

The University's relationship with Stonewall and use of external assurance and benchmarking diversity schemes

Part A: Working with Stonewall

Background

1. Following the receipt of the Reindorf Review, a set of actions was identified and approved by Senate and Council to address the issues raised by two events (the cancellation of a Centre for Criminology seminar and arrangements for speaker invitations to a Holocaust Memorial Week event). In relation to the University's relationship with Stonewall, this included a commitment to "review how we address the specific issues raised in the report" (Action 15). Two key issues were raised in the report:
 - a. That the University had made inaccurate and misleading statements about the current law in relation to trans rights in its Supporting Trans and Non-Binary Staff Guidance and its Harassment and Bullying Zero Tolerance Policy, which is a policy reviewed annually by Stonewall as part of the Workplace Equality Index (WEI) (243.11).
 - b. Concerns about the impact of the relationship with Stonewall on the culture of the University, including the potential effects on freedom of expression and those who hold gender critical views, and perceptions of the University's values (Recommendation 28).
2. The Reindorf Review included comments that some individuals felt constrained to self-censor their speech and activity because of concerns about how to manage the balance between freedom of speech and our commitment to equality, diversity and inclusion (EDI). The University has both a legal obligation and a values-led commitment that academic freedom and freedom of speech within the law are upheld. We have re-committed to creating a space for debate which may include ideas or arguments that some people find objectionable or offensive, where these are expressed within the law, alongside providing a supportive and inclusive environment. In the context of the issues raised by the two events (the cancellation of a Centre for Criminology seminar and arrangements for speaker invitations to a Holocaust Memorial Week event), this means ensuring that our approach to equality, diversity and inclusion creates space for discussions and views about both gender-based and sex-based rights. These actions included a commitment to review the University's relationship with Stonewall in the light of concerns raised in the Reindorf Review about "potential illegalities and drawbacks".

3. At their last meetings, Senate and Council considered papers reviewing the University's relationship with Stonewall, which recommended that the University continues its membership of the Global Diversity Champions Programme, subject to a future review in relation to the frequency of engagement with aspects of the programme, alongside mechanisms to strengthen the University's portfolio approach to EDI. Key elements of the University's current relationship with Stonewall are: participation in the Workplace Equality Index, which allows the University to benchmark its LGBTQ+ practices with a range of other public and private organisations; access to *ad hoc* consultancy as needed, including on the areas covered by the WEI; and access to training run by Stonewall, usually accessed by members of the LGBTQ+ networks and community.
4. Council discussed the risks for the University created by Stonewall's policy position on trans-rights and the way that Stonewall has pursued this position which has led to high-profile media coverage and challenges from other campaign groups, including advocates of sex-based rights. Council asked for greater clarity about why and how continuation of the relationship might support the interests of the University, given the risks, and assurance that appropriate consideration had been given to the potential disbenefits for the University created by Stonewall's policy and approach and the reputational risks of continuing with the relationship. Further information was also requested about the University's portfolio approach to EDI, in relation to both the wider landscape of LGBTQ+ experts and organisations and the University's work to address misogyny and discrimination against women.

Completed Actions

5. The University has already taken steps to address the concerns detailed in the Reindorf Review around potential illegalities linked to the University's relationship with Stonewall. No further questions or concerns were raised about this work, and this paper therefore does not revisit these issues. Specifically, the University has accepted full responsibility for the content of the EDI policies previously submitted to Stonewall as part of our Workplace Equality Index submission (and all other University policies). Additional processes for EDI policies have been put in place so that EDI policies are reviewed by a specialist lawyer as part of policy development. We are reviewing the sources of specialist advice available to the University to ensure that University policies continue to describe the University's statutory obligations and relevant legal frameworks accurately and in a way that continues to uphold the University's obligations in relation to academic freedom and freedom of speech within the law.

