

## Investigating Officers Report - Conclusions of Investigation into Complaint of [REDACTED] - 17<sup>th</sup> February 2016

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I have tried to separate the different aspects of this fairly complex investigation below for clarity:

### Hate Speech & Homophobic Language:

As a member of the Union has been accused of using transphobic language and hate speech<sup>1</sup> this is the first thing I must address as this would be completely unacceptable behaviour for any member of the Union to display, regardless of whether they are an officer or not.

It should be noted:

- Ben described his intentions for writing the article as “Frustration with suppression of free speech, following on from a national Tab article. The article was written as a student addressing a student issue that was particularly relevant at Lancaster University given the recent poor rating for free speech.”
- Ben stated in his interview that there was no intention to appear aggressive or to cause harm.
- Ben has apologised for the photo caption ‘no, eat shit’ which he accepted in interview was “too aggressive”. After the complaint made by [REDACTED], Ben changed this to: ‘say please’.
- When told that the complainant considered the paragraph dismissing the use of the gender-neutral pronoun ‘they’ to be transphobic Ben responded that his “article addressed the grammatical conventions, as a point regarding free speech and prescriptive language”
- [REDACTED] took particular issue with the article section that criticised the use of “they” as a gender-neutral pronoun; Ben responded to this by describing this section as a “cheap shot and excuse to plug *Dinosaur Comics* which has been taken to mean far more than I meant it to”

The evidence reviewed through this investigation suggests that Ben’s article does not have the intent necessary to be hate speech. However, the language used, in particular the phrase “normal people”, does leave it open to interpretation as transphobic. As a member of the University it is Ben’s responsibility to consider his fellow students, in particular those of protected characteristics. **I am therefore recommending that this aspect of the complaint be referred to the University Dean for consideration.**

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<sup>1</sup> In England and Wales it can be an offence to stir up hatred on the grounds of race, religion or sexual orientation. There is no similar offence relating to gender but for the purposes of this investigation, this will suffice as a definition of hate speech. Section 18 of the Public Order Act 1986 states:

*A person who uses threatening, abusive or insulting words or behaviour, or displays any written material which is threatening, abusive or insulting, is guilty of an offence if—*

- *he intends thereby to stir up racial hatred, or*
- *having regard to all the circumstances racial hatred is likely to be stirred up thereby.*

The [Criminal Justice and Public Order Act 1994](#) inserted Section 4A which prohibits anyone from causing alarm or distress. Section 4A states:

*A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he—*

- *uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or*
- *displays any writing, sign or other visible representation which is threatening, abusive or insulting, thereby causing that or another person harassment, alarm or distress.*

### **Ben's role as a JCR Officer:**

With regards to the article and the relevance of Ben's role as a Pendle JCR officer it should be noted:

- Ben's article made no reference to his role
- Ben's Tab 'author' profile on makes no reference to his role or the Union: "Computer science second year, scuttle hound, pro Judas, penis subeditor"; neither do his Facebook profile and Twitter bio
- Ben sought advice from LUSU Communications Manager concerning JCR officers expressing their opinions on social media outside of official JCR officer communication channels or responsibilities. Ben was advised: "You're free to express political opinions on a personal basis, but the potential difficulties arise if you're expressing political views and your Twitter bio says you're a LUSU officer... you're free to comment on political matters as long as they affect 'students as students'"
- Pendle College JCR Exec Bye Law points 4.5.1.2 & 4.5.1.5 state that all officers shall be mandated to: "Represent the JCR Executive in a positive light to the college members through all their actions and decisions"; and "Act to demonstrate a positive image of the college and its members at all times"

Student officers should consider how all actions in the public domain are relevant to their role as an officer of the Union and should consider how their actions and statements may be perceived by the students they represents but given all of the above it is not unreasonable that Ben believed he could write in isolation of his role as a Union officer. **I therefore conclude that this complaint should be reviewed in isolation from Ben's role as a Union officer.**

### **Harassment:**

██████████ stated in interview that the complaint revolved around Ben's open letter. Since the publication of the article there has been communication, both direct and indirect, between Ben and ██████████ relating to the article. Having interviewed both parties it is clear that this matter has caused them both emotional distress. While the situation has at times been exacerbated by the actions of both parties I am confident that no action from either party had malice or intent to harass. **I am therefore recommending that this element of the complaint should not be upheld.**

### **Counter Complaint:**

After conducting the above interviews a counter-complaint was filed by Ben Goldsworthy on 3/3/16 which accused ██████████ of harassment. This complaint did not present any new information or evidence to that contained in the original complaint or investigation. **I therefore consider this investigation to be adequate for both the complaint and counter-complaint together and draw the same conclusions that this complaint(s) should not be upheld.**

### **Next Actions:**

- The Article should be referred to the University Dean for further consideration.
- If members of the LGBTQ+ Association do not consider Pendle College to be safe or welcoming then they should address this issue with the Senior Common Room and College Advisor Team who can support the JCR, alongside LUSU's staff and officers, to do so.
- LUSU Council to review the process concerning the provision of clearer rules of behaviour and responsibilities for part-time officers. Not only will this give officers more confidence in their actions but it will also provide those who believe an officer has contradicted these rules a clearer guide with which to evaluate and articulate their complaint.