. She apologised and said it was just a poor attempt to express what she was trying to say. But this was not the first time that my views had been compared to racism, and I do not think that this was Deb Drake being clumsy – I think she was reflecting what many in the Department felt, specifically that gender critical views, my views, were morally akin to racism and that gender critical academia was comparable to “race science”, because – in their view – gender critical belief places too much weight on biological difference and relies on bad science / pseudoscience in order to justify bigotry, just as Charles Murray does.

189. During this discussion, Deb Drake tried to defend her prohibition on me speaking about my trans prisoner research within the Department by saying that at least one other colleague had to find the space to talk about their research outside the Department because no-one within the Department shares the same research interests. I said that my exclusion was different. There were lots of prison scholars in the Department, and Dr Downes and Dr Abigail Rowe did research on trans prisoners.

190. During this call, Deb Drake also said to me that freedom of speech is not without consequence and that no-one should be forced to listen to me.

191. I sent an email to Deb Drake after this call on 11 June 2021, summarising many of the points that we had discussed [1170-1]. Dr Drake forwarded my email on to HR and she did not dispute my summary of our discussion [1170].

### **Work withheld within the Department**

192. There were lots of different roles, mainly falling under teaching and administration / leadership, for academics in the Social Policy and Criminology Department. These included the following:

- a) Head of Department;
- b) Deputy Head of Department - Research and Deputy Head of Department – Teaching;
- c) Qualification Leads, who were the named academic responsible for an entire degree programme – this includes examination boards and deciding final degree outcomes, conducting the annual performance reviews for the degree programme, sitting on appropriate teaching committees at Faculty level, and in the case of joint degrees, ensuring that potential issues between departments and modules are dealt with. The Qualification Leads relevant to my Department were R21 BA (hons) Criminology; Q92 BA (hons) Criminology and Law; Q98 BA (hons) Criminology and Psychology; F75 MA in Crime and Justice;
- d) Post-Graduate (“PG”) Convenor, who was the named academic responsible for, inter alia, ensuring that PhD students are supervised and processed appropriately. They work with the Graduate Office and secure funding for PhDs in the Department;
- a) Chair or Deputy Chair of the team that produced a new module;
- b) Chair or Deputy Chair of the team when modules are ‘in presentation’ (i.e. being taught);
- c) Being a team member on either of the above module teams;
- d) Social Media Champion, which involved running the Department’s Twitter feed;
- e) Chair / Co-Chair of the Associate Lecturer Integration Working Group;
- f) Chair of the Racial Justice Working Group.

193. Since 2018, I was aware that I had been parked on a single module, Understanding Criminological Theory. Whilst that module was in production, I was only the Deputy Chair (I did not “co-lead” the production team, as stated in paragraph 16 of the Grounds of Resistance [102]); I became Chair when the module went into presentation in October 2018. As at June 2021, I still only had the one module to convene as my projected module-related work for the next academic year, even though my role as Strategic Co-Chair of the C20 REF Panel was in a form of hiatus. (The bulk of the work for the REF 2021 C20 submission had been completed by early 2021 with the final submission made in March 2021. Results were not expected until May 2022 and no real preparatory work for the following seven-year cycle could commence until after the new criteria and methodology for REF 2028 was published). Since October 2018, I had not been involved in any module development. Even when my REF work was active, I would still have expected to be involved in some module development and / or other teaching work.
194. Many of my colleagues had multiple roles within the Department. At [2189-90] is an email from Deb Drake entitled “Key SPC roles for 21/22” setting out who was holding key roles within the Department. This email does not include the team member roles on module teams. Examples of my colleagues who held multiple roles include Avi Boukli who was incoming Deputy Head – Teaching, Qualification Lead for F75 (MA in Crime and Justice), and Deputy Chair of a module (DD804); Vickie Cooper who was Deputy Head of Department – Research, Qualification Lead for Q92 (BA (hons) Criminology and Law) and Chair of a module (DD804); Lynne Copson, who was PG Convenor and Chair of a Module (DD311).
195. I often used to talk to my colleagues Prof Sarah Earle and Prof Nicola Yeates about how little work I was given within the Department. Both of them used to respond jokingly along the lines of “Shhhh! Just use the extra time to do your own thing!”. Some academics would like to be given less teaching and administrative work, but for me it was just another way in which I was side-lined and excluded from the Department.
196. At [968-969] is an email from Deb Drake to me sent on 19 May 2021 attaching my draft “AWM” (Academic Workload Management) plan, which sets out my proposed workload for academic year 2021/22 with each aspect allocated a number of working days [970]. This is the only AWM plan that I still have a copy of. At the time of finalising this statement,

Leigh Day is liaising with the OU's solicitors about obtaining copies of the AWM plans for other years and for other Departmental colleagues.

197. It did not make sense for Deb Drake and Louise Westmarland to use me so little. I had a huge amount of experience which should have been an asset to the Department, as set out above.
198. I think that the reason I was given so little work within the Department was because lots of my colleagues did not want to work with me because of my gender critical beliefs. I am also confident that Deb Drake would never have offered me a role working alongside Dr Downes, because I feel that Deb Drake saw it as her job to protect Dr Downes from me and my views.
199. I do not think that the reason I was given so little work is to do with my disability and my regular absence for surgeries. I had surgery every year since starting at the OU. When I successfully applied for promotion from Professor Band 1 to Band 2, I demonstrated how I completed a year's worth of work for each academic year despite absences for major surgery.
200. Turning to the OU's grounds of resistance, they say at paragraph 16 that I had said that I did not want to pursue a career in university senior management **[102-3]**. This is correct, but by senior management I meant Dean or above.
201. Also at paragraph 16, the OU says that the module I led was one of the most "financially important" modules **[102]**. I do not know what this means. The OU also say that being Chair of this module was a "critical and prestigious leadership role in the Department" **[102]**. This is an overstatement. There were several similar roles chairing modules, and there were more prestigious roles within the Department.
202. Paragraph 16 of the grounds of resistance states that I sat on the Professorial Advisory Board. I do not know what that is. It also states that I "*played a key role in advising on the development of a new research centre in the School*" **[102]**. I think this is a reference to a new research centre that Agnes Czajka, Associate Dean for Research, and Dr Umet Erel were trying to establish. They chatted to me a few times about it because I had experience

of building things within universities. While I was at the OU, this centre did not get off the ground. I certainly did not play a key role advising on its development.

203. As for the point that I did not apply for the Head of Department or Deputy Head roles, this is correct but misunderstands the nature of these processes. These were not roles that you would apply to “cold”; you would have had some kind of conversations with senior management and Departmental colleagues where their support for your application was indicated. There was also generally an approved candidate. Often only one person would apply.

204. As well as being under-used in terms of teaching and module development, I had no involvement at all in recruitment of central academic staff to the Department in my entire time at the OU. I was not involved in any drafting of job specifications, in the shortlisting of candidates or in interviewing. Again, this failed to use an asset available to the Department. When Dean at Durham, I chaired recruitment panels for Professorships, Readers, and Senior Lecturers across different disciplines, including recruiting approximately ten individuals for the School of Pharmacy including the Dean of Pharmacy. I was also heavily involved in recruitment as Head of Department at Leicester. Further, my work on REF meant that I was the person in the Department best positioned to assess the strength of a candidate’s work from a REF perspective, as well as whether their work could be easily incorporated into our REF submission. This was particularly important given the amount of funding that is at stake in REF assessments (see above).

205. I have seen the OU’s grounds of resistance in which they say at paragraph 17 that I could not have been involved in any of the recruitment exercises or interviews because I was on sick leave (for scheduled surgery) [103]. But even if these dates are correct and even if it is correct that there were no other academics recruited this time, which I am not sure of, I could have been involved in writing the job specifications and the shortlisting process and would have wanted to do this, given the importance of recruiting the best academics. At the time of finalising this statement, Leigh Day and Eversheds Sutherland are liaising about disclosure showing who was involved in recruitment and when.

### **Why I set up the OU Gender Critical Research Network**

206. I set up the OU Gender Critical Research Network (“OUGCRN”) along with my colleagues Dr Jon Pike and Dr Laura McGrath because no other university in the country had created such a network and there was an opportunity to bring together some of the best critical thinkers in this area. The burning question that was being posed across a range of areas was a simple, yet unanswered one: where, how, why and when does sex matter in today’s social policies and social life, especially in relation to new social norms concerning transgender individuals. Getting academics together as a research network to discuss these questions and explore the emerging theoretical perspective called ‘gender critical’ theory, we could become more than the sum of our individual parts. From experience, working in a hostile environment, gender critical academics need to immerse themselves in the literature of opposing views and be extremely thorough because we know we’re going to be heavily, and sometimes aggressively, critiqued by those who disagree with us. As soon as I knew of what was happening to academics like Prof Stock and Prof Freedman, I thought that the university that provides a safe harbour for these critical thinkers could create a unique centre of excellence. I remember saying something along these lines to Tim Blackman, I think shortly after setting up the OUGCRN. A research centre such as this could be paradigm-shifting because it would tackle and provide evidence and research to help deal with the profound changes in society subsequent to the new social norms regarding gender identity.
207. Setting up a (hopefully) paradigm-shifting research network like this was me being a good university player. More prosaically, I was doing my job both as a senior Professor and as Strategic Co-Chair of C20. Research networks are necessary for a good research environment, and new, active research networks are a sign of a healthy and vibrant research environment. As above, this is important for the REF and related funding. Setting up and leading a new research network is the type of research-related academic leadership expected of a Band 2 Professor (for example, *“Successful driving of major initiatives or changes within and beyond department or centre level”*).
208. Sometime around 2019, I had coffee with Dr Laura McGrath in the café at the OU. At the time, Dr Laura McGrath had recently joined the OU as a Lecturer in Psychosocial Mental Health in the OU’s School of Psychology and Counselling. Dr McGrath spoke to me about her desire to do some work on detransitioners – namely people, often very young people, who for a period of time identified as the opposite sex, sometimes taking cross-sex

hormones and undergoing surgery, who later wish to detransition and live as their birth sex again. This is a controversial field because there are some people who feel that detransition undermines the notion that gender identity is innate and / or who argue that acknowledging detransition could be used by some campaigners to try to limit access to transition-related healthcare and surgery. Detransition and the possibility of regret after taking hormones / having surgery were topical at the time, with Keira Bell crowdfunding for a judicial review of the care she received as a teenager before she socially transitioned, took testosterone and underwent a double mastectomy, all of which she later regretted. Laura McGrath asked me whether I felt the OU would be hostile to her researching detransitioners. I said that I thought that she would be able to do this research at the OU because, as far as I understood his position at the time, Ian Fribbance would actively protect academics who did gender critical research.

209. After this meeting with Laura, I thought that we needed a space for people like her; a place where young scholars can talk about issues within a gender critical framework without being afraid. This is also part of the REF criteria for research environment – showing that the environment is conducive to helping early career researchers develop their careers. Creating networks which would help others thrive was again captured in the Professor Band 2 promotion criteria – *“Excellent and significant leadership with major, demonstrable results that have enabled others to succeed with achieving objectives”*.
210. As above, I love developing and building things. I had wanted to do more research capacity building within the Social Policy and Criminology Department, but I made no headway there as most people wouldn’t discuss research matters with me despite my regular attempts to get such conversations going (Keir Irwin-Rogers, Abi Rowe and Lynne Copson were the exceptions to this). So I naturally gravitated outside the Department to do the type of research capacity building that I wanted to do, and which was expected of me both as a Professor and also as Strategic Co-Chair of C20. Setting up and chairing a new research network like the OUGCRN was another way in which I was showing the research-related academic leadership expected of me in my role as Strategic Co-Chair.
211. In terms of the subject matter of the new network, I felt that it was essential that a space was created in academia where academics could safely explore the importance of sexed bodies without fear of hostility and intimidation, particularly when that research related

to the importance of sexed bodies over gender identity. As we wrote on the webpage for the OUGCRN when it launched, *“This research network brings together a range of academics and scholars, all of which share a common interest in exploring how sexed bodies come to matter in their respective research fields and a common commitment to ensuring that a space within academia is kept open for those explorations.”* [4108] I personally don’t really like the term “gender critical” mainly because I don’t think it fully captures the belief it describes: given the history of social theory in the area of gender, the term gender critical sounds like we are critical of the concept that gender is a cultural phenomenon, whereas most gender critical academics I know start from the idea that gender is cultural. Further, there are many academics who are critical of gender and also believe that sexual dimorphism is a social construct and that people can change their biological sex. Given that gender critical belief is about biological sex being immutable and important I felt that “sex realist” better describes the belief. However, I have come to accept that we are working within a context where ‘gender critical’ is now commonly used and understood to refer to a belief in the immutability and importance of biological sex, beliefs which I hold. It is also the term which is used for an emerging theoretical perspective in academia that deals with the profound socio-cultural, medical, political, and ideological changes in relation to biological sex, sexualities and gender (as in social roles and normative expectations), and gender identity. I believe that we need to rework our theoretical understandings to accommodate these changes and one way of reworking them is to centre the importance of sexed bodies.