6. The report also highlighted concerns that the University's institutional relationship with Stonewall may have had a negative impact on academic freedom or freedom of speech within the law, by inhibiting academic work or discussion within the University about sex and gender identity. This led to the revision of policies and practices, including mandatory training, ensuring that external speakers can be invited to Essex in a well-managed and considered way, including when they hold views that are uncomfortable or unwelcome to some members of the University community. This includes provisions for managing counter-speech and protest, to support the expression of a plurality of views and ensuring that people holding gender-critical or other relevant beliefs feel confident to express these views alongside views expressed by proponents of gender-based rights.
7. The results of the staff and student consultation exercise conducted during the Autumn term 2021 also provide valuable context for this paper. As outlined in the previous paper, there were responses from 138 students and 146 members of staff. Of those respondents, 43% of students and 47% of staff felt proud that the University worked with Stonewall, and 14% of students and 16% of staff said they would be less likely to recommend the University as a place to work or study because of the relationship with Stonewall. The remaining 43% of student respondents and 37% of staff respondents did not answer the question or chose a neutral response. The majority of both staff (63%) and students (69%) considered the services currently received to provide value for money.
8. Although we recognise that there are a range of different belief structures that might lead an individual to be supportive or unsupportive of Stonewall, the pattern of responses demonstrated in the survey is characteristic of the discussions held in other fora, including feedback from staff equality groups, with a proportion of the University community expressing strongly held views about the relationship with Stonewall, both for and against. We asked for recommendations about alternative organisations that the University might work with in the survey, and the responses demonstrate that respondents held a wide range of views on LGBTQ+ and women's rights. The University already works with a number of the organisations suggested, and is working with all the staff forums to develop new partnerships (BAME Network, Women's Network, Global Forum, Parents' Network, Access Forum, LGBTQ+ Forum) to ensure that the University has an inclusive approach to sources of advice and good practice.

Reasons for continuing with the relationship

9. The previous paper detailed the different aspects of the relationship with Stonewall and highlighted the potential benefits for individuals and the institution of each aspect of that

relationship. The primary benefits arise from an annual subscription to the Global Diversity Champions Programme (participating in the Workplace Equality Index, consultancy on our annual submission and other queries throughout the year, access for our staff forums and LGBTQ+ community to other staff networks, conferences and discounted training). The previous paper did not answer the further question of why these needs could not be met in other ways by working with other LGBTQ+ organisations, given the risks that may arise from working with Stonewall.

10. Participation in the Stonewall Workplace Equality Index has an important role in the University's inclusion work, which uses a charters framework to benchmark and improve performance. These charters also include Athena SWAN, the Race Equality Charter, HR Excellence in Research, and the Mental Health Charter and provide a framework that enables us to enact the commitment to inclusion that is central to the University's strategic aims in practical ways benchmarked against practice in other institutions. Other elements of the Stonewall Global Diversity Champions Programme offer can be sourced elsewhere, for example, My G-Work is an alternative LGBTQ+ jobs board to Stonewall's Proud Employers, and OUTstanding is an alternative LGBTQ+ leadership programme.
11. There is, however, currently no clear alternative to Stonewall's Workplace Equality Index, which is currently the only well-established benchmark for LGBTQ+ inclusion, with the University securing a bronze award in 2021 against new criteria that consider inclusion broadly, for example, in relation to procurement processes. Working with the University Steering Group (USG) Inclusion Champions, we ensure that the feedback taken forward from our annual submission meets the University's broader strategic aims. The Index also recognises that our LGBTQ+ community is heterogeneous and, for example, of 51 suggestions on the 2021 submission, 5 specifically focused on trans, non-binary and gender non-conforming staff, while 8 actions would promote greater inclusion of bi-sexuality. Continuing with the Workplace Equality Index is, therefore, recommended, but does not take away from the importance of ensuring that the University engages with a range of organisations as part of a portfolio approach to EDI, which is developed further in paragraphs 17 to 21.

Assessment of reputational risks and potential disbenefits

12. The two main potential disbenefits of the University's relationship with Stonewall are the risk that academic work or discussion about sex and gender are impeded as a result of the institutional relationship, including because the relationship may have a "chilling effect" on

those who hold alternative views, and the external reputational risks of being perceived as aligning with one “side” of this debate.

