



FSU
FREE SPEECH UNION

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Mr Matthew Rycroft CBE
Permanent Secretary
The Home Office
2 Marsham Street
London SW1p 4DF

14 April 2022

By email to: pspermsec@homeoffice.gov.uk

Dear Mr Rycroft,

I am writing to you in my capacity as General Secretary of the Free Speech Union. The FSU is a non-partisan, mass-membership public interest body that stands up for the speech rights of its members and campaigns for free speech more widely.

We were alarmed to discover from an employee of UK Visas and Immigration that Home Office staff have been instructed to change their email signatures so they include their pronouns. We are concerned that this directive, which appears to be mandatory, is a form of compelled speech that violates the right to freedom of thought, conscience and religion and the right to free speech (Article 9 and Article 10 of the European Convention on Human Rights) as incorporated in UK law by the Human Rights Act, and is a breach of the Equality Act 2010 (EqA).

Home Office staff compelled to state their pronouns in email signatures: the facts

An email of 4 April 2022 sent from Home Office Communications discussed changing the name of 'Visas and Citizenship' – a sub-division of UK Visas and Immigration – to 'Visa, Status and Information Services'. Part of that rebranding exercise involved asking staff to include their pronouns in their email signatures. The email stated:

We'll all need to take steps to make sure that we're up to date and compliant with that name change. One of the first items to take care of is your email signature. Here's the directorate standard which you can copy, paste, and edit into your Outlook:

Name (pronouns)
Job title
[Name of unit] | Visa, Status and Information Services
Customer Services Group | UK Visas and Immigration
Address/office location [on one line – e.g. Level 3, Foundry House, Sheffield]

T: +44 (0)XX XXXX XXXX

M: +44 (0)XX XXXX XXXX

E: email.address@homeoffice.gov.uk

This ambiguous instruction – “you *can* copy, paste, and edit into your Outlook” – was followed on 5 April by an email from a manager making it clear that this was not a request but a demand: “In case anybody wasn’t sure, this change does affect us and so we need to alter our signatures to match the template on the email below.” In the template, he included his own name followed by “(he, him, his)”.

The law

The FSU supports the rights of all people, including transgender people, to be treated with dignity and respect and to live a life free from harassment and discrimination as defined by law. The FSU also supports the rights of all people to exercise their freedom of expression under Article 10 of the European Convention on Human Rights and the closely related rights to freedom of thought, conscience and religion (Article 9, ECHR).

The scope of Article 9 has been held to include the right not to be obliged to express a belief you do not hold (*Buscarini v Marino*) and likewise the UK Supreme Court has ruled that the right to freedom of expression includes the right not to express a view which is at odds with your profoundly held beliefs (*Lee v Ashers Baking Company*). One such belief is the conviction that a person’s sex is immutable and not to be conflated with gender identity – a belief that is associated with a point of view often referred to as ‘gender critical’, where the word ‘critical’ refers to the ideology underpinning trans rights advocacy. This ideology – sometimes referred to as ‘gender identity ideology’ – maintains that a person’s sex is not an immutable characteristic determined by the possession of certain chromosomes, but a social construct, much like gender. Subscribers to this viewpoint believe that the sex a person feels themselves to be may be at odds with their biological sex and the former is a more important component of their identity than the latter.

The first sense in which directing people to include their pronouns in their email signatures may be unlawful is that doing so is a tacit affirmation of gender identity ideology. After all, it is only if you subscribe to this ideology and believe that the sex a person feels themselves to be trumps their biological sex that it makes sense to ask people to include their pronouns in their signatures or biographies, and not just the standard honorifics of Mr, Mrs and Ms. Consequently, directing people who hold gender critical beliefs to include their pronouns in their Home Office communications is compelling them to affirm a point of view they profoundly disagree with. In effect, the Home Office is asking some of its employees to express a belief they do not hold and which they profoundly disagree with.

The second sense in which this may be unlawful is that it may constitute harassment as defined by the Equality Act 2010 (EqA). As I am sure you know, s.26 of the EqA states that any act in a workplace that has intended to or has the effect of creating of an intimidating, hostile, degrading, humiliating or offensive environment for an employee related to their protected characteristic(s) constitutes unlawful harassment. The list of relevant protected characteristics in the EqA include ‘religion or belief’ and the Employment Appeal Tribunal recently ruled that the belief that a person’s sex is immutable and not to be conflated with gender identity is “worthy of respect in a democratic society” and, as such, is a protected belief (*Forstater v CGD Europe*). It seems clear that asking someone who holds gender critical beliefs to tacitly affirm gender identity ideology creates a hostile work environment for them in virtue of a protected characteristic they hold.

Alternatively, the practice and/or policy of insisting that staff add pronouns to their emails would have a disparate impact upon employees who hold gender critical beliefs and is likely to amount to indirect discrimination on the grounds of belief pursuant to s.19 of the EqA.

The final sense in which this may be unlawful is that s.149 of the EqA, which sets out the public sector equality duty, states that a public authority has a duty to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It seems equally clear that asking those Home Office employees who hold gender critical beliefs to tacitly affirm the beliefs of those who subscribe to gender identity ideology will not foster good relations between persons in these two groups. The Home Office may think that asking all employees to include their pronouns in their email signatures is an 'inclusive' policy, but it will have the effect of making those who hold gender critical beliefs feel excluded. In short, it is likely to divide your workforce, not bring them together.

Civil Service impartiality

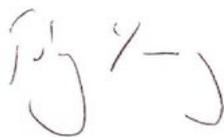
In the context of the Civil Service, the principle of impartiality is also engaged by this directive.

The Civil Service Code states that civil servants must not "act in a way that unjustifiably favours or discriminates against particular individuals or interests". Requiring civil servants to advertise their fealty to gender identity ideology is a breach of this important principle since it will signal to those members of the public they communicate with that they have come down on one side in an ongoing, politically contentious public debate. It is likely to have a chilling effect on the speech of those people with gender critical beliefs when communicating with Home Office employees for fear that if they do not conceal those beliefs they may be discriminated against by civil servants who have apparently sided with those on the other side of the debate.

Further action

We trust that this directive was based on a misunderstanding by an over-zealous manager and is not official Home Office policy. Indeed, we think it cannot be as you have not included your pronouns in your own [biography](#) on the UK Government website. However, we would ask you to affirm that no Home Office employee has been penalised for refusing to include their pronouns in their email signatures, and, to avoid any confusion, make sure this email is rescinded and make it clear to managers at all levels of the Home Office that stating pronouns on email signatures is not, and must not become, mandatory.

Yours sincerely,



Toby Young
General Secretary
The Free Speech Union
toby@freespeechunion.org

cc. The Right Hon Priti Patel MP, Secretary of State, the Home Office
The Right Hon Jacob Rees-Mogg MP, Minister of State for Government Efficiency
Ms Kemi Badenoch MP, Minister of State for Equalities