212. It is important, in my view, to create and protect a space for gender critical research both for reasons of academic principle and because of the practical considerations of stifling research in an area which has seen rapid and profound social and organisational change. In terms of the former, in addition to the all-encompassing principle that no topic in academia should be off-limits, there are theoretical perspectives within this field that are sometimes presented as truths and which, I believe, others should be free to challenge without censure. The main such theoretical perspective is that biological sex is a social construct which is mutable and not binary. An example is the work of Ruth Pearce, Sonja Erikainen and Ben Vincent in the following article, *“TERF wars: an introduction”* [727-40], which includes the following:

***“Mobilising ‘science’ and ‘neutrality’ in exclusionary politics***



*The uses (and abuses) of truth claims in trans-exclusionary arguments raise questions about both the forms of evidence that are being used to justify these arguments, and the epistemic alliances that are being formed between self-proclaimed feminists and what have historically been 'gender-conservative' organisations (Krutkowski et al., 2019). As noted above, 'gender critical' feminists' arguments often run against (and ignore) decades of feminist theorising on the ontological and epistemic status of 'womanhood' and 'femaleness' (see also Hines, 2019). Gender scholars (e.g. Butler, 1990; Laqueur, 1990; Snorton, 2017; Warren, 2017) have shown how biological conceptualisations of sex are mediated by wider gendered as well as colonial and racialised norms that direct the social positions ascribed to different women and men, including one's ability to claim a position as a 'man' or a 'woman' in the first place. Western colonial narratives have not only constituted colonised racialised subjects as less than human, but also framed 'womanhood' and 'manhood' (defined in terms of white, European heteronorms) as characteristic of human culture, which colonised subjects were seen as unable to replicate due to their 'primitive' status. They thus remained female and male, at best, but were not granted the status of women and men (McClintock, 2013). This means that female and male are, themselves, socially constituted categories, changing over time and meaning different things in different contexts and for different people. Moreover, feminist science studies has demonstrated that gendered and racialised language appears throughout contemporary biology (e.g. Birke, 1999; Haraway, 1991; Hubbard, 1990), making it worthwhile to distinguish between biology as organisms' material organisation, and biology as the scientific discourse about that organism (Birke, 2003). In appealing to 'femaleness' as a 'biological truth', 'gender critical' arguments fail to account for how sex difference has itself been produced as binary through socio-biological discourses shaped by gendered and racialised ideas about 'womanhood' and 'manhood' (Fausto-Sterling, 2000; Laqueur, 1990). Yet, currently, 'gender critical' feminist groups are actively re-claiming 'femaleness' as a fixed, undeniable biological reality, and arguing that regardless of whether trans women are (socially) women, they cannot be '*

*female', because femaleness requires a particular biological makeup that one is born with (see Hines, 2019)."* [731-2]

213. In terms of the practical considerations of stifling research in this area, I don't think it's an exaggeration to say that people – mainly women, children and young people – are likely to suffer, or continue to suffer, unless academics are able to research the impact of social changes and gender-based medicine without fear of being branded a transphobe. In my field, the obvious example is the introduction into women's prisons of prisoners who are biologically male but who identify as women. From the mid-2010s until this year (see the recent change as detailed at [4026-8]), the prison service in England and Wales operated a type of managed self-ID system where male prisoners could be transferred into the female estate following a risk assessment. Possession of a GRC was not a requirement and is still not a requirement. As a result, male prisoners, many of whom will have had no surgery and some of whom have convictions for sexual violence, were incarcerated alongside women. Male prisoners who have a GRC were also placed in female prisons (according to their legal sex).

214. In practical terms, this means that male prisoners who have not medically or surgically transitioned can have access to, for instance, shower blocks. In prisons arranged in house blocks, all prisoners who live in a particular house block have access to the shower blocks – shower blocks are unmonitored spaces. Thus, depending on the prison, male bodied prisoners can access these blocks, even when women are in a state of undress. Male bodied prisoners who are accommodated in the general population in female prisons also have access to female cells. Hence, in May 2022, the story broke about a male bodied trans identifying prisoner having sex in Bronzefield prison with a young female offender [4007-9].

215. To my knowledge there has been only one study that looked at the views of female prisoners regarding the placement of males who identify as women in the female prison estate. This was an extremely small-scale project (interviews with 15 female prisoners in Scotland), (Matthew Maycock, *'She Was Just Like A Lassie': Analysing The Views of Cis-Women In Custody About Their Experiences of Living With Transgender Women In The Scottish Prison Estate*, *The British Journal of Criminology*, Volume 62, Issue 4, July 2022).

There remains no significant study that examines the impact of placing transgender prisoners according to GRC or self-identity from the point of view of female prisoners.

216. There has also been no independent (of the Ministry of Justice or any partisan lobbying group) research on how prison officers and managers in England and Wales perceive, conceptualise or manage the issues of transwomen in female prisons. Further, as above, risk-assessments were undertaken before males identifying as women were housed in the female estate, but there has also been no independent research or evaluation of the efficacy of the risk assessment practices or of the tools used in this case-by-case decision-making approach. This research is vital for evidenced-based decision-making and policies and for the wellbeing of female prisoners. From a REF perspective, this type of research could have significant impact.

217. A further example of important research which could have significant impact is research on detransitioners, including the reasons they detransition and the extent to which that decision relates to the nature and quality of the care they received before transitioning, which is Laura McGrath's research interest (see, for example, Laura's section in the OUGCRN newsletter from March 2022 in which she says, "*I am working on two relevant papers. One is a qualitative paper looking at detransitioners' experiences of gender medicine*" [3926]). Relevant context for this research includes the fact that the number of referrals for children and young people aged 17 or under to the NHS Gender and Identity Development Service ("GIDS") went from around 50 per annum in 2009 to 2,500 in 2020 (as set out in Dr Hillary Cass's Independent Review of Gender Identity Services for Children and Young People published in February 2022, the "Cass Review" [3899-3913]). The mix of those presenting to GIDS also changed from being predominantly biologically male children who presented with gender dysphoria in early childhood, to biologically female children whose gender dysphoria presented in early adolescence (see extract of the Cass Review at [3908]). The Cass Review noted another change in the case mix of referrals to GIDS, specifically that one third of those referred had autism or other types of neurodiversity, and there was an overrepresentation of looked-after children. Following criticism of GIDS in the Cass Review, the NHS closed the clinic [4020-4024]. These criticisms included the following: that staff felt under pressure to adopt an "*unquestioning affirmative approach*" to children and young people presenting with gender dysphoria, an approach "*at odds with the standard process of clinical assessment and diagnosis that*

*they have been trained to undertake in all other clinical encounters” [3902], and that many of the children had “complex needs, but once they are identified as having gender dysphoria, other important healthcare issues which would normally be managed by local services can sometimes be overlooked” [3912-3]. In this context, with a big increase in referrals and a clinic which was ultimately closed because it was unsafe, it’s arguable that the risk of detransition and regret for those who were unquestioningly “affirmed” in their preferred gender and set on a transition pathway is greater than if the service operated safely and without this unquestioning approach. On the topic of detransition, the Cass Review noted the following:*

- a) *“The issues faced by detransitioners highlight the need for better services and pathways for this group, many of whom are living with irreversible effects of transition but for whom there is no clear access to services” [3909]; and*
- b) *“4.24 .. There is also the need for more research to understand what factors contribute to the decision to detransition” [3910]*
- c) *“Internationally as well as nationally, longer-term follow-up data on children and young people who have been seen by gender identity services is limited, including for those who have received physical interventions; who were transferred to adult services and / or accessed private services; or who desisted, experienced regret or detransitioned” [3904]*

218. Dr Jon Pike, Dr Laura McGrath and I had spoken for a while about setting up a gender critical research group of some sort. We were in touch with other gender critical academics at the OU and discussed our ideas with them. Jon, Laura and I then did the work of setting up the network, including drafting content for the website and contacting potential members. Rosa Freedman also helped to contact external academics. We worked closely with Hannah Marston in the Health and Wellbeing SRA to set up the website. In terms of timing, I first approached Prof Sarah Earle about whether the Health and Wellbeing Strategic Research Area would host the OUGCRN around March 2021. Sarah and I discussed launching the network around Autumn 2021, but two factors brought it forward. First, and most importantly, was the Reindorf Review, which was published on 18 May 2021. This helped me understand what academic freedom really

meant in law as opposed to a general academic value, and helped me realise that there was a legal framework that would protect a group such as this. The second factor was the Forstater decision which came out on 10 June 2021 and which, we thought, would give us an extra layer of protection. We therefore launched the network on 16 June 2021.

219. On 4 June 2021, I sent an email to Jon, Laura and Rosa entitled “A proposal”. This said the following:

*“I would like to kick start the OU Gender Critical Network in the next couple of weeks. I have decided that I am not prepared to live with silence anymore. I am fed up to the back teeth of not talking about important areas of my research work with colleagues at the university – partly because there is no forum and partly because the overwhelming approach of the university has been to try and strike a ‘balance’ between people who feel unsafe by what we do and us doing our work.*

*My proposal: towards the end of June we **\*four\*** have a conversation about the implications of the Reindorf Review, about what ‘gender critical’ has come to mean, about our research and about the hopes we have for the centre. I can play chair. We upload that to the OUGCN website and then tweet and promote the crap out of it. An old mentor once said to me, if there is no research culture in the place you are working, CREATE one. Let’s start, eh?” [1165]*

220. Then, on 11 June 2021, the day after the Forstater decision came out, I started sending emails to external academics asking if they wanted to be members of the network. In an email to four academics at UCL, including Alice Sullivan, I wrote:

*“Myself, Jon Pike, Laura McGrath and a number of others (many of whom do not want to ‘come out’ in the open until after the first wave of reaction) have set up the Open University Gender Critical Research Network / Centre / Group (choose whatever nomenclature works for you).*

*The idea of the centre is very simple. We will provide a virtual and eventual face to face ‘space’ to discuss research, publications, grants, conferences, papers etc that are shaped by a gender critical perspective or has some type of gender critical relevance. We all know*

*the politics and have done our bits to push those forward, but this centre is intended as a \*research\* centre first and foremost.*

*We are 'launching' it next week. I say 'launching' coz it is not a normal one given the challenges we face (included the fact that every time Jon or I stick our head above the parapet the Exec Dean has to spend several days supporting the people 'harmed' by our presence.....). What we are doing is this: Jon, Laura and myself will be joined by Rosa Freedman to talk about what the centre will do and the need for a space for us to talk research. We will then upload the video podcast to the webpage and then tweet the hell out of it.*

*I am trying to collect as many affiliated members who have academic interest. If you would like to be part (and I dearly hope you will), please can you send me a short bio, a photo and a list of relevant publications, podcast or other types of published material and we will get you loaded up before we launch.*

*We were going to wait until the new year, but after the Reindorf review and Maya's case yesterday.... well, the timing seems superb." [1168] (By new year I meant new academic year, and I explain below the ways in which the launch was unusual).*

221. In my email to Kathleen Stock on 11 June, I wrote:

*"It's \*that\* time. We are doing a strange sort of launch for the GC network. Jon, Laura, myself and Rosa are doing a video podcast talking about the centre, the Reindorf Review and the need to have a 'space' for us to be free to talk RESEARCH rather than do the policking. We will then 'launch' the centre through tweeting the hell out of it.*

*So, please would you be an affiliated member?" [1167]*

222. And in my email to Selina Todd of 11 June asking her to be an affiliate member, I wrote:

*"I think I wrote to you a while ago telling you about the fact that Jon Pike, Laura McGrath and myself are setting up a research group at the OU – a gender critical research centre / group/ special interest group / network (choice whatever nomenclature you would like. At the moment there are only four of us prepared to put our heads above the parapet*

*although I know there are at least another 10 members of staff who are interested and want to be kept informed.*

*One of the purposes of the group is to be an official ‘space’ where those of us with an interest can come together – not to campaign but to actually talk about research, grants, writing i.e. be serious academics!” [1166]*

### **Membership and research interests of the OUGCRN**

223. The initial membership, our research interests and list of members’ relevant publications were set out on the OUGCRN website when we launched (see the website as it was then at [4108-4122]). We had nine full members and five affiliated members at the time of the launch. In addition to Laura McGrath and myself, the network’s founding members included the following academics:

- a) Dr Jon Pike, my Co-Convenor of the network. As above, Jon is a Senior Lecturer in Philosophy specialising in the ethics of sport. At the time, he was Chair of the British Philosophy of Sport Association. Dr Pike’s publications listed on the OUGCRN website included an article published in 2020 in the Journal of the Philosophy of Sport entitled, *“Safety, fairness and inclusion: transgender athletes and the essence of rugby”* [767-781]. Dr Pike’s work on the participation of transwomen in women’s rugby was included in one of the two impact case studies in the OU’s 2021 Philosophy REF submission [4357-60]. Extracts from this case study are as follows:

#### ***“Shaping ethical policy approaches to transgender participation in sex-based categories of sport***

*Based on Pike’s expertise in sport ethics, the governing body of Rugby Union, World Rugby, invited him to be the only expert witness on ethics at its February 2020 workshop on transgender sport in London [C5]. The two-day event brought together more than 30 experts from the fields of performance science, medicine, risk, law and social sciences to discuss the issue. Drawing on his work, Pike argued for a decision tree or ‘lexical priority’ approach to the question of transgender participation. This approach prioritises the duty to minimise essential risk rather than an over-simple ‘balancing’ approach. Pike’s evidence provided a philosophical context to two critical*

*pieces of scientific evidence presented at the event. The first study found female rugby players are at 20-30% higher risk of injury playing alongside transgender women, whose birth sex predisposes them to be physically stronger and faster. The second suggested transgender women who undergo hormone treatment retain male sporting advantage due to androgenisation (male puberty). Pike argued that considerations of safety, then fairness, should come first and second in the decision-making process, above consideration of inclusion into the women's game [C5].*

*After reviewing his evidence, later published, World Rugby concluded that:*

*"[...] safety and fairness cannot presently be assured for women competing against transwomen in contact rugby [...]. As a result of this process and based on the available evidence, it was concluded that a balance between safety, fairness and inclusion could not be provided for transwomen playing women's contact rugby" [C6].*

*On 9th October 2020, World Rugby published guidelines which excluded trans women from those women's rugby competitions that it directly organises. The guidelines represent the first clear break with popular identity-based arguments for transgender participation in sex-segregated sport [C6]. In a letter dated 21st December January 2020 Professor Ross Tucker, research consultant to World Rugby wrote "Pike presented a compelling case that was ultimately influential in how the World Rugby working group weighed the various arguments. In particular, he introduced a concept of lexical ordering, and contrasted two approaches, one where various values must be balanced, and another where they should be prioritized by a sporting organization in order to arrive at a decision" [C7]. He adds:*

*"Much of the content of his arguments to that workshop are now found in a paper he has had published in the Journal of Philosophy in Sport, titled Safety, fairness, and inclusion: transgender athletes and the essence of Rugby." [O5] These arguments, and the way of thinking, were then foundational to how the World Rugby Working group considered evidence in the domains of performance, biology, injury risk, legal risk and social considerations. Ultimately the position was reached based on that*



*evidence and expert input, contextualized through the philosophical framework that Dr Pike presented to the group” [C7]. [4359-60]*

- b) Dr Jessica Evans is a Senior Lecturer in Sociology at the OU. As stated on the OUGCRN profile at the time of the network’s launch, her research rests in systems and psychoanalytical approaches to organisations and culture and more broadly the place of emotions in public life in interaction with private life [4112].
- c) Dr Holly Lawford-Smith, an Associate Professor in Political Philosophy at the University of Melbourne. As stated on her OUGCRN profile at the time of the network’s launch, *“she has worked on climate ethics, collective responsibility and feminism. Her current research is focussed on radical and gender critical feminism...Her second book, Against Gender: Why We Need Gender Critical Feminism, is coming out with Oxford University Press in January 2022.” [4113]*
- d) Professor Selina Todd, Professor of Modern History at Oxford University and co-Director of the University’s Women’s Equality Research Network. Her profile on the OUGCRN website at the time of the launch said as follows: *“Her research focuses on the history of women, feminism and class struggle in modern Britain. Her book The People: the rise and fall of the working class 1910-2010 placed women at the centre of working class history. It was a Sunday Times bestseller and has been translated into several languages. Her most recent funded project examined the importance of sex-disaggregated data in policy making.” [4113]*