13. As detailed above in paragraphs 5 and 6, since the publication of the Reindorf Review, considerable work has been done around the University’s external speaker processes and the University’s commitment to academic freedom and freedom of speech within the law has been highlighted through a series of communications and other discussions.
14. Our representative academic body, Senate, has expressed strong support for a continuing relationship with Stonewall, as has the Students’ Union as the representative body for the University’s students. They have also highlighted internal risks associated with ending our participation in the Global Diversity Champions Programme. Ending our relationship with Stonewall would lead to a breakdown in the relationship with our LGBTQ+ community, who are closely involved with the Workplace Equality Index submission and actions. The LGBTQ+ community also includes many of those individuals who benefit from the access to training, conferences and LGBTQ+ staff networks in other organisations provided through the Global Diversity Champions Programme.
15. Over the past year, significant work has been undertaken to implement a strategy for repairing relationships amongst University members (Action 10). This has included work on the development of the EDI calendar, support for the Essex Women’s Network, whom we have also been working with on the development of a Tackling Misogyny, Sexual Harassment and Violence against Women policy, a renewed focus on the Race Equality Charter, establishment of enhanced engagement with LGBTQ+ students and staff and work to support neurodiversity. Enhanced wellbeing support has been put in place, including additional mental health support for students and a review of lighting on campus as a means of promoting a safer campus environment.
16. Key to the work to repair relationships agreed by Senate and Council has been the creation of the portfolio approach to EDI, which emphasises the commitment to supporting the diverse needs of the University’s staff and students as a whole, benefitting from a range of sources of advice and challenge in relation to the University’s practice and creating an environment in which a plurality of views can be heard, which can include debate which is unwelcome or uncomfortable for some members of our community. Removing Stonewall from the portfolio would be undermining of this portfolio approach and the role it plays in the work to repair relationships between all University members. These internal risks sit alongside external reputational risks. Either continuing with or ending participation in the Global Diversity Champions Programme risks a perception that the University is aligned with a particular

academic or political position with respect to trans-rights, impacting on the University's ability to curate spaces in which diverse voices, including gender-critical views, can be heard. For example, the organisation Sex Matters has sent Freedom of Information requests to all organisations on a list of members of the Global Diversity Champions Programme published on the Stonewall website (including Essex) and prominently displays those who leave. There has also been media coverage about the government's role in encouraging Civil Service organisations to end their subscriptions. According to Sex Matters, 14 out of 29 government organisations have ended their membership of the Global Diversity Champions Programme, compared to 4 of 125 higher education institutions. In both cases, the reason reported in the media as having been given by individual organisations is most frequently "value for money". Recent departures from the programme featured in the media include University College London, the Ministry of Justice, the Department of Health and the BBC. However, there has also been a comparable level of media coverage for organisations who have chosen to continue their relationship with Stonewall, such as the Foreign, Commonwealth and Development Office and the Competition and Markets Authority.

A portfolio approach to equality, diversity and inclusion

17. Council has requested more information about the University's portfolio approach both in relation to the wider LGBTQ+ agenda, and to address culturally misogynist norms and the discrimination they create for women. Beyond the option of engaging with Stonewall for support or training, which many members of our LGBTQ+ community and staff forum still value, the University's engagement with LGBTQ+ charities has broadened; for example, this year we have commissioned training from Gendered Intelligence (specifically on the subject of trans-awareness) and have worked with Outhouse East to deliver awareness-raising training for staff and provide drop-in support for LGBTQ+ staff at their Colchester offices.
18. During 2022-23 we have developed separate networks and Inclusion Champions for LGBTQ+ and Trans, Non-Binary and Gender Non-Conforming staff and students. This has helped us create more space for the heterogeneity of the LGBTQ+ community, while also being able to respond to specific issues raised by our trans, non-binary and gender non-conforming community. New Co-Chairs for the Essex Women's Network have been elected, and meetings and events run by this network have restarted. We have also subscribed to emei, a consultancy service that works across the range of protected characteristics. This service includes reviewing and feeding back on all EDI policies, to complement the advice from a specialist EDI lawyer.

