

Response to Management submissions, from Tim Anderson

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21 January 2019

Dear Review Committee

Response to management submissions to the Review Committee, on a proposed finding of 'serious conduct' against Dr Tim Anderson

General matters

1. Stephen Garton's statement and submissions reinforce the narrow, authoritarian approach he showed throughout 2017-2018. Misconduct is misconduct because he says so, he asserts, using the first person and 'The University' interchangeably. Unable to deal with our disagreement in principle (and indeed the university has no mechanism to assist with this) he resorts to repeating 'orders', then denounces me for not accepting his 'authority'. Stephen does not seem to recognise that I am a member of this university, and not his employee.

2. Reasonable outside people looking at these events, I suggest, will look at the sum total of the complaints against me in 2018 (A1 and B1, in my submissions; Second and Third allegations, in Stephen's statement) and see (a) a picture of friends of lunch and (b) an educational graphic on how to read casualties of the Gaza massacres. They will then notice the hysteria over some (real or imagined) slight to Israel and conclude that the Israeli lobby has got at the university, and that the Provost has succumbed to their pressures. They would be right.

3. I am truly shocked to see the extent of Stephen's conceit. He sends me an order which purports to definitively expel me from the university and from my employment – even pretends that he has the authority to prevent me from talking to other people – then insists that I must keep the whole matter secret! I have to ask myself, what grasp does he have on reality? Further, while abusing my rights and triggering a scandal over lack of freedom of speech at the University, he accuses me of 'victimising' him (SG 7/12/18), because after 18 months of public abuse I finally set out my side of the story. His confidentiality demands, like his censorship demands, have gone way too far.

4. Stephen's statement makes the point that there "is little if any prospect that a constructive employment relationship can be established or maintained in the future" (SG 14/1/19: 53). This artificial statement ignores my 20 years employment at the university, for most of which I faced no demands to self-censor my public comment. Indeed Stephen has made no attempt to criticise, or even mention, my work at this university. However there is a relevant problem here, with which the Committee might assist. The criteria for intellectual freedom and censorship (which I say have been badly misinterpreted by Stephen) should be clarified, for the benefit of university managers. I say managers should not interfere at all in their colleagues' public debates, unless there is serious abuse, harassment or intimidation.

Matters arising from Stephen Garton's statement (14/1/19)

5. In Stephen's 14 January 2019 statement concerning 2017 ('First Allegations') he refers four times (10, 15, 16 & 17) to my seeking protection of the intellectual freedom provisions of the

University's enterprise agreement (s.315). Indeed I did raise the point in my 5 July 2017 letter. However in his 2 August 2017 correspondence he did not respond to the matter at all; not even once. I say he deliberately avoided the issue in 2017, and his multiple references in his 2019 statement for the Committee are an afterthought.

6. In his statement (14/1/19) he claims that my 2017 public comments "were not the expression of unpopular or controversial views" (17). I assume he says this to escape the specific intellectual freedom standards that attach to 'controversial views'. However later on in this statement he concedes I have been "a controversial figure" and have faced criticism from influential people, in the course of my anti-war activities (45, 46).

7. In his recent statement (14/1/19) Stephen maintains his minimalist 'misconduct' standards: "inappropriate" (21), "inappropriate and likely to offend a reasonable person" (34) and "a reasonable person would find the image offensive" (38). I say these criteria are arbitrary, erroneous and provide insufficient basis for a finding of misconduct, let alone serious misconduct. Repetition of them does not improve his argument.

8. Stephen claims that the intellectual freedom provisions related to controversial matters do not "override or qualify the standards of behaviour required of employees under the Code of Conduct" (SG 14/1/19: 16). I say he is wrong on this. The provision related to controversial matters (where offence is common place) does indeed 'qualify' the Code of Conduct, by making more stringent protections of intellectual freedom in controversial matters.

9. As for the 2018 'second allegations' (A1), where posting a photo of friends at lunch was said to be 'inappropriate' (SG, 14/1/19: 21), I draw the Committee's attention to the comments of those in the university's media unit, at the time. They were responding to Channel Seven journalist Bryan Seymour. These documents were released to me under GIPA law. Ms Kirsten Andrews wrote:

"My own view (and I think the University's) on this is that Tim can associate with whoever he likes while on leave and they in turn are entitled to where [sic] whatever they want and it is none of the University's business. But copying to [Dean] Annamarie to sense check the call."