224. Affiliated members of the OUGCRN included the following academics:

- a) Professor Rosa Freedman, Professor of Law, Conflict and Global Development at the University of Reading. As stated on the OUGCRN website at the time of the launch, *“Freedman’s research focuses on the UN and human rights, and she has published extensively on UN human rights bodies and systems, and on UN peacekeeping and accountability for human rights abuses committed during such operations....Freedman is a member of the UN Secretary-General’s Civil Society Advisory Board on prevention of sexual exploitation and abuse, is a Specialist Adviser on safeguarding to the UK government International Development Committee, and sits on the UK FCO Women, Peace and Security Steering Group.” [4115]*

- b) Professor Alice Sullivan, Professor of Sociology at University College London (UCL) and Head of Research at the UCL Social Research Institute. The OUGCRN website at the time of the launch said the following about Prof Sullivan: *“Alice Sullivan’s research focusses on social and educational inequalities in the life course. She has made extensive use of secondary data analysis of large-scale longitudinal data sets in her research, with a particular focus on the British birth cohort studies of 1958, 1970 and 2000. She has published on areas including: social class and sex differences in educational attainment, single-sex and co-educational schooling, private and grammar schools, cultural capital, reading for pleasure, social mobility, and health inequalities....”* [4115-6]
- c) Kathleen Stock, who at the time was Professor of Philosophy at the University of Sussex. As stated on the OUGCRN website at the time of the launch, *“Her recent research focuses on the nature and impacts of sexual objectification, on sexual orientation, and on sex and gender...Since 2018 she has been speaking and writing publicly on gender recognition reform and associated matters...She was awarded an OBE for services to higher education in 2020.”* [4116]. Kathleen Stock also wrote *“Material Girls: Why Reality Matters for Feminism”*, published in May 2021. This ranked in the Sunday Times Bestseller List. A description of the book from its publishers, Hatchette, is as follows:

*“Material Girls is a timely and trenchant critique of the influential theory that we all have an inner feeling known as a gender identity, and that this feeling is more socially significant than our biological sex.*

*Professor Kathleen Stock surveys the philosophical ideas that led to this point, and closely interrogates each one, from De Beauvoir’s statement that, ‘One is not born, but rather becomes a woman’ (an assertion she contends has been misinterpreted and repurposed), to Judith Butler’s claim that language creates biological reality, rather than describing it. She looks at biological sex in a range of important contexts, including women-only spaces and resources, healthcare, epidemiology, political organization and data collection.”* [4089-91]

- d) Dr Hannah Marston was a Research Fellow in the Health and Wellbeing Strategic Research Area at the time the OUGCRN was set up. As stated on her profile at the time,

*“Hannah is an interdisciplinary researcher, and her interests lie in the fields of videogames, digital (health) technology, technology adoption, gamification, health, wellbeing, digital ex/inclusion, age-friendly cities and communities, ageing, and user experience. Hannah has published over 40 peer-reviewed journal papers, 10 book chapters, led and co-guest edited special issues and has presented her research at both national and international conference.”* [4117] The website also noted that Hannah was leading on two Covid-19 related projects, an international project on technology, social connections, loneliness, and leisure activities, and a second project on dating apps, social connections, loneliness and mental health in a pandemic. A lot of Hannah’s work relates to women and technology, in particular her work on technology and ageing (see, for example, [3926]).

225. In August 2023, a Contemporary Reader on Sex and Gender will be published by Routledge [4092-3]. This is edited by Alice Sullivan and Selina Todd and includes chapters from five members of the OUGCRN. I wrote a chapter, as did Kathleen Stock, Selina Todd, Alice Sullivan and Rosa Freedman (see the table of contents at [4094]). The book also includes chapters from Cathy Devine, Dr Lisa Littman and Dr Emma Hilton, all of whom have been involved in events held by the OUGCRN.

### **OUGCRN events**

226. A list of events and speakers organised by the OUGCRN since the network’s inception is at [4042-4050] and includes the following webinars: *“Detransition and gender medicine”* by Dr Lisa Littman, whose survey on people who have detransitioned was cited in the Cass Review [3911]; *“Sex, gender identity and sport”*, by Cathy Devine; *“Safe Spaces or psychological safety?”* by Simon Fanshawe OBE, co-founder of Stonewall; and *“Sex, Gender, and sport after Tokyo”* by Dr Jon Pike and Dr Emma Hilton.

227. These events were organised even though all members of the OUGCRN were hampered by dealing with the way our colleagues reacted to the network. We spent so much time dealing with the fall-out that it was very difficult to spend time doing the ordinary work of running a network, including running internal seminars, building a base of academics and planning a set of targets.

## Launch of the OUGCRN

228. We decided to have a pre-recorded, online launch with a podcast rather than a live event. A launch for a university research network like this would normally involve a live event with audience interaction and a special person to say a few words. There might also be someone from the senior leadership team to welcome the network. But we did not feel able to hold such an event, for a number of reasons. A live event requires advertising, and we did not want anyone to try to shut us down before we'd even started. Having experienced that at Essex, I was not prepared to risk something similar happening again. A live event, even online, also carried the risk that my colleagues would be harassed by members of the virtual audience. I wanted to protect all my colleagues from this, and in particular I was not prepared for Jon Pike and Rosa Freedman to be compared to holocaust deniers again.
229. We set up a Twitter account for the OUGCRN so that we could announce the launch, and we used the OU logo on our Twitter profile. I did not know that there was a process we had to go through to seek permission to use the OU logo, but once we were informed of this we removed the logo and submitted the form requesting permission, following which permission was granted.
230. I knew there would be pushback from colleagues at the OU when we launched the OUGCRN because I knew that there were colleagues who thought gender critical beliefs so beyond the pale that gender critical research should not be protected by academic freedom. But I thought it would be a continuation of the type of treatment I had already received: complaints behind our backs, cold shoulders, whispering campaigns, silence in Departmental meetings. I thought that there would be written complaints to the Dean in the same way as when Jon Pike and I signed the letter to the Times. I was steeled for those internal complaints and I remember rehearsing arguments in my head that I could make internally as to why our network should be treated in the same way as any other network. The way many of my colleagues actually reacted when we launched was never on my radar. In my view, these actions were unethical and unprofessional – I never thought that colleagues would sign public letters attacking the network and its members. I didn't expect it to get so personal and the public nature of it was a shock.

## The Open Letter

231. The Open Letter was published on 17 June 2021. This letter, headed “*Open Letter from OU Staff – Response to the Launch of the Gender Critical Research Network*”, was in the form of a Google Doc that was publicly available. The Open Letter with its original 22 signatories is at [1318-1320]. I will deal with the content of the Open Letter first and how I understood it, and then I will address the signatories and the effect it had on me.

232. In terms of my overall impressions of this letter, I remember the shock of first seeing that it was public. Everyone could see this letter from my colleagues who were, in their capacity as OU academics and staff, saying that gender beliefs and the research network I co-founded were fundamentally hostile to trans, non-binary and genderqueer people. To me, the message it was conveying was that I and my colleagues in OUGCRN were monstrous people who were hurting vulnerable staff and students to such an extent that we were causing the OU to breach its legal obligations to those staff and students. This letter was also calling on the highest level of the University, the Vice Chancellor’s Executive Team, to kick my research group out of the University and to stop me from doing an important part of my job, namely building research capacity. It made out my, and my colleagues’, research endeavour to be a serious problem that the University had to sort out.

233. The following are extracts from the Open Letter along with my thoughts:

- a) *“We, the undersigned Open University faculty and staff, write to express our profound disappointment and concern at the recent launching of the Gender Critical Research Network as a special interest group within the Health & Wellbeing strategic research area, which is being hosted on official OU channels ” – i.e. they were signing in their capacity as OU employees and wanted this to be public knowledge.*
- b) *“‘Gender critical’ feminism is a strand of thought and belief that is fundamentally hostile to the rights of trans, non-binary, and genderqueer people.”*

It is fairly common for people to think that “gender critical” and “gender critical feminism” are the same thing, hence this letter about the OU Gender Critical Research

Network assuming that we were a gender critical feminist network. This section of the letter isn't saying that \*some\* people with gender critical beliefs are hostile to the rights of trans, non-binary and genderqueer people, but that we are all hostile because the belief is inherently hostile to the rights of these groups. This is a dangerous stereotype presented as a fact. The Open Letter doesn't identify the rights of trans, non-binary and genderqueer people which gender critical belief is allegedly hostile to, nor does it evidence this. I do not believe that there is anything fundamentally hostile to the rights of these groups of people in the belief that biological sex exists, matters, is immutable and is not the same as gender identity. For me, there is no difference between this pernicious and inaccurate stereotype about gender critical belief and any other negative stereotype about religion or protected belief, for example the slur that Islam is fundamentally opposed to democracy.

- c) *"We are concerned that the OU's decision to approve and promote this network is in conflict with its obligations under the Equality Act 2010, and particularly the Public Sector Equality Duty regarding gender reassignment."*

I took this to mean that the signatories of the letter believed that the network's mere existence as part of the OU was causing the OU to act unlawfully and breach its equality duties to trans staff and / or students.

- d) *"...the EAT also highlighted that manifesting gender critical beliefs by misgendering or harassing trans people in a context covered by the Equality Act, such as the workplace, would likely amount to unlawful discrimination. We are concerned to see that the Gender Critical Research Network is already using OU platforms to circulate prejudicial statements. For example, the Savage Minds podcast episode linked to from its Open University homepage, and via the FASS academics newsletter (Issue 36: 7 June 2021), contains references to trans women as 'men in dresses' (00:58:41); explicitly argues against trans rights (00:55:22); and incorrectly claims that the LGBT rights organisation Stonewall is suggesting that lesbians should 'suck female cock' (00:57:03)"*

The Savage Minds Podcast is a podcast that I participated in with the host, Julian Vigo. The main topic of discussion was my unlawful treatment by Essex. A full transcript of the podcast is at [1005-49]. I take each of these points in turn.

- (i) There are no “references” to transwomen as ‘men in dresses’, let alone references plural. The extract from the podcast cited in the Open Letter is as follows, along with the conversation that preceded it.

“00:57:20:17 - 00:58:54:03

**Julian Vigo:** *And you know, you talk about the eighties and nineties, I just interviewed last week, Tim McFeeley, who was the head of the DC HRC during the height of AIDS in the US, and we went over what were the issues then and gay men were dropping like flies in the major cities, including London, but in the US as well. And somehow the gears got changed in the nineties and towards the mid-to-late nineties and there's a real problem of the organisation doing its due diligence to support its said community. That community, it's described in its mandate and suddenly shifting without asking its own members if this is something they even want to be involved with. And the reason that this happened without any kind of consultation, no organisation to my knowledge, has done this and I worked with a lot of gay and lesbian organisations in New York in the nineties. No-one has asked the question, why wasn't that asked? Because I remember when I came back to New York in the late nineties, I had been out of the country for a year or two and I thought, What's the T? I remember saying this, what's the T? Transgender? And I'm like, what is that to do with us? Because I always compare this to like, you know, I'm an anthropologist. Are they going to just add on stevedores tomorrow, anthropologists and stevedores like. Ask me or you know, give us the choice. And then you saw in London, remember Diva, Diva?*

00:58:54:19 - 00:58:56:14

**Jo Phoenix:**

*Oh, gosh, yes.*

00:58:56:14 - 00:59:37:19

**Julian Vigo:**

*Diva was trans-central. And I had a lot of prickly conversations with some lovely friends in London. I had to stop going to certain events in London as well, because*

*they became a hotbed of queerness and [unclear – sounds like ‘inviting’ or ‘inciting’] with men in dresses, which fine, I have no problem with men who wear dresses. I really don't. But if I wanted to go out and have a night with other gay women, I would not choose to go to those events because I felt like I was being pandered to, you know, reminded me of what Christians do in the Deep South when they come to your door and offer you a Bible because you're at home at 10:00 on a Sunday morning.” [1041-42]*

- (ii) Diva was a lesbian magazine, which is what I thought Julian was talking about when she mentioned it and when I said “oh gosh yes”, but then I didn’t really understand the connection with what she went on to say.
- (iii) When Julian talked about a hotbed of queerness and “men in dresses”, I understood her to be talking about the drag-queens and cross-dressers on the London scene in the 1980s and 90s. Drag queens – gay men in dresses who were out gay men and who definitely did not identify as women – were a central pillar of the gay and lesbian scene back then. They were mostly comedic, camp performers who used lots of lewd innuendo. The gay and lesbian scene in the 1980s and 1990s was a “hotbed of queerness” – everyone who broke the rules / gender norms in one way or another was welcome. I understood Julian talking about a “hotbed of queerness” and men in dresses to be referring to this scene. ‘Queer’ is a term I come across a lot in my work – there is a Queer Theory module in the OU Criminology module – and ‘queer’ does not mean trans. Stonewall’s definition of a queer is at [4165] and I think it is accurate, in particular how the word was reclaimed in the 1980s to refer to the collective lesbian and gay community to which I belonged. I do not think there is anything wrong or transphobic in Julian saying that she did not want to spend time with men in dresses when she is talking about wanting to be in spaces exclusively with other lesbians. I have no idea and didn’t at the time what Julian meant by her comparison with London in the 80s / 90s and the Deep South.
- (iv) The next allegation in the Open Letter is that the podcast “*explicitly argues against trans rights*” with the time stamp of 00:55:22. This is when I was speaking. The Open Letter is saying that I explicitly argued against trans rights.