19. To ensure that this broad, portfolio approach continues and is open to scrutiny and appropriate challenge, we have developed a new EDI calendar and propose to publish on the University website a list of the EDI organisations the University is working with across all areas.
20. Our ground-breaking work to address misogyny and the discrimination that this creates for women continues. Following action plans to address sexual harassment and violence against women in both 2017 and 2021, we are developing a specific policy on “Tackling Misogyny, Sexual Harassment and Violence Against Women”. A formal consultation on the draft policy is underway, and we are working with academics who specialise in women’s rights, external experts on violence against women and our internal wellbeing teams, as well as the Essex Women’s Network, the Students’ Union and the wider student and staff communities. We are working with the Fawcett Society to support our work to reduce the gender pay gap, and our new essential management training “Do You Manage the Essex Way?” will include scenario-based training about how workplace practices such as recruitment and participation in meetings can have a disproportionately negative impact on women.
21. The Tackling Misogyny policy will be considered by USG, Senate and Council in the Autumn Term. We are reporting regularly to USG on progress against the Tackling Sexual Harassment Action Plan, which the Audit and Risk Management Committee also considered at its meeting in June 2022. This new policy will be considered alongside a full implementation and training plan, to explain how we intend to embed the policy and support related changes in workplace behaviour. This is an opportunity for the University to be sector-leading in its approach to misogyny alongside our commitment to the Stonewall Workplace Equality Index and LGBTQ+ inclusion.

Part A - Conclusions

22. The University has a statutory obligation to promote academic freedom and freedom of speech within the law. The University also has statutory obligations under the Public Sector Equality Duty and associated legislation. This paper is advocating the adoption of a portfolio approach to equality, diversity and inclusion, alongside the range of other policies the University has established, to assist the University in fulfilment of its statutory duties and to develop its practice in a way that benefits from periodic external assessments that generate suggestions for improvements to practice that the University can consider.
23. A key reason for the University to maintain its relationship with Stonewall is to allow the University to continue to participate in the Workplace Equality Index. The Workplace Equality

Index allows the University to benchmark its performance against a range of other relevant organisations, as one of several charters used to meet our strategic commitment to create an inclusive environment. This is the only well-established LGBTQ+ charter available, and promotes inclusivity for the whole LGBTQ+ community. The University currently submits to the Stonewall Workplace Equality Index annually, but could in the future also consider whether this is the appropriate frequency.

24. There is strong internal support for continuing the University's relationship with Stonewall, for example, within our academic community and Students' Union. Ending the relationship with Stonewall risks damaging the relationship with our LGBTQ+ community and the work that is being undertaken to repair relationships between all University members. Both continuing or discontinuing the University's subscription to the Stonewall Global Diversity Champions Programme run the reputational risk of negative media and other attention.
25. The Reindorf Review called for a review of the benefits and disbenefits of the University's relationship with Stonewall. It also recognised that this review may lead to a decision that it is appropriate for the University to continue its relationship with Stonewall, as recommended in this paper. In this case, Akua Reindorf's recommendation is that the University "should devise a strategy for countering the drawbacks [of the relationship] and potential illegalities [in its EDI policies]". A number of actions have already been taken to ensure that EDI policies are legally compliant and that external speakers are supported to speak lawfully, even when others find this uncomfortable or unwelcome, as part of the University's broader commitment to academic freedom and freedom of speech.
26. Another key part of the sensible checks and balances that comprise this strategy is a portfolio approach to equality, diversity and inclusion. This includes working with LGBTQ+ organisations in addition to Stonewall, and to address issues around misogyny and discrimination against women. More information about the University's work in these areas has been provided, and a further recommendation is made that the Inclusion team publishes a regularly updated EDI calendar and list of EDI organisations that the University is working with, to strengthen this portfolio approach further.

Part A - Recommendations

27. Council is asked to note Part A of this report and to approve the following recommendations:
 - a. The University continues its membership of the Stonewall Global Diversity Champions Programme, subject to regular review of the expenditure and the contribution that the programme makes to delivery of the University Strategy.

- b. Submission to the Stonewall Workplace Equality Index will continue on an annual basis. This schedule will be reviewed by Senate and Council in 2023, informed by discussions with Stonewall and the practicalities of an annual cycle.
- c. A commitment to a portfolio approach will underpin the University's approach to equality, diversity and inclusion, including working with a range of LGBTQ+ organisations and work to tackle misogyny.
- d. This portfolio approach to EDI will be evidenced and strengthened through a regularly published EDI calendar and list of inclusion organisations the University is working with.
- e. Subject to approval by Council, the University's ongoing relationship with Stonewall will be communicated to the University community, as part of and alongside our commitment to a portfolio approach to equality, diversity and inclusion.

