

Report of the Working Group on a Definition of Antisemitism

Description of Paper

Report of the Working Group on a Definition of Antisemitism, established by Academic Board at the meeting of 10 February 2021 [AB Minute 25, 10.02.21].

Action Required of Academic Board

To discuss with a view to advising Council.

Prior Consideration

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Working Group on a Definition of Antisemitism

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Academic Board Working Group on a Definition of Antisemitism

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1 **Executive Summary**

Antisemitism is one of the most odious aspects of Europe's dark history, culminating in the destruction of European Jewries in the Holocaust. It is common ground in this report that antisemitism is very much still alive and requires robust action by the university and vigilance among its members.

The contemporary evolution of antisemitism is also complex. It is bound up with the political trajectory of the state of Israel and the future of the Occupied Palestinian Territories. Heated political argument about that issue has provoked concerns about whether opposition to Israeli policies is in fact a muted or overt form of antisemitism. Those objections have in turn been castigated as political cover for gross human rights violations.

The Working Group recognises both positions here to be sometimes well-founded. Its predecessor Working Group was tasked with exploring whether the International Holocaust Remembrance Alliance's (IHRA) working definition of antisemitism got the balance wrong. It found that it did. Academic Board thus charged this group with finding a new definition. Central to that mandate was the recognition that universities are bastions for the exercise of legally protected freedom of speech and of academic freedom.

The first major conclusion of this group was that the function of any definition in the university context was unclear. The report finds that the function of any definition in a university context should be *educative* and not *proscriptive*. That means it should serve to illuminate debate and discussion of what constitutes antisemitism, with a view to eliminating it. It is not meant to serve as a standard in disciplinary procedures or for blocking events. Such a conclusion is illuminated in the careful exploration of the legal and policy context for the protection of freedom of speech and for protection against discrimination and racial harassment detailed in Section 4.

In Section 5 the report considers a range of alternative definitions of antisemitism, as well as the options of amending an existing definition or advancing a set of recognised definitions. It concludes that if only one definition were insisted upon, the Working Group would support the Jerusalem Declaration on Antisemitism (JDA). However, the Working Group does not support the recognition of only one definition. Rather, having regard to the educative and not proscriptive function of the definition, it recommends the official recognition of a set of antisemitism definitions that would include several options considered in this report. This recommended approach invited the question of why the IHRA definition could not be included in the recognised set. After long deliberation, and subject to the conditions and reasons set out in Section 6, the Working Group concluded that it could not justify excluding it.

The report therefore recommends that UCL recognise a range of definitions of antisemitism, which include the Helen Fein, IHRA, JDA, and Nexus Document definitions, and that such definitions be recognised only for educative and not proscriptive purposes. It offers a draft resolution in Section 7.1 to give effect to its recommendations.

2 Context and Background to this Report

1. In recent years, there has been a widespread tendency for institutions of higher education and other institutions to adopt the International Holocaust Remembrance Alliance's definition of antisemitism. On 6 February 2019, UCL's Academic Board held an inconclusive deliberation on the advantages and disadvantages of the IHRA working definition of antisemitism as a tool to combat antisemitism on campus. That debate was followed by two UCL Council meetings in which the IHRA definition was discussed (13 March 2019) and then adopted (21 November 2019). The views of Academic Board did not figure prominently, if at all, in that decision.

2.1 *The Report of the Working Group on Racism and Prejudice*

2. On 12 December 2019, the UCL Academic Board voted to establish a predecessor group to the present one, the Working Group on Racism and Prejudice (WGRP). Its role was to consider *inter alia* whether UCL should ultimately adopt or retain any working definition of antisemitism. The WGRP was constituted to 'to advise on racism and prejudice that would investigate the proposed adoption of the IHRA definition of antisemitism and its consistency with/inconsistency with Academic Freedom at UCL'.¹
3. The membership of the WGRP consisted of experts nominated by the Faculty of Laws, the Department of Hebrew and Jewish Studies, the Centre for Research and Evaluation in Muslim Education, one member nominated by the SMT, one representative of UCU, two representatives nominated by the Student Union, and four volunteers from the membership of AB chosen by election. During its meetings between March and December 2020, the WGRP consulted with further external experts, the UCL Registrar, the outgoing and incoming presidents of the UCL Jewish Society, the Friends of Palestine Society, the Islamic Society, the Provost's Envoy for Race Equality, and the Head of UCL EDI.
4. In order to assess the need for an adoption of a specific definition of antisemitism as proposed by the SMT and adopted by UCL Council to combat antisemitic harassment on campus, the WGRP reviewed UCL policies and procedures and the legal context for combatting antisemitism, racism and prejudice at UCL. It published its seventy-page (plus appendices) Report in December 2020, in which it concluded that 'there is not enough awareness at UCL about what antisemitism is, how it currently tends to be manifested, and the impact felt by recipients.'² It recommended the establishment of a robust educational framework on campus. It also recommended other measures, including those

¹ [Report of the Academic Board Working Group on Racism and Prejudice](#), Academic Board Paper 2-13 (16 December 2020), p.1.