Below is the transcript of the section when I was speaking, including 00:55:22. I was critiquing the campaigning tactics of Stonewall. I do not see how this can reasonably be interpreted as me arguing against trans rights:

*“00:54:29:08 - 00:54:46:18*

***Jo Phoenix***

*...So then I was thinking, but Stonewall for two decades, it did such good. Do you know what I mean? It's like they, Stonewall, were, they were a vanguard in the UK around not discriminating in an employment context against lesbians. And it used to just be lesbians and gay men. But, you know, then it became lesbians, gay men and bisexuals, and then it became the whole rainbow alphabet. But they used to be a real force for good. And when I looked at employers and saw that they'd had Stonewall training or something like that, I thought, oh good, I can come out.*

*00:55:14:17 - 00:55:40:16*

***Jo Phoenix***

*Yeah, but something happened. And it was the point at which they, they, they brought in a no discussion policy around trans rights. I think that was the biggest single tactical folly of any campaigning group ever, because at that point they no longer represented their constituencies. And I'll put a plural there because you know, anyone I'm a lesbian, I've been out since 1979, right.*

*00:55:40:16 - 00:56:13:00*

***Jo Phoenix***

*And I can tell you that the eighties and the nineties were terribly fraught times between gay men and lesbians. So we know that all of us in this rainbow panoply of people haven't necessarily always fought on the same side, right? So at that point, Stonewall stopped representing its constituencies and decided to represent a single constituency. And of course they started campaigning in their advice rather than giving legal sound advice.*

*00:56:13:05 - 00:56:38:07*

***Jo Phoenix***

*Now, I'm just going to say one more thing here. Of course, it is the responsibility of any university, Essex included, to ensure that the advice they are given is lawful. So that whole question about outsourcing to Stonewall, I think that they, the good University, if you like, will be one that maybe doesn't even renew their partnership with Stonewall." [1039-1040]*

- (v) The final reference to the Savage Minds podcast in the Open Letter says that the podcast *"incorrectly claims that the LGBT rights organisation Stonewall is suggesting that lesbians should 'suck female cock' (00:57:03)".* Julian Vigo said the following about Stonewall at 00:56:59:18 - 00:57:20:09 *"I hope they do. I'm not a big proponent of no platforming people from their jobs or whatnot, but this is not a job. This is an organisation that is peddling absolute homophobia in my view. I think there's something really disdainful and vile about an organisation telling women to suck female cock, to just get over it, just get over it."* [1040-1] This is obviously crudely expressed, but in my view, and in the view of many other lesbians I know, it is a valid criticism of Stonewall's position that a male person with a penis is a lesbian if that person identifies as a woman and is attracted to women. As above, Stonewall have campaigned that *"Trans Women Are Women, Get Over It!"* and its CEO compared women who will not date transwomen as akin to not dating disabled women or women of colour, saying that it's part of prejudice within the LGBTQ+ community. I and Julian Vigo, like many other lesbians, view that as undermining our right to set our own sexual boundaries and to define ourselves as same-sex attracted.
- e) *"The OU's mission is to make higher education open to all, as well as promoting social justice and equality, as acknowledged in recent Pride statements which affirm the OU's support of LGBTQ+ staff and students. Furthermore, the OU's Gender Identity Policy and Guidance states that staff have a responsibility to 'respect the dignity of all students and their self-identified gender status' and that OU students should be able to study in an environment 'free from discrimination, harassment and victimisation in a place where everyone is treated with dignity and respect'. We believe that the OU has a duty of care towards it trans, non-binary and gender non-conforming students and staff, and that the Gender Critical Research Network directly impedes this duty."*

As well as explicitly saying that our research network prevented the OU from discharging a legal duty of care to trans, non-binary and gender non-conforming students and staff, this paragraph of the Open Letter damned me and other members of the OUGCRN by insinuation. It insinuates that I and my colleagues do not respect the dignity of all students, that we do not treat everyone with dignity and respect, and that the OUGCRN's existence meant that students had to study in a discriminatory environment where they suffer harassment and victimisation.

- f) *"We stand opposed to the backing of this network by the OU, including the use of official OU social media platforms, OU branding and the alignment of this network with the Health & Wellbeing SRA."*

Here the signatories are explicitly saying that they are opposed to the OUGCRN being part of the OU. I have seen Professor Sarah Earle's witness statement and I will not repeat all of the benefits to the network of being part of a Strategic Research Area and of being a formal part of the OU. The signatories of this letter are calling on the OU to remove all these benefits from the research network and to prevent it from existing as part of the OU because they do not agree with gender critical beliefs. In reality, this would have meant that the OUGCRN could not have existed, because it would not have had any official OU presence online and it wouldn't have had any administrative or technical support. The network would not have been able to function as a research network.

- g) *"We do not believe that freedom of speech or academic freedom should come at the expense of marginalised groups, such as those possessing protected characteristics under the law. This includes honouring commitments made in the OU statement of principles on academic freedom to take action to avoid hostility, degradation and harm, for instance, 'in promoting our ideas we will make every reasonable effort to minimise the risks of any harm, either physical or psychological, arising for any person, institution or community'."*

This conveys the signatories' belief that the OUGCRN caused hostility, degradation and / or harm to trans, non-binary and gender non-conforming students and staff.

h) *“We call on the OU Vice Chancellor’s Executive Team to take the following actions:*

- 1. To withdraw its public support for and affiliation with the Gender Critical Research Network*
- 2. To affirm their position as a trans inclusive employer*
- 3. To commit to developing a concrete plan of action for supporting and affirming trans students and staff in this trans-hostile external and internal environment.”*

Taking these numbered demands in order:

- (i) In 1, the signatories were calling on the highest level of the University to prevent the OUGCRN from existing as part of the OU. Being part of a strategic research area, having a visible presence on the OU website and being able to use the OU logo, all come within OU “public support for and affiliation with” the OUGCRN.
- (ii) Number 2 conveys the signatories’ belief that the GCRN existing as part of the OU meant that the OU was not a trans inclusive employer and that our network created a need for the OU to affirm its inclusive approach to trans employees.
- (iii) Number 3 is saying that the OU needs a plan to heal the harm caused to trans staff and students by the OUGCRN. The reference to *“trans hostile...internal environment”* is saying that the OUGCRN is hostile to trans people and is making the OU in general a hostile place for trans people.

234. The Open Letter focuses on me. It does not name me, but the only “examples” of “prejudicial” statements given are in a podcast in which I feature and no other network member. One of those “prejudicial” statements is an extract in which I am speaking. Research networks are, obviously, networks of academics. When you look at the OUGCRN webpage at the time, my picture appeared first as Co-Convenor of the network [4108-9]. I was also the most senior academic in the membership and so many would have seen me as the figurehead, even if we had two co-convenors. I believe it is likely that most of the people signing the letter would have looked at the OUGCRN’s website, and many of those who read the letter would also have done so. This is not to minimise the impact that the

letter had on other members of the network who were also named with photographs on the OUGCRN website, and who I know were all badly affected by this.

### **Signatories to the Open Letter and its impact on me**

235. As above, there were 22 original signatories to this letter. The first signatory is Dr Downes, my colleague in Criminology. Dr Downes signed in their capacity as “Lecturer in Criminology & FASS Academic Lead EDI”. The fourth signatory was Dr Avi Boukli, who was soon to become my Deputy Head of Department. It had become standard practice for the next Head of Department to have held the role of Deputy Head. When Prof Nicola Yeates was Head of Department, Steve Tombs was her Deputy; Deb Drake was Steve Tombs’ Deputy when he became Head; when Deb Drake was Head, Louise Westmarland was Deputy and Louise then became my Head of Department. So it was likely that the next Head of Department would either be Avi Boukli or Vickie Cooper (who were Co-Deputies).
236. I was therefore faced with a situation in which my Departmental colleague and Faculty Lead for Equality, Diversity and Inclusion, and my soon-to-be Deputy Head of Department, were publicly calling for the OU’s Executive Team to take action that would prevent me from doing an important part of my job. This was highly damaging not just for my ability to work within the Department but also my external reputation. Academics outside the OU would see that in the first four signatures were two members of my Department, one of whom was signing in an EDI capacity. I feared that this meant that many external academics who read this letter were therefore likely to assume that both Dr Downes and Dr Boukli had direct and accurate knowledge of me and my views. It was also deeply humiliating, both personally and professionally, to be condemned by colleagues in this public way.
237. Many of the other original 22 signatories I knew and worked with: Dr Kathryn Medien was one of the academics contained within the C20 REF submission, and I had read and encouraged her work; Dr Helen Bowes-Catton likewise was an academic included in C20; Dr Simon Carter too was part of the C20 submission; Dr Ece Kocabicak I worked with on C20 and had read and encouraged her work; Prof Jo Brewis – that was a bitter stab as I considered Prof Brewis a friend and she had given me my first ever publication in her edited book when I was a PhD student; Prof Peter Keogh again was part of the C20

submission; Dr Mathijs Lucassen was the Impact Officer for C20 and I worked closely with him.

238. All of these original signatories had collaborated to write and / or sign a public letter which they must have known would make my working life extremely difficult. This felt like a betrayal and made me wonder how I could possibly continue to do my job when so many important colleagues were so openly hostile to me, my research and my beliefs.
239. Once the letter was published and there were calls both on social media and on OU emails encouraging further signatures (which I describe below), the number of signatories grew and grew. There are 368 in the final version [4726-4735]. I would sit watching these names flying up on the page. Some I had worked with directly; some were in C20; others I had never heard of. Some were academics, some worked in central services including colleagues who did the technical and managerial side of module production. Some were very senior, including 21 professors. It felt like there was nowhere in the University where someone hadn't signed the letter. I think that the only School which doesn't include a signatory is the School of Law. So many of these signatories were people that I would have to work with as part of my job, whether that was in my Department, as part of my C20 REF work, or as part of module production and presentation.
240. When this letter was published and the names kept growing, I felt that things were broken. I was being expelled from the OU community. I knew when I saw this letter that everything would change for me at the OU. There is a concept in sociology and criminology of 'master status', which is part of 'labelling theory'; the idea is that certain statuses (or ascribed identities) have the capacity to wipe out all others. Being a criminal is one of them. This is how I felt about being branded harmful to trans students and staff by my colleagues: I was in effect being publicly called a transphobe by my colleagues, and that was likely to wipe out all my other professional statuses in the OU and possibly in the criminology profession as a whole. I feared that I would now always be known as a transphobe that created such a hostile environment for trans staff and students that hundreds of my colleagues felt the need to call on the OU executive to take action.
241. Practically as well as emotionally I wasn't sure how I could continue to do my job. For example, production teams for modules are often formed and then disbanded after

several years once the module has been produced, and so module production staff move around a lot. These include all kinds of people who provide technical and administrative assistance. I thought, how would I know if someone who signed the letter would cooperate with me if assigned to work with me, or even if they hadn't signed it, how they would react if their colleagues had spoken to them about it? On C20 REF-related work, I wondered how I could trust colleagues to collaborate with me openly and collegially when they held such awful opinions about my beliefs, and when they were publicly campaigning to expel my research network from the OU. And I knew that I couldn't trust my incoming Deputy Head of Department to support me and treat me fairly.

242. I watched the names come rolling in, and then I had to stop looking at the Open Letter. I remember thinking, this is a wildfire that has spread through the entirety of the corporate body of the OU. I thought, I'm sunk. There's nowhere in the University where my name wouldn't be known as a transphobe. Some days, I would think, I can manage this, I was homeless in Texas as a teenager, I can handle this. But on other days, it broke me. I couldn't cope. This came to a head around the end of June 2021 when I started experiencing symptoms of PTSD, as I describe below.

243. In terms of the environment this created for me, it's hard to describe how hostile it was and how humiliating, as a person of good standing in my academic community, to face these untrue public accusations. It was also intimidating given the content and nature of the letter that I've set out above, the fact that it was public, the hundreds of colleagues who signed it in a short space of time, and because of the dangerous environment for gender critical academics which I feared would be stoked by this letter and had the potential to result in violence. The inaccurate, pernicious depiction of gender critical belief as fundamentally hostile to trans rights and "trans-hostile" in general was also deeply offensive to me and so far from the truth about what I believe.

### **WELS Statement**

244. On 24 June 2021, a statement was published on a public Faculty website [1624-5], The Faculty of Wellbeing, Education and Language Studies ("WELS"), and was referred to as a "position statement" [1846]. So this statement, the "WELS Statement", was being endorsed publicly by a University faculty. It came from the majority of members of the

Sexuality and Reproduction Special Interest Group which was part of the Health and Wellbeing SRA.

245. The first paragraph of the statement said:

*“We, the undersigned, make up the overwhelming majority of the Reproduction Sexualities and Sexual Health Research Group and the Sexuality and Reproduction SIG. We are writing to express our dismay at the establishment of the gender critical research network (GCRN); to request that all university support for the network is withdrawn; and that GCRN are removed from the Health and Wellbeing Strategic Research Area (HWSRA) and all other Open University websites. If these actions are not taken, we have regretfully taken the decision that we must close our SIG, and will instruct the HWSRA to remove any reference to us or our work from their online presence and other materials from the HWSRA. We list our reasons for this request and our decision below.”*

246. This was a demand that the OU expel our research network from the OU, which would deny our network all the benefits of being part of the Health and Wellbeing SRA and of having an official OU presence, all because of our protected beliefs. As above, the network could not have functioned as intended without an official OU presence online and without the administrative and technical resources that came with being a recognised part of the University’s research infrastructure.

247. The second paragraph of the WELS Statement lists a set of victims including gay men during the AIDs crisis and refugees, groups who any right-minded person would recognise have been treated unjustly. It compares these groups with trans people in the UK, claiming that *“The Times has published, on average, two articles per day in the last two years on trans people, the vast majority of which actively question their right to exist.”* No examples are given of The Times actively questioning the right of trans people to exist. I assumed the authors of the statement were referring to questioning the implementation of a very liberal policy of self-ID – which is not questioning the rights of trans people to exist, just a specific policy instrument.

248. This second paragraph makes other statements that I would agree with, in particular that there are States in the US that are rolling back trans rights. The third paragraph refers to



a health crisis among trans people in the UK, which I would again agree exists (so much so that I think it is one further reason to retain a separation in research between females (biologically speaking) and transgender identifying male and females. It is only through recognising their different needs that we can craft better services for them). In these second and third paragraphs, the WELS Statement takes some real and important issues facing trans people – the rolling back of trans rights in the US, violence against trans people, trans health and healthcare – then suggests in the fourth paragraph that the members of the OUGCRN are contributing to these awful trends: *“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 trans-phobic tropes.”* This is saying that the existence of the OUGCRN undermines work which saves lives; in other words, that we in the OUGCRN were contributing to an environment that kills trans people. No examples were given of these “transphobic tropes” which were allegedly repeated by the OUGCRN.

