

‘Who put the GI in SOGI’

An investigation into the concerns arising from Dr Lawford-Smith’s research seminar on 25 April, 2022

Background

On 25 April 2022 Dr Holly Lawford-Smith, Associate Professor of Political Philosophy at the University of Melbourne, and visiting academic at the University of Reading, presented a paper at a research seminar organised by the School of Law entitled ‘Who put the GI in SOGI?’

The event, as is standard practice for departmental research seminars, was advertised to members of academic staff within the School, and to research students. Though not widely promoted by the event organisers, news of the seminar was circulated on social media.

The topic of the talk, which is closely related to current debates about the inclusion of trans people in legislation outlawing the use of conversion therapy, is contentious one. Many people, particularly within the LGBTQ+ community, regard the position adopted by Dr Lawford-Smith to be offensive and discriminatory.

While the seminar was taking place a number of people gathered to protest peacefully against the presence of this speaker on campus.

Subsequently the University has received a range of communications raising concerns about the nature of this event, and whether it breached the University’s own policies.

The purpose of this report is to investigate the concerns raised, and to ascertain whether the University acted improperly in allowing this event to take place.

Concerns raised

Objections to the University’s hosting of this event have been raised by a variety of parties (students, parents of students and members of the wider community) and through a variety of channels. These include direct e-mails to the Vice Chancellor’s Office, open letters, as well as public statements (e.g. on behalf RUSU).

This report will not attempt to respond to each of these individual communications, but it will address the common themes which underpin them. These common themes can be separated into three categories:

- the decision to allow the event to take place;
- the format of the event;

- the implementation of appropriate procedures to ensure the safety and security of staff and students.

The three areas of concern can be briefly summarised as follows:

- The speaker in question, by arguing that the banning of conversion therapy should not be applied on the basis of gender identity, is alleged to be taking a position which is tantamount to condoning the torture of trans people, and that this is in direct breach of the University's own external speaker policy;
- The format of the event did not allow for an opposing point of view to be presented (with equal prominence) to provide a counterpoint to Dr Lawford-Smith's position;
- The University has provided a platform to a speaker alleged to hold transphobic views which, complaints suggest, is in breach of its commitment to diversity and to providing an inclusive community in which all students and staff can feel safe and secure.

Before attempting to reach a judgement on whether the University was at fault in any of these areas, it is first necessary to review the relevant rules and policies which set out the University's obligations in this regard.

Relevant policies

The University's Charter provides a logical starting point. Here we find a strong commitment to the defence of academic freedom:

'Employees, in undertaking academic activity or directly supporting it, shall have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or privileges.'¹

This statement refers to employees, rather than visiting speakers, and while it allows for the exploration of controversial or unpopular ideas, it does require this to be within the bounds of the law.

The Charter also expressly highlights equality, stating that

'The University is committed to the fair and equal treatment of every person and shall not discriminate on grounds other than those permitted or required by law.'²

The University therefore has an obligation to protect and uphold academic freedom, but within limits. The boundaries within which academic freedom applies, and the balance between protecting freedom of inquiry and promoting equality and inclusivity, are further articulated in other policy documents. For the purposes of this report, the most relevant documents are those relating to external speakers. While Dr. Lawford-Smith does hold a visiting position at Reading she is not a paid employee of the University. She is

¹ <https://www.reading.ac.uk/discover/-/media/discover/files/pdfs/36893826d6994c20836c24798f66c9d6.pdf>

² <https://www.reading.ac.uk/discover/-/media/discover/files/pdfs/36893826d6994c20836c24798f66c9d6.pdf>

employed by the University of Melbourne, and it is therefore reasonable to assume that the guidance in relation to external speakers does apply in this case.