² [Report of the Academic Board Working Group on Racism and Prejudice](#), Academic Board Paper 2-13 (16 December 2020), p.27.

that would complement the instruments for reporting and investigating antisemitic and racist harassment.³

5. The Report of the WGRP included a thirty-page discussion of the suitability of the IHRA definition and whether there is a need for any alternative definition. It concluded that due to its shortcomings as a definition, as well as the potential for infringement of academic freedom and freedom of speech, the IHRA working definition was an inappropriate tool for addressing this issue on a university campus. It recommended with one dissenting vote that AB should advise Council to retract the definition, or to replace it with an alternative more fit for purpose.
6. The report of the WGRP was discussed by AB on 16 December 2020 and 10 February 2021. AB resolved on the latter date, with an overwhelming majority, to endorse the WGRP's educational recommendations. Members were also asked to express their preference to recommend to UCL Council to either (A) retain the IHRA working definition of antisemitism, (B) retain and amend this definition, (C) replace the IHRA working definition, or (D) retract the IHRA definition and return to the Equality Act as the basis of assessing cases of antisemitic harassment. A strong majority endorsed the recommendation to replace the adoption of the IHRA working definition of antisemitism (C), followed by support for options D, B, and A.⁴

2.2 The Present Working Group's Mandate and Working Methods

7. Following the outcome of the vote taken in the meeting of AB on 10 February 2021, a Working Group on a Definition of Antisemitism was established and has met regularly since April 2021.
8. As clarified in its Terms of Reference:

The Working Group is charged by Academic Board: to help facilitate an alternative definition of Antisemitism for Council's consideration, undertaking to supply one that is more fit for purpose in a university context in coordination with the Provost and Council; to bring a maximum of two recommended definitions to the Academic Board...; to ensure by wide consultation that in their deliberations the Working Group takes into account the specificities of a university environment in which the values of academic community, scholarly research and teaching, institutional citizenship, and academic freedom are paramount.

³ [Report of the Academic Board Working Group on Racism and Prejudice](#), Academic Board Paper 2-13 (16 December 2020), pp.61-63.

⁴ Further details are available in the AB Minutes of 10 February 2021 and detailed results in an e-mail from Nick McGhee to AB, 16 February 2021.

9. In an email to Academic Board on 13 April 2021, the Provost noted that he would expect that the Working Group would consult widely on their proposals ahead of submission to Council.
10. Should AB adopt any of the recommended definitions, it will do so with a view to advising UCL Council to adopt it for use in the university as an alternative to the IHRA definition.
11. The Working Group's first meeting was on 19 April 2021 and it has met approximately 14 times since that time. During the course of its work, it consulted on numerous occasions with the Provost and with members of the Governance Committee of Academic Board.

3 The Consultation Exercise

3.1 Aims of the Consultation

12. To comply with the requirement of 'wide consultation', the Working Group resolved early that it would issue a consultation paper. It also decided however that it would consult after having advanced discussions internally so that it could share within the consultation document the analysis and some of the views then emerging within the Group, yet do so prior to coming to any firm views. It was also resolved that the function of the consultation was to solicit a variety of views and not to weight responses by merely aggregating preferences for one option over others.
13. The Working Group published an extensive consultation document on 13 October 2021 and the consultation period closed on 15 November. Conducted entirely online, it was the first consultation of its kind in the University. With the agreement of the Provost, and as explained more fully below, all university members were eligible to respond to the consultation. We received 101 responses to the consultation. The Working Group met twice to discuss consultation responses and have sought to incorporate the expression of numerous views submitted as part of the exercise, in their original voices.

3.2 A Summary of Responses

14. The consultation paper set out a range of questions on various distinct sub-themes and alternative definitions discussed in the consultation paper. Of the 101 submissions to the consultation, a considerable share did express reservations about the process leading to the decision of AB of February 10 2021 to recommend to UCL Council not to adopt the IHRA working definition of antisemitism. Such submissions expressed strong views on the need to adhere to the IHRA definition (e.g. 'UCL must adopt the IHRA definition of antisemitism' was a very frequently repeated statement). Such responses frequently invoked the IHRA definition's support among British Jews, and its recognition by a vast range of institutions and bodies in the UK and beyond. An equally significant share of the submissions expressed strong reservations about this very same definition, quoting concerns about the potential stifling of freedom of speech, with some alluding to the possible curtailing of pro-Palestinian activism. A high degree of coordination through the use of copied and pasted template answers was obvious, particularly among the submissions critical of the IHRA. Thus, a substantial share of submissions reflected and

continued the polarized debate around possible definitions of antisemitism in an academic context.