249. The statement goes on in the fifth paragraph to *“question the good faith of this network’s aims”*, for a list of four reasons. This, of course, was questioning the good faith and professionalism of those of us who set up the network given that a research network is a collective of academics. It is also implying that we were lying about the network’s aims.

250. The first reason for questioning our good faith was that *“(a) 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.”* At the OU, it was not normal to have a consultation process with all potentially interested parties before launching a Special Interest Group, or ‘SIG’, which was the technical name for a research network like ours that sat within an SRA. As above, I discussed the new network and the process for setting it up with the Director of the Health and Wellbeing SRA, Prof Earle, and there was no mention of needing to first consult every colleague who works on matters related to health, wellbeing and gender. This would have been massively time consuming and burdensome. Instead, when we launched we said on our website that *“we encourage membership from across all faculties and from*

*outside the university*” [4108], and we also said that both Jon Pike and I as Co-Convenors were happy to field enquiries [4109]. It was obvious that the OUGCRN was open to new members joining the network and that we were open to discussion, so the only reason I can see that the signatories of the WELS Statement would have had for this particular criticism is that they would have wanted to try to stop the network from being established. I knew that there were colleagues in the OU who were hostile to gender critical beliefs, so I wasn’t going to go to great lengths to try to include people in a research endeavour who I knew would not want to be involved and who, worse, might try to stop it.

251. The second reason given for questioning the good faith of those of us who founded the OUGCRN was that “(b) *Notwithstanding what the network claims to take as its focus, the term ‘Gender Critical’ is widely perceived as questioning trans-people’s self- identity. Language and terminology matter, and we cannot but conclude that this name was chosen as a deliberate provocation to trans communities.*” My reaction when I read this was to double take and to think, WHAT?! They were suggesting that we were lying when we described the network’s focus, that we were lying when we described our research interests in sexed bodies, and that we deliberately chose our name to provoke trans staff and students, i.e. that in setting up the OUGCRN we intended to cause distress to a vulnerable group. We chose the term Gender Critical because that is the expression used to describe a belief in the importance of biological sex as a category for analysis separate from gender identity. The term is widely used and understood to refer to this belief, including by the Employment Appeal Tribunal. That was the framework for the research network, to look at how sexed bodies come to matter in our respective fields of research.
252. The third reason given for questioning our good faith in establishing the network was “(c) *Despite claims otherwise, the network immediately began to share materials containing transphobic comments made by its members. We ask that this network be judged on its immediate and flagrant actions and not on how it describes itself on its webpage.*” Once again, no evidence is provided to back up this allegation that the network began to share materials containing transphobic comments made by its members. I took deep offence at the phrase ‘flagrant actions’ and still do. I understand the phrase to mean obviously immoral and wrong. This third reason also continues the theme of the WELS Statement that the OUGCRN was, in reality, a transphobic group that was founded to pursue a transphobic agenda rather than to carry out legitimate research in accordance with our

stated aims. In other words, that I and the other founders of the network were deceptive and dishonest.

253. The final reason given by the signatories of the WELS Statement for questioning our good faith in establishing the network 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”*. This is incorrect and obviously so from the information available on the OUGCRN website at the time. It is also not relevant, because the stated aims of the network were clearly compatible with the theme of Health and Wellbeing, specifically how sex bodies matter and *“the importance of sexed bodies for health and welfare”* [4108]. Even if it were true that so few members researched health and wellbeing related topics, academics not only can and do develop their research interests into new fields within their discipline, this is looked upon positively by universities.

254. Throughout my career at different universities, my work has often been located within thematic groupings that include wellbeing. As above, the Centre of Sex, Gender and Sexualities that I founded in Durham was part of Durham’s Wolfson Research Institute for Health and Wellbeing. At the University of Bath my research was submitted to the Social Work and Social Policy Unit of Assessment and was described as part of the overall wellbeing thread of research within my then department. Examples of how my work fits within the theme of health and wellbeing are as follows. My research on prostitution looked at how girls were classified as victim or offender and how that classification determined whether they went down the prison path or the welfare path. This relates to the wellbeing of those girls. My work on child sexual exploitation also relates to the safety and security of children, which comes under the theme of wellbeing. More recently, as detailed above, my work on trans prisoner placement policy used data from a longitudinal study on the mental health and wellbeing experiences of correctional officers (prison officers) employed by Correctional Services Canada. It was in this context that I carried out research on prison officer recruits’ experience of trans prisoner placement and how they perceived and experienced the challenges that posed. In addition, prisoner placement relates to the wellbeing of both transwomen and female prisoners. My work on prostitution and child sexual exploitation was included in my profile on the OUGCRN

webpage at the time of the launch [4109] and my recent work on Canadian prison placement policy was the second publication listed in the network's list of publications [4118].

255. Jon Pike's recent and influential work on transwomen in women's rugby is the fourth publication listed on the OUGCRN website: "*Pike, J. (2020) Safety, fairness, and inclusion: transgender athletes and the essence of Rugby, Journal of the Philosophy of Sport.*" [4119] This work relates to the significantly increased risk of injury to female rugby players if transwomen participate in the female category, and it analyses concepts of safety, fairness and inclusion, all of which relate to the wellbeing of female rugby players and trans women rugby players.
256. As above, Laura McGrath's work was also related to health and wellbeing. Her profile on the OUGCRN website from the time of its launch included the following: "*Dr Laura McGrath is a Lecturer in Psychosocial Mental Health in the School of Psychology and Counselling...Laura's research interests cluster around the role of context – social, material and political – in experiences of health and wellbeing....She also has a developing interest in women's health.*" [4110-11]
257. As for the OUGCRN's affiliated members at the time of the launch, Dr Hannah Marston's OUGCRN profile at the time is described above, including her work on digital (health) technology and loneliness and mental health in a pandemic; Professor Freedman carries out research on human rights abuses by UN peacekeepers and specialises in safeguarding and the prevention of sexual exploitation, which relates to the safety and security of those at risk of sexual exploitation [4115]; Professor Alice Sullivan's listed research included research on health inequalities [4115-4116]; Professor Kathleen Stock listed work included research on the nature and impacts of sexual objectification, on sexual orientation, and on sex and gender, all of which relate to wellbeing [4116]. Further, her book *Material Girls*, which is listed on the OUGCRN's website at [4119], looks at why sex matters in various contexts including healthcare and epidemiology [4090].
258. Moving on to the rest of the WELS Statement, the seventh paragraph includes the following: "*There are many reasons why our research group must actively disavow any real or perceived connection with this network and we would strongly advise the university to*

*do the same... it runs directly counter to the values of our most valuable research collaborators in the areas of gender and health, who are committed to trans health and serving the needs of trans people e.g. the LGBT Foundation, Frontline Aids, the International Planned Parenthood Federation, MESMAC and The Bisexual Index. This makes our position with current and future funders extremely difficult.*" This is saying that I and the other members of the OUGCRN are not committed to trans health and serving the needs of trans people, which is untrue and is a horrible slur. As with the rest of the WELS Statement, the authors and signatories offer no evidence to support their allegations. This section also suggests that no research network should be formed which might present a point of view disliked by groups outside the University who act as research partners. This is not sensible.

259. The WELS Statement ends with the following:

*"We ask:*

- *That the HWSRA and the OU more widely withdraws endorsement of this network. We cannot accept the argument made in last Friday's statement on the intranet that OU does not resource nor endorse this network: it funds the SRA and the group's webpage represents OU's investment and endorsement.*
- *That a full enquiry is made 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.*

*Failing this, we have 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."*

260. This final paragraph is really distressing. It's a threat to try to destroy the Health and Wellbeing Strategic Research Area if the OU didn't expel our research network from the University. The Health and Wellbeing Strategic Research Area wouldn't be able to function

if lots of academics boycotted its events, and it would effectively cease to exist if all other research networks withdrew from it. The signatories of the letter knew this.

261. I remember when I saw this letter go up that I felt that the signatories were going to take from me the main thing I have in this world, which is my name and the professional reputation that I built over the last three decades. Reputational damage in the academic world is enough to ruin someone for good because universities operate on economies of favour. I could see this destroying my reputation even more than the Open Letter because this was on the OU's official webpage and part of an official SIG statement.
262. I feel that the WELS Statement was deliberately hostile and intimidating with its threats of boycotts and encouraging action to destroy a Strategic Research Area, which was a research endeavour that colleagues had spent years developing and running. I felt, and still feel, so upset for Sarah Earle and the impact this statement had on her and the Health and Wellbeing SRA. The statement was also deeply offensive. At the time of writing this witness statement, the WELS Statement is still on the OU website.
263. The combination of the WELS Statement, which is publicly available to the world on a faculty website, and the Open Letter, was devastating to me. It was deeply shaming and humiliating to have so many colleagues sign public letters denouncing me and my work. My thoughts were that I have been unjustly monstered and that there was no corner of the University who will not have seen these letters. I feel that these letters violated my dignity.
264. Nowhere felt safe to me from these hostile, offensive, humiliating and degrading accusations. My colleagues had managed to taint every aspect of my working life.
265. In relation to both the Open Letter and the WELS Statement, it is so unusual for academics to behave like this. It breaches so many of the unwritten rules within academia - you never play the person, you always critique the ideas. To have my motives and good faith questioned publicly by my colleagues in relation to my academic work was deeply distressing. I have also never known of any academic to ask the executive to stop supporting the work of fellow academics.

**Statement by the OU's Knowledge Media Institute**

266. The Knowledge Media Institute (KMi) was part of the OU and hosted the Health and Wellbeing SRA's website on its servers. Sometime in June 2021, after the launch of the OUGCRN, I became aware of a public statement that KMi had published on its website [1607]:

*"The Gender Critical Research Network (June 2021)*

*We are aware that this research network appears on our domain.*

*KMi's involvement with the Health & Wellbeing Research Networks is in a parallel Special Interest Group (SIG) on the topic of Digital Health & Wellbeing. We are disassociating ourselves from the new Gender Critical Research Network because KMi do not condone or support the views of that SIG. This will not limit the free speech or academic freedom of this group. We are working with the Health & Wellbeing Strategic Research Area to move the content onto non-KMi servers. This may take a few weeks. We aim to have removed 'kmi' from the GCRN research network URL soon.*

*Especially, but not only in this Pride month, we believe that the health, wellbeing and inclusion of trans and non-binary staff, students and across the globe is paramount."*

267. This was yet another statement on the OU website that was publicly available and which condemned our research network. This public announcement effectively said that our group was so bad and harmful that KMi wouldn't support us or be involved with us in any way. The sentence at the end suggests that the OUGCRN, and association with our network, was antithetical to the health, wellbeing and inclusion of trans and non-binary staff and students. This compounded the feeling I had that every corner of the University was hostile to me and my beliefs; that nowhere was safe.

268. As a lesbian, I also found the reference to Pride month particularly offensive. My gender critical beliefs are greatly influenced by the fact that I am same-sex attracted, as I explain above. This is meant to be my month too, but my experiences as a lesbian who had founded a network about the importance of sexed bodies counted for nothing. I'm not sure it will even have been considered by the authors of this statement, which is in keeping with one of the types of discrimination faced by lesbians: invisibility.

### **The LGBT+ Staff Network**

269. I also had to contend with the following hostile and offensive messages about the OUGCRN and gender critical belief being made to and by the LGBT+ Staff Network. This was a place where I should have felt safe and welcome, but it just became yet another hostile part of the OU from which I felt exiled.

#### ***Message on behalf of the OU's LGBT+ Staff Network Committee, 18 June 2021***

270. On 18 June 2021, Shaun Daly, the OU's Head of Resourcing and Co-Chair of the OU's LGBT+ Staff Network Committee, issued a statement on behalf of that committee. The statement was published on the LGBT+ Staff Network Yammer group (Yammer is a workplace communication network) [1352-3].

271. This statement is saying that in establishing and promoting the OUGCRN, I and other members of the OUGCRN were undermining efforts to create a supportive environment for LGBT+ staff (of whom I am one!) - in other words that we were unsupportive of LGBT+ staff - and that the University needed to put in place support for trans, non-binary and gender non-conforming staff to counteract the harmful effect of our network. This statement also stressed that the LGBT+ Network, purportedly speaking on behalf of its members (which included me), would be raising these concerns with senior leadership across the University.

272. Asking for a review of a process in university speak means that something has gone very wrong, and the VCE (Vice Chancellor Executive), the Faculties, the Pro Vice Chancellor and the Unions are the top tables. This statement is saying that they want the executive to be accountable and 'do something' about the OUGCRN and about the process which allowed us to form.

273. The statement ends by signposting staff to the Open Letter in a way which endorsed it. So the staff support network set up to offer support to me as a lesbian, my own LGBT+ Network, was now officially hostile to me and my beliefs.



**Comments on LGBT+ Staff Forum, 24 June 2021**

274. On 24 June 2021, Shaun Daly shared on the LGBT+ Staff Network Yammer group an advance copy of the Vice Chancellor's statement about the GCRN and academic freedom and told members that they should feel free to let the LGBT+ Staff Network know if they had any comments [1626].

275. In response to Shaun Daly's post, Cath Tomlinson, Senior Student Recruitment & Support Advisor, posted the following comment:

*"My feedback: I fundamentally disagree that hate groups fall under academic freedom. The University cannot on one hand claim to be open and supportive to trans and gender non conforming staff and students, then sanction research networks like this that attack the basic rights of those same individuals by amplifying and legitimising hostile and degrading transphobic content.*

*That the University has taken a stance of non-interference has already been noted in various anti-trans circles as a victory and a statement of support for their ideas (see Kathleen Stock's recent piece in The Critic).*

*The LSE Gender Studies team have already condemned this network, as have other experts in the fields of biology and social studies. This has no academic merit and is damaging the Open University's reputation. For the first time ever I am ashamed to be a part of this organisation.*

*The group should be removed from any Open University servers or hosting and be asked to remove the OU from any descriptors (such as their twitter account). I don't disagree that academics have the freedom to believe whatever they wish, but we as an organisation should not be providing a platform for pseudo-science or hate." [1626-7]*

276. I remember thinking when I read this that not only are they all attacking and harassing me, but I am in the position of watching them talk about the need to harass me. It was crushing and it gave me more evidence that unless the University did something, my career was pretty much over at the OU.