The University's External Speaker Policy re-affirms the commitment to academic freedom outlined in the Charter, but also provides more detail on where the boundary demarcating the limits of academic freedom should be drawn. The relevant section of the policy reads as follows:

whilst the law promotes and protects freedoms of speech and debate, the law also places limits on those freedoms. Crucially the protection of freedom of speech does not extend to allow a speaker to break the law or breach the lawful rights of others e.g. using threatening, abusive or insulting words or behaviour, particularly with a view to incite hatred or draw others into terrorism. N.B. It should be noted that these provisions do not create a broad right not to be offended; the expression of views which some people may find objectionable or offensive is not prohibited generally by law.³

The External Speaker Code of Conduct develops this further. It explicitly recognises a conflict between the need to both promote and restrict academic freedom,

'and consequently acknowledges that it has a legal responsibility to create a balance between minimising the possibility that extremism or unlawful conduct will arise on campus and ensuring that it meets its legal obligations in relation to securing freedom of speech.'⁴

In drawing this balance, the Code of Conduct specifies what external speakers are prohibited from doing. This includes the spreading of hatred and intolerance, as well as

'...discriminat[ing] against or harass[ing] any person or group on the grounds of sex; gender reassignment; race, nationality or ethnicity; disability; religious or other similar belief; sexual orientation; marriage or civil partnership; pregnancy or maternity or age.'⁵

This Code of Conduct places a further obligation on external speakers to

'present ideas and opinions, in particular those that may be contentious or potentially offensive, in the spirit of academic debate, being open to challenge and question.'⁶

In keeping with these requirements the University stipulates a process in which organisers of events likely to attract particular controversy or to generate offence are required to seek approval from the Vice Chancellor's Office, and speakers at such events are required to commit to upholding the Code of Conduct.

The final document to which attention should be drawn is the Freedom of Speech: Code of Practice. The opening sentences of this document state that:

³ <https://portal.reading.ac.uk/staff/-/media/staff/files/external-speaker/external-speaker-policy.pdf>

⁴ <https://portal.reading.ac.uk/staff/-/media/staff/files/external-speaker/external-speaker-code-of-conduct.pdf>

⁵ <https://portal.reading.ac.uk/staff/-/media/staff/files/external-speaker/external-speaker-code-of-conduct.pdf>

⁶ <https://portal.reading.ac.uk/staff/-/media/staff/files/external-speaker/external-speaker-code-of-conduct.pdf>

Freedom of speech is fundamental to a University. The Council of the University therefore requires employees and students of the University and those to which the University's External Speaker Policy applies, to tolerate and protect the expression of opinions within the law whether or not these opinions are repugnant to them.⁷

From this brief review of the relevant policies and guidelines outlined in the University's own governance documents, the following observations can be made:

- The University has an obligation to uphold academic freedom within the confines of the law.
- All staff and students of the University are required to tolerate the expression of views which they may find offensive or repugnant, including those presented by external speakers.
- This does not provide licence for members of the University or external speakers to behave in a manner which is threatening, abusive or insulting; or to incite hatred or intolerance; or to discriminate against persons or groups on the basis of gender reassignment.
- The University has an obligation to ensure that external speakers present ideas in the spirit of scholarly enquiry and open academic debate.

Specifically in relation to the last two of these points, the University has an external speaker policy designed to minimise the possibility of extremism or unlawful conduct taking place on its campuses. This policy requires that: approval is sought from the Vice Chancellor's Office for events likely to attract controversy or protest; that participants at such events agree to abide by the external speaker code of conduct; and that appropriate security and safety arrangements are put in place.

Has the University acted improperly?

Having carefully assessed the University's obligations with regard to academic freedom, and specifically the conduct of external speakers, I can now return to the substance of the concerns raised in this case.

The central question raised by the concerns was whether by allowing an event to take place in which the torture of trans people was perceived to be advocated or condoned, the University had breached its own external speaker policy?

The critical question here is whether Dr Lawford-Smith has, in fact, adopted such a position in her academic work, and whether this was something she was likely to argue during her talk. If so, there would be grounds for concluding that such a talk was incompatible with the University's policy and should not have been allowed to go ahead. After reviewing Dr Lawford-Smith's recent published work on this subject, and having watched a recording of the seminar presentation and discussion in question, I have found no evidence to suggest that she has held or expressed such a view.

⁷ https://www.reading.ac.uk/web/files/Calendar2015-16/Section_G_16_Freedom_of_Speech_Code_of_Practice.pdf

In reaching this finding I do not reject or dismiss the claim that conversion therapy can constitute a form of torture. I am not an expert on this subject. However, during the course of her talk at Reading (and the Q&A which followed it) Dr Lawford-Smith differentiated explicitly between 'aversion therapies' and much less intrusive forms of 'talking therapy.' The focus of her talk was on the evidence base that exists to justify the prohibition of such talking therapies in relation to gender identity.