15. Despite these seemingly irreconcilable views, some overarching preferences became apparent. Thus, a vast majority expressed preference for a definition of antisemitism to be adopted by UCL for educative purposes only, with only marginal support for either an exclusively proscriptive use, or a dual use (Q.1). Also, there was only very limited support for the adoption of several co-existing definitions (Q.2). A strong majority of respondents expressed support for the technique of supplementing any adopted definition with examples identifying antisemitic actions (Q.3). Those respondents opposed to AB's recommendation not to adopt the IHRA working definition were less concerned about the potential chilling effect of adopting a definition than those who expressed support for this recommendation (Q.4). A similar correlation of views appeared in the responses to Q.6, where respondents in favour of adopting the IHRA working definition expressed less concern with the possible impact of a prima facie educational definition on disciplinary procedures. Many respondents were of the view that the adoption of a definition would counter the normalization of antisemitism on campus and raise awareness not least among those university officers responsible for identifying and sanctioning harassment (Q.5). There was overwhelming agreement that the current 'Report and Support' system was not adequate to curtail harassment of any sort on campus. As one respondent stated: 'The problem is [that] antisemitism is not dealt with in the same way as racial harassment or discrimination... I have raised issues with my line-manager and with HR and despite assurances these have never been addressed never mind dealt with.' Also, the current precarity of employment and career perspectives is not conducive to report cases of perceived harassment or bullying: 'The culture of universities, with post-doctoral and junior researchers entirely dependent on their supervisors for future career success, creates an environment where reporting misconduct by senior staff is unlikely.' (Q.7).
16. The remaining questions addressed by the consultation concerned the various alternative definitions that were discussed and the object of formal consultation. We therefore discuss such responses in the sections addressing those alternative definitions below (Section 5).

3.3 *Objections to the Consultation*

17. UCL's Jewish Society was invited to nominate a member to the Working Group and declined to do so. One of their primary objections was to the establishment of the Group as they support the IHRA and see no point in revisiting the discussion of its use at UCL. Some other colleagues agreed that the IHRA is fit for purpose and object to any alternatives.
18. One submission to the consultation exercise expressed the view that only Jewish members of the University should have been consulted. The Working Group acknowledges that there is a reasonable concern behind this view, namely, that members of oppressed groups will generally have special insight into the nature of their own discrimination and marginalisation, which is not shared by members of the wider

community, or indeed, by those who engage in or are complicit with that oppression. The Group recognises that special weight must be accorded to the lived experience of Jewish members of the university. However, we do not believe that the meaning of a term such as antisemitism can be defined solely by reference to the views of a particular group of students or staff.⁵ Similar concepts such as racism, sexism or Islamophobia are not defined solely by reference to the views of the groups particularly subject to such forms of discrimination and oppression. Relatedly, the Working Group agrees with the December 2021 Statement of the Association of Jewish Studies' Task Force on Antisemitism and Academic Freedom (the "AJS Taskforce Statement"), which holds that 'all university members have the right to hold their own positions and opinions on the Israeli-Palestinian conflict.'⁶

19. It is furthermore the case that the definition of antisemitism provokes strong disagreement within members of the Jewish community. Indeed, there is no settled definition of exactly who the university's Jewish members are, and whether any particular organisations represent *the* Jewish community's view at UCL. Here again, the Working Group endorses the AJS Task Force Statement which states that university administrators 'should bear in mind the tremendous diversity of Jewish identities, backgrounds, and opinions across a wide spectrum' and 'should refrain from issuing statements that even by implication purport to speak for "the Jewish community" or Jews as a collective.' Rather, 'universities must pay attention to context... and should call upon existing campus resources, including the expertise of their own faculty.'⁷ It is also the view rightly reflected in the Antisemitism Education Action Plan that was approved by AB in February 2022, which noted a 'lack of understanding at UCL of the diverse expressions of Jewish life, including of the different forms of religious identity and practice, and of ethnic, cultural and political identification amongst UCL's Jewish community.'