277. The OU operates largely through forums. All teaching forums are moderated and an important part of that job is removing offensive and degrading material. I have myself done that several times on the student DD212 forums. Yammer forums are the same. Shaun Daly was the administrator and in this capacity he could have removed inappropriate posts. Ms Tomlinson's post was not removed.
278. After Shaun Daly posted an advance copy of the Vice Chancellor's statement about the OUGCRN and academic freedom, Prof Peter Keogh sent an email to the LGBT+ Network email list on the same day about this proposed statement [2019]. In this email, Prof Keogh stated that the OU needed to *"think much longer about whether they are really meeting their responsibilities with regard to academic freedom by promoting gender critical research. Many of their most senior academics are arguing that they are actually failing in this responsibility by doing so"* and *"They need to address the key issue being raised across the university. The issue is that the network are actually sharing transphobic views and materials on their website. VCE need to announce that they are taking this allegation seriously instead of ignoring it."*
279. In this statement, Prof Keogh is condemning all gender critical research and arguing that it has no place in a university. He also gives no examples of these alleged *"transphobic views and materials"* on the OUGCRN's website.
280. At this point I cracked and replied saying, *"Just saying – people seem to forget that I am actually part of this network. Discrimination on the basis of protected belief is unlawful. I am copying the Head of HR into this email."* [2019]

### Twitter

281. On 12 June 2021, after the Forstater judgment had come out on 10 June 2021 and before we set up the OUGCRN, Dr Downes quoted a tweet from Sally Hines, Professor of Gender Studies and Sociology at Sheffield University, in which Prof Hines wrote, *"Anyone celebrating the Forstater ruling is basically (and mistakenly) celebrating the right to be a bigot. These things just show people as they really are."* Endorsing Prof Hines' tweet, Dr Downes wrote, *"Well done you have protected your rights to say dehumanising things."*

*Such an important contribution to what us diversity workers are trying to do in creating a non-hostile workplace and culture that respects difference [eye-rolling emoji]" [1650]*

282. After we set up the OUGCRN, there followed a flurry of social media activity from my colleagues encouraging others to sign the Open Letter and condemning gender critical belief and the research network that I and my colleagues had set up.
283. On or around 17 June 2021, Dr Downes tweeted a link to the Open Letter and wrote, *"Open University staff (including PGRS) who are concerned about the new gender critical research network and its impact on our trans colleagues and students assemble. Read and add your support in this open letter."* [1650]
284. On 17 June 2021, Dr Downes retweeted a tweet which included my photo and Twitter handle, and which contained a reference to the OUGCRN as a *"transphobic / TERF/ GC campaign network"* [1651]. This tweet was also retweeted by another OU academic, Dr Nik Snarey [2128]. I found this particularly alarming because it associated my name and photograph with the term TERF, with all its undertones of violence against women.
285. On or around 17 June 2021, Dr Downes retweeted a tweet by Fiona Robertson, National Equalities Convener for the SNP, which said, *"I stand in total solidarity with the other OU students and staff who are demanding action regarding GCs..."* [1654].
286. On 17 June 2021, Dr Downes retweeted a tweet which said, *"Seeing UK University research networks approved & set up working against the rights of marginalised communities in this case Trans & non binary people is another shocking milestone in 2021."* [1323]
287. On 18 June 2021, Dr Downes retweeted a tweet by Dr Ruth Pearce (not of the OU), which said, *"To commemorate the launch of the openly transphobic @openuniversity Gender Critical Research Network, why not read our rigorously peer-reviewed essay collection "TERF Wars: Feminism and the fight for transgender futures"?"* [1654] The introduction to *TERF Wars* is described above.
288. On 18 June 2021, Dr Downes tweeted a link to a statement from the LSE Department of Gender Studies and wrote, *"Thank you for your solidarity and support*

@LSEGenderTweet.” Dr Downes’ tweet is at [1349] and the statement from the LSE Department of Gender Studies is at [1347-8]. The LSE statement includes the following:

*“The Gender Critical Research Network is an explicitly anti-intellectual attack on Gender Studies, trans, nonbinary, and gender-nonconforming people, and inclusive, intersectional feminist politics. Proponents of the “gender critical” perspective, including the Members and Affiliated Members of the Network, are adamantly and openly opposed to recognising trans people’s rightful and valid claims to their gender and their rights...*

*As numerous scholars and activists have documented, those espousing gender critical perspectives routinely make transphobic, discriminatory, inaccurate, and harmful claims about trans people specifically, and gender more broadly, they have profoundly negative effects on social and political life. Their unfounded viewpoints are inimical to intersectional feminisms and scholarly debate, and they contribute to the ongoing “anti-gender” attacks on the field. In refusing the concept of gender, and in framing “sex” as immutable, binary and essentialist, the gender critical perspective runs counter to decades of scholarship from across the social sciences, humanities, and medical fields, and it relies on and invests in racist, colonial understandings of sex/gender.”*

289. On 18 June 2021, Dr Helen Bowes-Catton, Lecturer in Social Research Methods at the OU, also tweeted a link to the LSE Statement with the comment, *“Solidarity from LSE”* [2126].
290. The official Twitter account for the OU’s Department of Sociology also retweeted a tweet that endorsed the LSE’s Statement [1350].
291. On 19 June 2021, Dr Nik Snarey, teacher of Linguistics and Children’s Literature at the OU, tweeted the link to the LSE Statement, writing, *“I’m extremely grateful for the solidarity shown here. This is a very well explained statement, so please do read it if you want to know why staff/ students at the OU feel so let down”* [2131].
292. This LSE Statement was later removed by the LSE after members of the OUGCRN wrote to the LSE explaining why the statement was defamatory [4143-4]. In their response, LSE did

not admit liability but said that it was “prudent” for the message to be removed from the LSE Department of Gender Studies website [1675].

293. On 18 June 2021, Dr Helen Bowes-Catton tweeted a link to the Open Letter, writing, “*If you are OU staff or PGR, perhaps you’d consider signing this open letter, which expresses concern about the impact of the new Gender Critical Research Network on trans / NB staff and students.*” [2124]
294. On 18 June 2021, Dr Natalie Starkey, Outreach and Public Engagement Officer at the OU’s School of Physical Sciences, tweeted a link to the Open Letter and said, “*Many of us wrote emails yesterday complaining about this ‘gender critical’ network and now there’s an open letter to sign too...I feel we must do all we can to support our trans and non-binary colleagues*” [1351]
295. On 19 June 2021, Dr Downes retweeted a tweet which referred to “the OU’s transphobic research network” [1654].
296. On or around 21 June 2021, Dr Downes tweeted a link to an article about the OUGCRN apparently written by an OU student, writing “*What is really at stake from a student perspective*” [1655]. The article in question describes gender critical beliefs as “transphobic” and “bigotry”, uses the word “TERF”, and states that “*gender critical adherents.... can fuck right off with all this transphobic bullshit*” [1655-1664].
297. On 9 August 2021, Dr Downes tweeted a link about a podcast in which Jon Pike was interviewed. Dr Downes wrote, “*Not at all shocked that GCRN members don’t have time for content warnings or consider student safety, mental health or wellbeing in what they do.*” [2239] My understanding is that Dr Downes was still Equality, Diversity and Inclusion Officer for FASS when she published this tweet.
298. On 22 June 2021, Nik Snarey tweeted, “*the @openuniversity should be extremely concerned about what effect this ‘Gender Critical Research Network’ will have on their academic credibility*” [2028].

299. On 24 June 2021, Nik Snarey tweeted a link to the WELS Statement, writing that, *“The Reproduction, Sexualities & Sexual Health Research Group at @OpenUniversity has written a detailed letter to request that all university support for the Gender Critical network is withdrawn, and that they are removed from all Open University websites”* [2132].
300. Reading these tweets at the time felt like an onslaught; it was open season on gender critical beliefs, on our network and on us, its members. These tweets by my colleagues were hostile, they were offensive, and they were intimidating, both because of the campaign they were orchestrating, encouraging people to sign the Open Letter, and because they stoked a violent and febrile debate which I knew had already led to violence and intimidation against gender critical women, including on university campuses. As I describe above, I was afraid of what this violent and abusive rhetoric could lead to; how it might provoke one broken individual to do something horrific. I have already seen in my life the terrible violence that one broken person can perpetrate, and I was the first person named and pictured on the OUGCRN website and so felt like an obvious target.
301. It’s hard to stay away from Twitter when you know your colleagues are saying awful things about your research project and your beliefs – I wanted to know who was saying what so I could assess the potential damage being done to my reputation and so I could take action to defend myself. But the impact on my mental health of being on Twitter and seeing these tweets was awful. It was terrible seeing my colleagues whipping up a campaign against my research network on social media. Also being on Twitter, I inevitably then saw all kinds of other tweets with violent imagery. There were a lot of *“shut the fuck up, TERF”* tweets with various grotesque images. I didn’t keep copies of these, but I described them in an email to Dave Hall and members of the OUGCRN on 22 June 2021 [1500]. I also received anonymous death threats. I didn’t keep copies of these either, but I raised them with the OU, including in an email on 18 June 2021 [1339]. These threats were then reported to the police – see Dave Hall’s email of 21 June 2021 where he describes, *“Death threats via twitter, possibly by a member of our own staff against GCRN colleagues. I’m following this up tonight with the police via security”* [1405]. This was also confirmed in the minutes of the Vice-Chancellor’s Executive Meeting held on 24 June 2021: *“Death threats have been reported via security to the Police and this is being dealt with by them.”* [1614]

302. After I and other members of the OUGCRN brought these tweets to the OU's attention, Dave Hall suggested in an email on 21 June 2021 that we stay off social media for our own wellbeing [1454]. I replied on the same day, saying:

*"Thank you Dave for the response. I appreciate what you say about staying off social media but there is a contradiction I must point out. We have to monitor social media because of the defamations that are going on, as well as the bullying, the harassment and the targeted social media campaigns. It is our jobs as well as being an absolute necessity to protect our professional reputations as well as that of our institutions.*

*So, whilst all this is going on we have little choice. We are supporting each other as best we can, it you will know by know [sic] that I have been signed off due to acute stress. I say this to underscore the fact that while all this continues, the damages and distress are accruing – necessarily because of the contradiction outlined above.*

*It also needs to be noted that whilst sociology Twitter tweet remains up, along with all the tweets and retweets and open letters from colleagues and students, this is all going on, the individual institutional defamations are on going. As are the breaches of any number of OU HR policies." [1453]*

303. Dave Hall replied to me that same evening saying that he took my point, and offering for the OU comms team to monitor our social media accounts for us. I agreed to this suggestion the next day [1451-2].

304. I was so afraid at this time that I feared that someone would trace me via my trusteeship of CCJS (where my address is in the public domain), so my partner and I installed security cameras at home.

### **Effect on my health**

305. I was signed off work by my GP with acute stress on 17 June 2021 due to events at work and my recent bereavement (my mother died and I was refused a visa to go to the US to scatter her ashes). This is recorded in my GP notes [3992-3]. At this point, my stress at

work was caused by the lack of support and cold indifference that I received following the publication of the Reindorf Review and my conversation with Dr Drake on 11 June 2021.

306. My mental health disintegrated after the publication of the Open Letter, the WELS Statement, the KMi statement, the statement from the LSE, the comments from the LGBT+ Network, the Twitter campaign against the network led by Dr Downes and the abusive messages and death threats on Twitter. One night around this time, I couldn't sleep at all because every time I shut my eyes I saw images of blood and guns. The same thing happened the next night and again I didn't sleep at all. I had a specific feeling of drowning, that I couldn't get out from underneath all of this, it's everywhere. I also had a sense of being in real danger.
307. I thought I had put my past behind me, that I had moved on from the trauma. But there were so many parallels between events at the OU and my past that I think it caused the trauma from 40 years ago to re-emerge. Just as had happened when I was at school, a whole institution was against me; nowhere was safe; I was being publicly shamed; untrue and unfair things were being said about me which meant that lots of my friends and colleagues thought I was morally reprehensible and should be shunned; people who should have been on my side were not standing up for me. I was also seeing images of guns in threatening messages, messages that were sent in the context of a volatile debate which had already spilled over into violence. Just like when I was a teenager, I felt that I had no-one to watch my back and no-one in authority to rely on. I desperately looked to University management to 'save' me from the danger posed by these online statements – a danger that occurred in the context of me going about my job - but not only did they not do anything, they implicitly agreed that it was okay to attack me.
308. I went back to the GP on 1 July 2021. My GP notes include the following *“is tearful. She doesn't know where this is all going to go. Member of her dept. is leading social media war vs her. Not sleeping and is drinking too much.”* [3992]
309. Things continued to get worse and I went back to my GP on 29 July 2021. The entry in my GP notes from that date record me as: *“At risk state / Referral to primary care mental health team”* and include the following: *“Nightmares frequently, waking up in the night in sweats and panic. Positive screening for PTSD.”* [3991]



310. As the most senior OU academic in the OUGCRN, I felt that it was my responsibility to try to protect other more junior members from the onslaught and to stay strong for them, to be a positive and calming influence. As a senior academic who had set up the network, I felt that I owed them this. But around the time that the WELS Statement was published I couldn't continue to carry that weight. I remember telling Jon Pike that I was breaking and that I couldn't carry on in that leadership role. Jon then largely took over from me.
311. By the end of September 2021 my PTSD symptoms were gradually becoming less severe, and I felt able to return to work so long as I did not have to have contact with my Department. The grievance investigation was ongoing and all the public statements were still up; even contemplating having to return to work in my Department with Prof Westmarland and those who signed the Open Letter with no grievance decision and so no resolution made me feel unwell. On 29 September 2021 I was assessed as fit for work with restrictions, with my GP notes saying *"RESEARCH DUTIES ONLY. No contact with named respondents in grievance process please."* [3989]
312. One of the PTSD symptoms I experienced was visceral, intense reactions to events at work, often fuelled by fear, then afterwards feeling bad for reacting in that way and overcompensating for it. I swung back and forth between intense distress and anger at how I had been treated and then regret and shame for having expressed my emotions in a way that was out of my control. I was also oscillating between distress and anger at how the OU was treating me, and then back to desperately wanting them to help me and for them to heal the breach, to make it all better. I was aware at the time how emotionally dysregulated I was but I could do nothing to claw back control. An example of this is my reaction to the OU statement published on 18 June 2021 about the OUGCRN, a statement I describe below. Now that I have largely recovered from my PTSD, I think that my initial reaction, set out below, was valid if not calmly expressed. However, the following day, 19 June 2021, I sent an email to Ian Fribbance and Marcia Wilson in which I said, *"I did not read the statement fully yesterday – it is a very good statement. Thank you. Yesterday was a really run [sic] day for me. Please forgive my intemperance. I was feeling under massive attack and far too adrenaline fuelled. You will not know this, but I have been the victim of a lot of violence in my life – very violent childhood. That feeling of being under siege got the better of me yesterday. PTSD I think – who knows...The sick note has helped – I think*

*the idea that the open letter is being organised from within my department sent me over the edge.” [1396]*

313. The OU knew that I had been diagnosed with PTSD, that I was too unwell to work because of it and that it was caused by my treatment at work. I said this expressly to my incoming Head of Department, Louise Westmarland, in an email on 5 August 2021: *“At the risk of being repetitive: this is not ‘stress’ like other types of ‘stress’ where life gets a little problematic. I have PTSD \*because\* of what is happening to me \*at work\*.” [2237]*
314. I attended my grievance interview with Richard Holliman and Sally Hayes on 19 August 2021 when I was still experiencing some of my worst PTSD symptoms. Sarah Earle was my representative. They all saw how badly affected I was by it. I got very upset and had to take several breaks. Notes of the meeting start at [5220].