Part B - External assurance and benchmarking diversity schemes

Background

28. The Minister of State for Higher and Further Education, Michelle Donelan, wrote to the University on 27 June 2022 following the third reading of the Higher Education (Freedom of Speech) Bill in the House of Commons. The letter highlighted a "growing concern that a 'chilling effect' on university campuses leaves students, staff and academics unable to freely express their lawful views without fear of repercussion". As part of the University's statutory duty to take steps that are reasonably practicable to ensure freedom of speech within the law, the letter asked universities to carefully consider their participation in external assurance and benchmarking diversity schemes.

29. The University currently participates in a range of charters and benchmarks related to equality, diversity and inclusion, as well as utilising other external standards to ensure we deliver excellence in research and education, such as the HR Excellence in Research framework, and the Declaration on Research Assessment (DORA, which recognises the need to improve the ways in which researchers and the outputs of scholarly research are evaluated). The University holds an institutional bronze Athena SWAN award, with 15 individual departments holding bronze or silver awards, and Athena SWAN accreditation remains a condition for some sources of research funding. We are also a bronze employer in the Stonewall Workplace Equality Index, and Part A of this paper includes a full review of the benefits and disbenefits of the University's membership of the Stonewall Global Diversity

Programme that includes this Index. We are working on a submission for the Race Equality Charter and work is underway on the Mental Health Charter.

30. The second part of this paper, Part B, examines the tensions and concerns raised by the letter from the Department of Education and considers how our proposed and current practice addresses these risks.

31. The concerns raised in the Minister's letter were as follows:

- Whether membership of a scheme is potentially in tension with the creation of an environment that promotes and protects free speech?
- How membership of a scheme is genuinely the best way of achieving our commitment to equality, diversity and inclusion, rather than addressing the issues independently?
- Universities should not feel they are being pressured to take part in such initiatives to demonstrate their support for the cause the scheme addresses and demonstrate how this is the case.
- Universities should "be thinking carefully and independently about their free speech duty when signing up to these sort of schemes" and demonstrate how this is the case.
- Membership of these schemes, the initiatives that flow from them, and the creation of new, highly paid, management roles should represent good value for money for taxpayers or students and a value for money case should be made.

Whether membership of a scheme is potentially in tension with the creation of an environment that promotes and protects free speech?

32. All our inclusion work takes place within the wider institutional context for staff and students, where we have statutory duties both to uphold academic freedom and freedom of speech within the law and as part of the Public Sector Equality Duty. The actions taken in response to the Reindorf Review have been undertaken in the context of and used to reflect and to reinforce the University's commitment to academic freedom and freedom of speech within the law. These actions include the revisions to the Speaker Code of Practice and External Speaker form, training and risk review process.

33. The University's commitment to academic freedom and freedom of speech within the law provided the context for the exploration of the benefits and disbenefits of the University's relationship with Stonewall in Part A. That context is equally relevant to the wider issue of the use of charters and benchmarks as a whole, within which the University's portfolio approach to equality, diversity and inclusion is situated.

How membership of a scheme is genuinely the best way of achieving our commitment to equality, diversity and inclusion, rather than addressing the issues independently?

34. External charters and benchmarks are tools that can be used to shape inclusion work, particularly when organisations are at an early stage of maturity in relation to an area of equality and diversity. The Inclusion team at the University has been in place for less than a year and is still developing its approach and working practices. External charters are only one part of the wider inclusion agenda at the University, but provide an external framework, constructive challenge and access to best practice in other organisations facing similar challenges. Risks emerge when charters are implemented uncritically and seen as a “tick box” exercise, rather than a structured and time-limited approach to promoting cultural change.
35. Significant changes have been achieved over the past five years at the University, during which the University has been expanding its use of Athena SWAN. These include increased representation of women in leadership roles, a higher proportion of promotions for women and the achievement of equal pay for equal work, particularly among Professors. These examples provide evidence that demonstrates how attention to and an improved understanding of the barriers facing groups with particular shared protected characteristics captured through an external charter have supported inclusive practices.
36. An appropriate use of charters and benchmarks as a component of the University’s portfolio approach to equality, diversity and inclusion through which a plurality of voices can be heard on our campuses, is therefore the best current means of securing expert evaluation of the University’s practices to support its commitments and obligations in relation to equality, diversity and inclusion.