Almost 90 minutes later Ms Annika Dean of the Media Unit drafts this memo:

"Confirming I will issue: ... Dr Anderson was on leave at the time of the post and we have no visibility of or jurisdiction over what he chooses to do while on leave" (TA, App B, p.22).

I say these comments reflect a more normal and reasonable response to the complaint. But Stephen and Dean Jagose chose to escalate the matter into a quite artificial claim of 'inciting racial hatred'.

10. From Stephen's recent statement (14/1/19: 21) we can see that he spoke with Dean Jagose at about this time and [apparently] they countermanded that press release. They then began the attempt to censor my 'friends at lunch' photo (A1 or 'Second Allegations'). Documents released under GIPA show that the lobbying came from Channel Seven reporter Bryan Seymour and two other supporters of Israel - Mr Vic Alhadeef and Mr Jamal Daoud, the same people who appeared in the Channel Seven report. Stephen claims the complaint came from "a member of the public ... [and] was also the subject of some media comment" (SG 14/1/19: 20).

11. Of the 'friends at lunch' photo (A1) Stephen says I was asked to remove it as I had "identified [myself] on [my] social media accounts as a member of the university" (SG 14/1/19: 23). He provides no evidence of this. It is not true. I removed the University of

Sydney tag from my Twitter and Facebook accounts in 2017, after the alarm showed by the University over the controversy back then. As for the claim that I had “a legal obligation to comply with the lawful and reasonable directions of [my] employer”, I say that direction was not reasonable. It seems the University’s Media Unit thought much the same.

12. Stephen repeats his claim that I published “an image of a cropped swastika superimposed over the Israeli flag” (SG 14/1/19: 34). I say (a) he has totally misrepresented my Gaza casualties info-graphic (B1), which is also part of my teaching materials; (b) that graphic has no visible swastika at normal magnification and (c) in any case he has not explained what is wrong with verbal or graphic comparisons between fascist states. He simply asserts “a reasonable person would find the image offensive” (SG 14/1/19: 38). This example shows the danger in arbitrary constructions of ‘offensiveness’. Even at face value the allegation has nothing to do with racial prejudice or racial offence, we are clearly speaking of references to a state. Stephen’s actions show a hyper-sensitivity to Israel. I say those actions were an improper political intrusion into both my public comments and my teaching material. I told him this in my letter of 26 October 2018.

Final matters

13. I note that in both the ‘Delegate’ submissions and Stephen’s statement there are assertions that my conduct is ‘incompatible’ with my work obligations, ‘contempt for [his] authority’ and so on (SG 14/1/19: 51-53; Delegate 14/1/19: 6.3, 6.8). This is an artificial construction, entirely based on Stephen’s frustration at my non-acceptance of his regime of politicised censorship. It has nothing to do with my actual academic work, about which Stephen has said precisely nothing. I say he has not properly applied the existing University rules.

14. In response to his submissions I counter that the finding of ‘serious misconduct’, and the linked proposal to remove me from my position as Senior Lecturer, are unreasonable and should be rejected for these reasons:

- (i) the principles on which Stephen has assessed academic ‘misconduct’ (let alone serious misconduct) – i.e. ‘inappropriate’ and ‘offensive’ - are erroneous, arbitrary and deficient;
- (ii) in particular, and contrary to Stephen (14/1/19: 16), the more stringent intellectual freedom protections of the EA s.315 do indeed ‘qualify’ other principles of the Code;
- (iii) it might help avoid future conflict if the Committee recommended clarifications of these principles;
- (iv) I say the conflict generated in this matter stems principally from Stephen’s authoritarian approach, which has been reckless with regard to facts and principles; someone should tell him he has made a mistake;
- (v) Stephen has made no attempt to suggest that there is any ‘serious impediment’ to me doing my job, as required by the definition of ‘serious misconduct’ (EA Clause 3). No reference has been made to my actual academic work.

Yours sincerely

Tim Anderson (Dr)
University of Sydney
21 January 2019