### **Culture of fear**

315. The effect of the public campaign and statements against the OUGCRN was to create fear and trepidation around joining the network or being seen to be a part of it. People were understandably afraid of being publicly branded a transphobe. For example, on 23 June 2021, I received a message from a Professor of Sociology and Head of Department at another university. Her name and the university are included in the email at [1555-6]. Her email was entitled *“Best wishes for your new GC research network”* and began, *“Just wanted to drop you a note to send you my heartfelt thanks and appreciation for being brave and principled enough to set up this network.”* In my reply I asked her if she would like to join the network, saying *“I can keep your name out of the limelight and include you on a distribution list. I see you are a HoD, I should imagine you do not really want to ‘break cover’ whilst in that role.” [1555]* In her reply, the Professor said, *“I would love to be involved and on the distribution list – and yes, it’s true that I need to keep a low profile whilst HoD so out of the limelight is much appreciated for now. I’m sure that if people knew I was associated they would make it very hard for me to manage the department.” [1554-5]*
316. I was also contacted by two PhD students, one at the OU and one from Strathclyde University, saying that they were interested in the network but were too scared to be

publicly associated with the network. Both of those doctoral students were included on the OUGCRN's distribution list but did not become members.

### **My complaints and the OU's response: a summary**

317. On 24 June 2021 I submitted a grievance about the treatment I've described in this statement [1632-1670] in which I asked that my complaints about the Open Letter in particular be dealt with as a matter of urgency given the volatility of the situation and the harm it was doing to my mental health and wellbeing. I asked for steps to be taken to instruct the authors of the letter to take it down. I also requested that the WELS Statement and KMi Statement be taken down from the OU's website.
318. On 30 June 2021, Dave Hall informed me that the statements would not be taken down because they fell within the remit of academic freedom. I then repeatedly asked HR to take down the statements as an interim measure pending an outcome to my grievance, stressing the ongoing damage they were doing to my mental health, my reputation and my ability to do my job. HR refused to take them down as an interim measure. HR also refused to expedite the investigation into the aspects of my grievance in relation to the public statements, instead insisting that they would wait until all aspects of my grievance had been investigated before reaching a decision on any part of the grievance. I stressed repeatedly the damage that was being done to me by these statements and the need for the investigation to be conducted as quickly as possible. Despite this, by 12 November 2021, the OU would not even give me a definitive date for the conclusion of the grievance, saying that the best estimate was before Christmas but they could not commit to that deadline. The OU took these decisions knowing that I had PTSD because of my treatment by OU staff and knowing that I was not well enough to return to work in the Department before the grievance was concluded, as that the grievance process was my only hope of a resolution.
319. As far as I am aware, at no point did the OU instruct any members of OU staff to remove any of the posts, statements or tweets that I've set out above.
320. Also during this time, despite my requests, no public or internal statements to 'all' were made by the OU saying that gender critical beliefs are protected under the Equality Act

2010 and that any discrimination or harassment related to gender critical beliefs will not be tolerated. In contrast, the OU issued two public statements expressly acknowledging the distress caused to trans staff and students by the establishment of the OUGCRN. In each of these public statements, the OU conveyed that they had no choice but to allow the OUGCRN to exist because of its legal obligations.

321. The message to staff, students and the outside world was clear. The OU did not want the OUGCRN to exist and the OU had sympathy with those who had written such terrible things about us, but the University's hands were tied by the law.
322. Rather than protect me and other members of the OUGCRN from attacks based on our protected beliefs, the OU made it clear that they did not consider those who hold gender critical beliefs to be worthy of protection in the same way that other protected characteristics are deserving of protection. I never thought I would be abandoned by the OU in this way, and it broke my heart.

#### **OU's Statements re OUGCRN on 18 and 24 June**

323. On 18 June 2021, the OU published an internal statement about the OUGCRN which included the following: *"All colleagues and students are valued and integral to what makes the OU open to all, so we would like to affirm our support for our transgender and gender non-conforming colleagues and students."* [3547] Nowhere in the statement did the OU affirm its support for those with gender critical beliefs, nor did it condemn attacks on those of us who hold and express those beliefs.
324. The statement then went on to acknowledge the OU's obligations to uphold freedom of speech and academic freedom as well as its duties under the Equality Act, saying that *"some academics will have very different positions on contentious subjects. Any view that an individual or group of academics take on a particular issue is not the position of the University, so this does not mean that we endorse, or disagree, with their views."* However, in the very next paragraph, the statement said, *"The views of the GCRN have not been endorsed by the university, nor are they receiving any institutional investment."* The message was clear: the OU was holding its nose while allowing our network to exist, because to do otherwise would be to breach its legal obligations to uphold academic

freedom. The expression of sympathy to transgender and gender non-conforming staff and students, the lack of any acknowledgment, let alone condemnation, of the attacks gender critical academics were facing, and the distancing of the OU from the OUGCRN by saying that the OU did not endorse our views, all of this gave tacit endorsement to the Open Letter and the other attacks. This exacerbated the hostile environment we faced, and deepened the shame and humiliation I felt. Not only were my colleagues publicly condemning me, but my employer was turning its back on me.

325. As I said in my email of 18 June 2021 to Marcia Wilson about the statement, *“There will be a strong cohort of people that will read that as open season”*, by which I meant open season on gender critical academics. I continued, *“...There is no air cover for us and as you can see this is Essex all over again...I am asking the university to provide support to me and the centre from the sustained attack, public defamation that we are receiving...We are being tried in public and, just like Essex, I doubt that everyone has read or listened to the podcast, especially given what is being said about the centre and us.”* [1337]

326. Publicly I tweeted that I supported the OU’s statement because it was important for the future of our network to try to project a positive front and to emphasise that universities can’t discriminate against gender critical research networks like ours [1397]. I also knew that any chance I had of getting my employer to protect me would evaporate if I condemned their approach publicly. I was trying to show the University that I would work with rather than against them.

327. On 24 June 2021, Tim Blackman issued a statement about the OUGCRN [3547-8]. In this statement, Prof Blackman mentioned *“the strength of views and level of distress on all sides connected with a new academic initiative, the Gender Critical Research Network. The establishment of this network, based on critical scholarship about sex and gender, has caused hurt and a feeling of being abandoned among our trans, non-binary and gender non-conforming staff and students. It has also distressed many others in the wider community. This, and the well-being of all colleagues, greatly concerns me.”* In the next sentence, Prof Blackman goes on to discuss the legal duties placed on the OU in relation to free speech and academic freedom.

328. At no point did Prof Blackman mention the attacks on gender critical academics nor did he mention that gender critical belief is a protected characteristic. He did not condemn discrimination and harassment against those who hold gender critical beliefs. We as the founders of the OUGCRN are depicted as having caused hurt, distress and feelings of abandonment, simply for establishing a gender critical research network. Once again, we are made out to be harmful, and those who publicly attacked us, smeared us, and condemned our protected beliefs received sympathy.

### **My complaints and requests to remove online statements**

329. On 18 June 2021, I submitted a complaint by email on behalf of the OUGCRN [1339-40]. I sent this to Ian Fribbance, Marcia Wilson and Caragh Molloy, amongst others.

330. In my grievance submitted on 24 June 2021 I said that, *“I have already received one death threat because of social media agitation following the launch of the Gender Critical Research Network and, because of this targeted public campaign against me by colleagues, I fear more.”* I also stressed the enormous damage that the Open Letter in particular was doing to my professional reputation as well as my mental health and wellbeing, and asked that the parts of my grievance in relation to the Open Letter be dealt with as a matter of urgency [1632]]. On 25 June 2021, I emailed Caragh Molloy, Head of HR, to include the WELS Statement in my grievance after its publication on 24 June [1709].

331. On 29 June 2021 I sent an email to Tim Blackman, Kevin Shakesheff, Dave Hall and Marcia Wilson entitled *“Ongoing effects of campaigns against OUGCRN.”* I described the lack of support from the OU, the failure to acknowledge the malign nature of the public statements and tweets, and the chilling effect this was having on academic freedom [1760-1761].

332. On 28 June 2021, I emailed Dave Hall asking him to take down the WELS Statement and the KMi Statement from the OU webpages [1737-9]. On 30 June 2021, Dave Hall emailed me to say that the OU would not be taking down either the WELS Statement or the KMi statement:

*“We have now had the opportunity to consider the content of the documents discussed between us earlier this week and the associated legal advice...we do not propose to*

*remove either of the open letters that call for the removal of the GCRN. You will have seen Tim's statement last Thursday in which he reiterated the University's commitment to academic freedom and acknowledged that the formation of the network is compatible with our duty to uphold academic freedom. It is within the scope of the same duty to uphold academic freedom that the decision on the open letters has been taken." [1767].*

333. I sent two emails in response to this. In my first, sent at 21:53 on 30 June 2021, I said, *"This is my gut reaction – calls advocating discrimination are 'academic freedom'? You have not mentioned the KMI institutional statement. I'm staggered Dave and feel bereft. This amounts to open season on GCRN academics....You can feed back to the exec – how am I now to believe that the university will protect me when it permits such attacks to be published \*on behalf of the university\*"* [1765]. I then sent a second email shortly afterwards saying, *"Can I ask you to confirm that you are doing nothing about the Sociology Department's retweet of the LSE Statement or the KMI statement? And can I get you to confirm, on behalf of the university, that you have decided that the calls for discriminating against us are within the remit of academic freedom...?"* [1766].

334. Dave Hall replied on 1 July 2021, saying *"I understand your frustration, but please could you leave this with me. We're trying to tread the right path between the issues, and identifying the boundaries of academic freedom and the equality act. This is necessitating, as I mentioned, a lot of legal advice, which itself takes times to commission, receive and digest."* [1766]

335. In terms of the OU's arguments that the Open Letter, the WELS Statement and the KMI Statement fall within the remit of academic freedom, I do not believe that they are scholarly or academic work. They are not published in a scholarly publication or as part of an academic event, and they do not seek to further knowledge and understanding, rather they seek to shut down their colleagues' academic endeavours. The WELS Statement goes further, threatening to take action that was likely to do serious damage to a strategic research area if the University did not accede to the signatories' demands to remove the gender critical research network from the OU. The Open Letter misrepresents evidence and gives it a misleading appearance of truth. The WELS Statement makes factually incorrect assertions as well as unevidenced accusations and personal attacks and horrible slurs about the authors' colleagues, as I describe above. This is not what I understand to

be scholarly or academic activity. And, as I describe above, these statements created an intensely hostile environment which deterred academics from joining and openly participating in the OUGCRN who would otherwise have done so. This is antithetical to academic freedom.

336. By email on 15 July 2021 to Caragh Molly, Sam Jacobson and Dave Hall, I wrote again about the public statements by OU colleagues, many of which were on the OU's website [2156-8]. I stressed again the "damage to my welfare, my reputation, my working environment and my career" being done "with every single minute they are remain in place". I recognised that there needed to be an investigation into my grievance but I said that I did not think it followed that these public statements needed to stay up:

*"I note the following: moderators across all our Open University forums have the capacity to remove posts expeditiously. Through its moderation system, the University \*DOES\* act and expects its forum moderators to remove material at a much lower threshold than unlawful speech - such as inappropriately personal material on the forums. It also acts immediately to remove unlawful speech, such as racist or sexist slu[r]s.*

*I fail to understand on any level why the University is failing to take action to remove the posts that are on its own webpages (KMI statement, statement on LBGQTI Network page, open letter on WELS webpage) or require the first signatory to the Open Letter to remove it - given that it was produced in the context of work. Or require employees of the University who have publicly tweeted and retweeted calls for discrimination, defamatory letters and profane gender critical slurs. There can be no good reason at all for inaction in these matters except that the University views people who hold gender critical beliefs as \*less worthy\* of the protections accorded in the Equality Act 2010. So, for instance, I can only surmise that the University would act immediately to remove from its webpages and from employees' social media feeds calls for discrimination against an Islamic study group based on the accusation that the study group - because it is Islamic - is anti-Christian, and supports terrorism and is responsible for anti-semitism. I suspect that the University would remove the material immediately - regardless of any grievances that might or might not take place.*

*I can only conclude that The Open University has not acted to remove the material because it views gender critical beliefs and discrimination against gender critical scholars*



*- most of whom are women - as less worthy of protection than other protected characteristics."*

337. Caragh Molloy replied to my email on 16 July 2021 [2156], saying that my email would be considered by the OU's lawyers along with the letter from my lawyers, Leigh Day, of 13 July 2021 [2101-2134]. In a letter dated 20 July 2021, the OU's solicitors, Eversheds Sutherland, replied to Leigh Day reiterating that the OU would not be removing, or taking action to remove, any of the material I had highlighted until the conclusion of the investigation into my grievance [2169-2174]. This letter does not engage with the points I made about the OU's moderators routinely taking down posts from internal message boards, nor does it engage with my argument that the OU would have taken down comparable statements and posts about other protected beliefs.
338. During my meeting as part of the grievance investigation on 19 August 2021, I was told that the investigation was likely to take around another two months. I found this very difficult to handle and I got very distressed. In response to my distress, Sally Hayes raised the possibility of an interim finding on the public letter and statements. However, Sam Jacobson who was also present expressed doubts about whether this would be possible.
339. On 26 August 2021, I emailed Sam Jacobson about the time it was taking, the toll this was taking on me and setting out a request for an interim finding on the public statements [2499-2501]. I then went on to explain to Sam Jacobson why I thought it would be possible to reach an interim finding on whether the public statements constituted harassment simply by considering their content and the effect they had on me, and then the OU could reach a final conclusion once they had interviewed as many people as they wished to interview. I suggested that the statements could be taken down with a statement along the lines of, "removed pending enquiry". I also explained why I did not think that leaving them up was a neutral act, given the harm they were doing to me.
340. I received a short reply from Sam Jacobson the next day, Friday 27 August 2021, in which she said that they were looking into the points I had raised and would get back to me. She then said that she was going on leave, returning on 6 September 2021 [2499]. I therefore replied copying in Caragh Molloy and Julie Swann, explaining my arguments about why I felt the OU could reach an interim conclusion on the public statements without interviewing respondents to the grievance [2498]. I concluded this email by saying:

*"I am copying Caragh Molloy and your line manager Julie Swann into this response as I think this issue needs to be escalated and you are on holiday. Perhaps they can explain **\*why\*** HR is not dealing with this aspect of my grievance - which let's face it is, as I have been at pains to stress - causing daily damage to my reputation (internal and externally), to my well being and makes it almost **\*impossible\*** for me to do my job if I was not signed off sick! How can I work within the department/s or with people who feel emboldened by the fact that they can say such things about me **doing my job\*** and know that my employer will not do anything for months and months pending the outcome of a grievance process. So far it has been nearly 12 weeks since objectively harassing public posts were posted on OU websites."*

341. Julie Swann emailed me on 2 September 2021 setting out the OU's decision not to reach an interim decision on the public statements [2551].