Universities should not feel they are being pressured to take part in such initiatives to demonstrate their support for the cause the scheme addresses and demonstrate how this is the case, and should “be thinking carefully and independently about their free speech duty when signing up to these sort of schemes” and demonstrate how this is the case

37. External benchmarking supports a process of self-evaluation, on the basis of which the University makes conscious choices about which areas of further work are relevant to and contribute to our strategic aims. This is part of the University’s portfolio approach to equality, diversity and inclusion which supports and works alongside mechanisms to support academic freedom and freedom of expression within the law, including our arrangements for external speakers.

38. Which charters to submit to, and any resulting action plans, are agreed through the University's governance or management structures, where there is a clear understanding and commitment to upholding the statutory duties of the University in relation to both freedom of speech and the Public Sector Equality Duty. This is also the approach that can be seen in Part A of this paper, which analyses the risks and benefits of submission to the Workplace Equality Index.
39. These checks and balances ensure that the use of charters and benchmarks is judicious and appropriate, and that safeguards are in place to promote academic freedom and freedom of speech within the law and that these safeguards are understood and effective. The approvals processes required prior to the use of a particular charter or benchmark being agreed enable explicit and independent consideration to be given to the risks and benefits of use of the charter. Proposals for actions as a result of the charter self-evaluation process are also carefully considered, to ensure that they contribute to, and do not create any unnecessary tensions with, the University's duty to uphold academic freedom and freedom of speech within the law.

Membership of these schemes, the initiatives that flow from them, and the creation of new, highly paid, management roles should represent good value for money for taxpayers or students and a value for money case should be made.

40. The portfolio approach to equality, diversity and inclusion requires that the components of that portfolio are open to scrutiny and challenge. The portfolio itself and the way that it is delivered are expected to change over time, as new voices emerge, and the University's practices and culture develop. Part A of this report is clear that participation in the Global Diversity Champions Programme should only be endorsed subject to the regular review of the expenditure and the contribution that the Programme makes to delivery of the University Strategy.
41. The Minister also raised specific concerns about value for money, including where delivery of charters and benchmarks led to the creation of "new, highly paid management roles". No new management roles have been created at the University to deliver charters or benchmarks, and where additional resources have been needed these have been supported through bids to the rigorous annual planning round, as for all other new posts. In a similar way, one of the questions asked in the open consultation about the University's relationship with Stonewall was about whether the services provided offered value for money for the annual subscription. Where new initiatives are identified as part of a charter, in addition to those identified through

the standard annual planning processes, action plans are drawn up and given appropriate scrutiny through the University's management or governance structures.

42. While regular review is built into the University's portfolio approach to equality, diversity and inclusion, it is recommended that regular reviews are established as an explicit requirement for all charters, benchmarks and the posts that support them to ensure they continue to be relevant to the University's needs, remain the best means of evaluating our practices and provide value for money for the University in pursuing its mission and charitable objects.

Part B – Conclusions and Recommendations

43. Council is asked to note the specific consideration to the risks and opportunities arising from the use of charters and benchmarks as a feature of the University's portfolio approach to equality, diversity and inclusion and, in particular:

- a. To note the context provided by the University's commitment to promoting academic freedom and freedom of speech within the law, within which the University's portfolio approach to equality, diversity and inclusion is situated, as outlined in the paper.
- b. To endorse the appropriate use of charters and benchmarks as a component of the University's portfolio approach to equality, diversity and inclusion through which a plurality of voices can be heard on our campuses, as the best current means of securing expert evaluation of the University's practices to support its commitments and obligations in relation to equality, diversity and inclusion.
- c. To note the checks and balances in place to ensure that the use of charters and benchmarks is judicious and appropriate, and that safeguards are in place to protect and promote academic freedom and freedom of speech within the law, and that these safeguards are understood and effective.
- d. To note the approvals processes required prior to the use of a particular charter or benchmark being agreed, enabling explicit and independent consideration to be given to the risks and benefits of use of the charter. Proposals for actions as a result of the charter self-evaluation process are also carefully considered, to ensure that they contribute to and do not create any unnecessary tensions with the University's duty to uphold academic freedom and freedom of speech within the law.
- e. To endorse the need for periodic reviews of the utility and value for money of the use of individual charters, benchmarks and the posts that support them, to ensure that they continue to be relevant to the University's needs, remain the best means of evaluating our

practices and provide value for money for the University in pursuing its mission and charitable objects.