There is no question that Dr Lawford-Smith's position on this subject is contentious. There are clearly legitimate arguments opposing her position on this subject. This is an area where new legislation is having to be developed to keep pace with evolving social attitudes and professional expectations. One recent study, for example, points to a surprising 'scarcity of legal research in this area' and also acknowledges that 'medical or therapeutic interventions related to gender identity raise their own specific ethical and socio-legal questions... [which] fall beyond the scope of this article.'⁸

Dr Lawford-Smith's work, by addressing precisely such 'ethical and socio-legal' issues, is a legitimate, if controversial, contribution to an emerging area of legal debate. Neither the tone nor the substance of her talk at Reading was discriminatory. She recognises that trans people 'suffer high levels of harassment and discrimination and should have access to legal protection'⁹ and explores what form this protection should take. Her seminar focussed on the evidence base underpinning proposed legislation in this area, not the right of trans people to legal protection.

While it is understandable that many people find Dr Lawford-Smith's position objectionable, the questions at issue here are whether the presentation of her work was threatening, abusive or insulting, whether it incited hatred or intolerance, and whether it was discriminatory. This investigation finds the answer to these questions to be no. Dr Lawford-Smith's presentation related to an important and legitimate area of legal research, it was firmly grounded in evidence drawn from academic literature, and it was delivered in a spirit of open scholarly inquiry.

The second area of concern raised in relation to the event is that the format did not allow for an alternative viewpoint to be presented as a counter-balance to Dr Lawford-Smith's position. Had the event in question been a public lecture or debate, such an approach would have been entirely appropriate. However, the talk was delivered as part of a Departmental research seminar, and as such it was appropriate that the format reflected this. The critical issue with regard to the University's External Speaker policy in this regard is that the event was conducted 'in the spirit of academic debate' and that the speaker was 'open to challenge and question.' Having viewed a recording of the seminar, it is clear to me that both of these conditions were met. The structure, tone and spirit of the session was entirely in keeping with that of a typical university research seminar, and the speaker engaged calmly and seriously to critical questioning from those present.

The third category of concern relates to whether the University appropriately upheld its obligation to maintain safety and security. There are two aspects to this. First is the

⁸ <https://academic.oup.com/ojls/article/42/1/104/6333646#337502109>

⁹ <https://philpapers.org/archive/LAWESO.pdf>

question of whether the necessary measures were followed in the planning of the event to minimise the risk of unlawful conduct taking place. The second is whether the hosting of a controversial event on campus serves to undermine the safety and security of students likely to be offended by it.

In relation to the first question, it is clear that the appropriate reporting did take place. Approval for the event was sought from the Vice Chancellor's Office, a risk assessment was undertaken, and the speaker did agree to abide by the External Speaker Code of Conduct. The location of the event was arranged to ensure that it was not close to any examination venues, to minimise the possibility of any protest disturbing the concentration of those sitting exams. University security was on hand to ensure that both the seminar and any associated protests were conducted peacefully.

Regarding the second type of safety concern, there is no stipulation within the University's policies requiring it to prohibit the organisation of events on the basis that the expression of offensive or repugnant views poses a threat to student safety. On the contrary, the Freedom of Speech Code of Conduct places an obligation on all students and staff to tolerate the expression of opinions within the law which are repugnant to them.

Conclusion

Having carefully reviewed the relevant policies and guidelines, and following an investigation into the nature of the issues discussed at the seminar on 25 April, I have not found evidence that the University has acted improperly or in breach of its own rules.

This case provides an example of a controversial event, in which a line of argument that many find offensive was presented. But the argument was not presented with the intention of creating offence, and nor was it discriminatory in its construction or its tone. The subject matter constitutes an entirely legitimate area for academic research, and the speaker addressed the issues in a spirit of open and civilised academic debate.

In hosting this event, the University has appropriately balanced its responsibility to uphold academic freedom, with its obligation to prevent harassment of or discrimination against minority groups.

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