342. I replied to Julie Swann's email on 17 September 2021 [2561-2], including following:

*"It is nearly three months since I submitted my grievance and there is no indication whatsoever of when the investigation might conclude. This is an unacceptable delay.*

*As I have repeatedly stressed, the public and targeted campaign against me on the grounds of my protected beliefs is ongoing and highly damaging. It is doing untold damage to my mental health. It is also not possible for me to return to work without a reasonable resolution to this issue. Such a resolution would include the OU taking all reasonable steps to remove the public online attacks against me and my gender critical colleagues.*

*It is reprehensible conduct by the OU to drag this process out for so many months when the harassment complained of is public, ongoing and having such a profoundly damaging effect on my health and career.*

*The OU can of course take down the WELS and KMI statements, and you could also instruct the original signatories to the Open Letter to take down the letter or face disciplinary action.*

*Further, your response below does not provide an adequate explanation for the OU's refusal to reach an interim conclusion on the Open Letter, the WELS Statement and KMI Statement.."*

343. Sam Jacobson replied to the email I had sent to Julie Swann [2967-8]. In this short email, Sam Jacobson said that the University's view had not changed since Julie had written to me and that it was not fair for me to suggest that the University was dragging the investigation out. She added, *"The issues are complex and the number of witnesses is significant. The investigators are progressing their enquiries as quickly and thoroughly as they are able."*
344. I wrote back on 18 September, saying amongst other things that the OU had still not explained its position in reference to the legal test for harassment as I had requested, and that I felt that this was the least I was owed considering the ongoing harm to my health, career and reputation that was being caused by the OU's failure to act [2966-7].
345. There was further correspondence on this point between me and HR, which amounted to HR refusing to elaborate on its refusal to reach an interim decision on the public statements with reference to the legal test for harassment [2963-6]. Julie Swann confirmed in this correspondence on 24 September 2021 that the *"University does not agree with your proposed methodology and is focussing on completing its enquiries before taking a view on all of the matters that you have raised. You will be kept abreast of the progress of the investigation."* [2965-6] So, the OU refused to make an interim decision on public statements as part of the grievance process, they refused to take the public statements down pending a decision, and they refused to deal with the public statements separately from other aspects of my grievance which would inevitably mean that a final decision on those statements would take longer than if they were considered before my other complaints.
346. I felt betrayed by this. The OU knew the effect this was having on me; they knew that I was unable to teach or get involved in any administrative work until this grievance process was over, but it felt like they didn't really care.
347. By the start of November 2021, the grievance investigation was still ongoing and there was no end in sight. Overall my PTSD symptoms were gradually improving from the low point over the summer, but I still suffered major setbacks with some very bad nights and

days. Despite being signed as fit to do research, I felt unable to start any new empirical work. It just felt impossible to write a research grant proposal, write anything academic or conduct actual research in the area of transgender prisoners while this cloud was hanging over me. The idea of reaching out to the Ministry of Justice, for instance, to start a discussion about the possibility of doing empirical research into the handling and management of transgender prisoners in the female prison estate was unthinkable in a context where my own criminological OU colleagues were calling my research network transphobic. It was also clear that any attempt to get a research proposal through the ethics committee at the OU would have been very difficult as would asking the OU for some pump-priming money through the SRA.

348. On 9 November 2021, I emailed Sam Jacobson, noting that it had been nearly five months since I submitted my grievance and that I still hadn't been told when I could expect an outcome. I asked Sam to confirm the date that I would receive the grievance decision, and I stressed again that it was impossible to do my job while the grievance investigation was incomplete and while the harassment and discrimination went unchallenged. I also explained how the delays in the grievance process were affecting my mental health. I finished the email by saying:

*"The OU's failure to act is now having consequences for my professional life outside the department. Last week, one of my research partners has declined to do any public work with me or the OUGCRN because of the terrible publicity that has been generated. This could have been avoided so easily! But instead, the OU has made a deliberate decision to leave up the WELS Statement on the OU website for nearly 5 months and did nothing to ensure the removal of other public statements, which were online for months. This gives the impression to other institutions and organisations that the OU condones this treatment of me and other members of the GCRN; after all, why else would a university leave up such a statement on its own website? The lack of protection by my employer and the implications of this was always likely to have a negative impact on my reputation and work, and it's clear that that is now happening.." [3203-4].*

349. In the section below on the impact on my professional work and reputation I set out the details of the research partner who declined to work with me.

350. Sam Jacobson replied to me on 12 November 2021 [3209-10]. In her email, she said that *"the University is fully aware of your frustration at the time the investigation is taking"*

and that the best estimate of a date for the grievance outcome was before the Christmas closure period but the OU could not “*absolutely commit to that deadline*”.

**Public Statement by the Open University on the OU Gender Critical Research Network, 10 November 2021**

351. On 10 November 2021, the OU published a public statement on its website entitled “*Update on actions taken following VC statement on GCRN and academic freedom*” [3198-9]. This statement said that that “*The Vice-Chancellor’s Executive found that the formation of the GCRN was compatible with academic freedom, while also acknowledging that some staff found the content of the group’s work to be challenging or concerning.*” By contrast, nothing was said which acknowledged the public attacks by OU employees on gender critical academics and the distress and harm that caused us. Again, the message conveyed was that the OU had no choice but to tolerate our network’s existence and that senior leaders at the OU would do nothing to prevent discrimination and harassment against gender critical academics.

352. As above, I had previously said to senior leaders at the OU that by expressing sympathy with those who had complained about the OUGCRN but saying nothing about the attacks on gender critical academics and our beliefs, the OU left us unsupported and exposed to further attacks. Rather than take this on board, the OU chose again to validate the attacks on us by framing our work as “challenging and concerning” while saying nothing to condemn those attacks. This statement knowingly perpetuated the hostile and intimidating environment for me and other gender critical academics.

353. In response to this statement and to Sam Jacobson’s email of 12 November 2021, above, I said the following in an email to HR on 16 November 2021:

“

1. *I am not frustrated. I am distressed. Please remember, I have been signed as fit to work on research duties only because the harassment has caused me PTSD and it is too distressing to have contact with the department or the other 360+ people who have signed one or other of the open letters. I am also distressed because the university does not seem to ‘get it’! I cannot do teaching or research administration because my harassers are still out there and my employer is not protecting me. The university is going through a massive research restructuring discussion and I am not*

*able to take part without putting myself in harm's way. I have ongoing PTSD because the harassment is ongoing.*

2. *The VC's latest statement which is publicly available on the Open University PUBLIC news page: what a begrudging statement showing nothing but disparity of treatment. It upset me so greatly that it has been a week since I can even look at the intranet page. The disparity of treatment between the distress I (and others of the OUGCRN) are caused by harassment and calls for discrimination on the grounds of our protected belief and the 'challenges' that others experience because we formed a network disgusts and distresses me. In failing to make any statement about harassment and discrimination on GC views the university is tacitly stating that it will do nothing.*

*I'm still grappling with the contents of your email about the fact that my grievance may or may not be finished by the end of the year, possibly the beginning of 2022. It's taken me this long just to be able write anything to you, I am so utterly distressed with the disregard the university is showing me." [3279]*

### **Impact on my work and professional reputation**

354. In academia we talk about "esteem factors" which are a measure of how an academic is regarded by their academic community. These include external speaking invitations, requests to carry out peer reviews and external examinerships.
355. Before my blacklisting and cancellation by the University of Essex, I used to receive multiple external speaking invitations each year, often from other universities. A significant number of the talks I gave were plenaries (see my CV at [4187-9]). Between 2010 and 2019 I spoke at the following UK-based Universities: Birkbeck University, Department of Law; King's College, London, School of Law; Queen's University Belfast, Law School; Sheffield University, Department of Criminology; Leeds University, Sociology Department; Bristol University; Cambridge Socio-Legal Group, Pembroke College, University of Cambridge; University of Glamorgan, Law Department; Strathclyde University, Department of Criminology; Keele University, Department of Management Studies; York University [4189]. Between the public cancellation of my talk and subsequent blacklisting by the University of Essex in December 2019 and the publication

of the Reindorf Review in May 2021, I did not receive a single speaking invitation from another university or research institution. After I was publicly “cleared” by the Reindorf Review, I thought that things would improve. But only a month after the publication of the Reindorf Review, I and my OUGCRN colleagues were publicly condemned by hundreds of our colleagues as harming trans staff, students and the wider community, and the OU was condemned for allowing us to set up a gender critical research network. At the time of writing this witness statement, I have received just one speaking invitation from a university (Queen Mary’s School of Law) since December 2019.

356. The list of external examinerships to which I was appointed between 2002 and 2019 is at **[4186-7]**. Since the summer of 2019, I have received no invitations to be an external examiner on any UK criminology undergraduate or post graduate course.
357. In terms of invitations to peer review for academic journals, I have been on the editorial board of The Howard Journal since before 2019. The journal has a working editorial board, meaning that peer review is done by the members of the editorial board. Before December 2019, I received around eight papers to review each year. Since 2019, I have received a total of three requests to review papers. I also sit on the editorial board for the journal Youth Justice. Prior to 2019, I would have received around five articles each year to review. Since 2019, I cannot recall a single request to review a paper for Youth Justice. I also used to be asked to review articles for a range of other journals if those journals either do not have a working editorial board or if they lack subject specific expertise. Prior to 2019, I would expect to receive around six such requests a year from these varied sources. Since 2019, I have been asked to review only one article in such a manner (for a journal called *Children & Society*).
358. I feel exiled from the academic community which use to be my community. It is hard not to conclude that this is in large part to do with my colleagues’ public reaction to the OUGCRN and the OU’s reaction. Even if the events at Essex have continued to play a part, then the public statements by hundreds of OU academics could only have compounded the matter. I think that the combination of the events at Essex and the events at the OU have made other academic institutions afraid that if they invite me to speak, or to be an examiner, or to review the work of my peers, they will be faced with a backlash similar to that experienced by the OU and by Essex. Irrespective of the rights or wrongs of the situation, I know that many senior leaders would want to avoid such a backlash.

359. In terms of external research partners, I was involved in xxxx. As part of this project, I worked with xxxx who was a director at the charity xxxxx. Sometime after the OUGCRN launched (I can't remember exactly when), I asked her during a Teams call if could come xxxx to do some work with her - to talk to her and her workers and see the work. [REDACTED] Xxxx refused, saying that she couldn't be visibly associated with me because her organisation xxxx was under a lot of pressure to say whether they were sex-based or gender identity based i.e. whether they included males who identify as women in their services.

### **Resignation and role at Reading University**

360. The treatment I received following the launch of the OUGCRN left me in terror for my career. Being at the OU was intolerable – that became increasingly clear to me as events unfolded – but I feared that I was tainted goods and that no other university would touch me because of what my OU colleagues had said about me, and because other universities wouldn't want to the risk of students and / or staff protesting against my employment. There were times when I thought that I would have to leave academia all together, and I think that I would have done were it not for my connection with Professor Rosa Freedman, and for the brave and principled stance taken by the School of Law at Reading University when faced with complaints about gender critical academics.

361. I had come to know Rosa Freedman after the cancellation at Essex. She had been through an extremely difficult time because of her gender critical beliefs as described earlier in this statement, but she felt supported by Reading University; she felt that they had her back. In particular, Professor James Devenney, Head of Reading School of Law, went out of his way to support Rosa and to ensure that those with gender critical beliefs felt able to express them as part of their work. Rosa was also a part of the OUGCRN. When I spoke to Rosa about the hellish situation I was facing at the OU, she told me that there was an opportunity to set up a Criminology degree within Reading's School of Law. Rosa encouraged me to apply for the role, which I did on 11 November 2021 [3271]. I attended



an interview on 30 November 2021 [3292] and was offered the job on 1 December 2021. I resigned from the OU the following day.

362. I set out my reasons for resigning in my letter of resignation [3504-8].

**Suspension of grievance investigation**

363. On 8 December 2021, I received a letter from the OU informing me that it would be suspending the investigation into my grievance until the Tribunal had made a determination on my claim [3562]. This meant that the WELS Statement is still up on the OU website, continuing the harm to my reputation.

**Channel 4 Documentary**

364. I took part in a documentary called “Cancelled” produced by Channel 4. This is mentioned in the OU’s grounds of resistance. In the documentary I was asked, *“Can you see why someone transitioning, someone young – I mean it doesn’t have to be a young person, but we’re here at a university – and who might hear your views, and you’ve clearly thought very carefully about your views, but can you see why they might perceive it as transphobic?”* I answered, *“Sure”*. I did not get a chance to elaborate as Prof Rosa Freedman jumped in to explain the context in universities. When I said “sure”, I meant I could follow their logic – in the words of the question, I could see why they might perceive it as transphobic. If you hold that transwomen are women and you believe that any dissent from this is transphobic, then I follow the logic of why some people perceive my views as transphobic. But I utterly disagree with it being transphobic.

**STATEMENT OF TRUTH**

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

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**Professor Jo Phoenix**

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**Date**