20. Some respondents to the consultation objected that there was no Palestinian representation on the Working Group. We acknowledge and understand the very serious concerns behind this objection. However, while the Middle East conflict is one aspect of the complex debates around antisemitism, it also has a deplorable history in Europe and North America in ways that are distinct from and anterior to the issues arising in Israel

⁵ This should not be confused with Recommendation 12 in the Macpherson Report (W. MacPherson, [The Stephen Lawrence Inquiry. Report of an Inquiry](#). Cm. 4262 (1999)) relating to the definition of a racist incident: 'A racist incident is any incident which is perceived to be racist by the victim or any other person.' This recommendation relates to the duty of the police and certain other public bodies to record and investigate allegations of racist behaviour. It does not maintain that the victim's perception of racist behaviour is conclusive of whether the behaviour in fact was racist within the meaning of relevant law or policy.

⁶ Association for Jewish Studies, '[A Working Report from the AJS Task Force on Antisemitism and Academic Freedom](#)' (December 2021) para. 4.3.

⁷ *Ibid* at para. 3

and the Middle East. In short, a definition of antisemitism is by no means a statement of, e.g., the content and limits of Palestinian rights.

4 The Function of a Definition at UCL

4.1 *Discrimination, Free Speech and Academic Freedom at UCL*

21. Universities must strike a careful balance in dealing with discriminatory expression. The core purpose of a university, which all our teaching and research contributes to, is to further knowledge and understanding. It is a site for the expression of disagreement in the collective pursuit of enlightenment. It plays a unique role in society in that regard. The communicative norms that govern speech in any university setting should reflect this purpose. According to a standard view of the university, this means we should recognise a right, held by everyone involved in university activities, to speak their minds candidly, and to engage in open debate and discussion with others. The principles of free speech and academic freedom specify the scope and content of these rights. As noted below (Section 4.4), UCL has a legal duty, along with all UK universities, to uphold these rights. But this legal duty just formalises the independent reasons we have, as a university that aspires to the very highest standards in teaching and research, to protect open-ended and intellectually rigorous debate and inquiry. This is an integral part of our institutional way of life.
22. At the same time, universities have a duty – a legal duty, as noted below (Section 4.5), but also an underlying ethical duty – to ensure that no-one is prevented from participating in our institutional way of life because of wrongful discrimination. As the Equality Act 2010 makes clear, it is not just overtly discriminatory speech and conduct that leads to this result. Indirect discrimination and harassment are also ways in which certain members of our society may be excluded from full participation in the university. UCL’s recognition of this fact, and its commitment to its Equality, Diversity and Inclusion (“EDI”)-related duties, are reflected in our policy on the Prevention of Bullying, Harassment, and Sexual Misconduct.⁸ This commitment is also an integral part of our institutional culture.
23. There is a delicate balance to strike in dealing with discriminatory expression because when it comes to various controversial issues, there is a fine line between (i) forms of speech that the university has a presumptive duty to regulate, for the sake of equality and inclusion, and (ii) the forms of speech that the university has a presumptive duty to protect, under the aegis of academic freedom and free speech. In dealing with instances of expression that lie in the vicinity of this fine line, reasonable and well-informed people can (and frequently do) disagree about which side of the line an instance falls upon.
24. A definition of antisemitism that is appropriate for the university context, and for UCL in particular, must be one that reflects a sensitivity to this delicate balance, and to the legal

⁸ Office of the President and Provost (Equality, Diversity & Inclusion), [UCL Prevention of Bullying, Harassment and Sexual Misconduct Policy](#).

and policy environment that mediates this balancing. For UCL to deal with these challenges well, we will need an integrated raft of policy measures that uphold EDI and expressive duties alike, and which reconcile the tensions between them in hard cases. A definition of antisemitism does not have to do this all by itself. But it needs to work in harmony with the rest of UCL policy in this respect. In sum, we need a definition that reflects the weight of our EDI-related duties, as they apply to Jewish members of the UCL community and others, but without implying the strict priority of those duties over rights of academic freedom and free speech.

25. In summary, it is important that if UCL is to adopt or recognise any definition of antisemitism, this definition should not create a risk of silencing or punishing legitimate speech. We consider it in part due to such considerations that the AJS Taskforce Statement observed that

A single definition of antisemitism, as with that of any complicated and multi-layered phenomenon, will always be advisory at best. Universities should remain open to the various ways the term has been defined and should not adopt any single definition as the basis for campus speech codes or processes of adjudication.⁹

26. In referring to the IHRA, Jerusalem Declaration on Antisemitism and the Nexus Definition as three valuable tools for understanding antisemitism, the AJS Taskforce Statement further recommended ‘that universities familiarize themselves with these tools, but resist campaigns pressuring them to codify one particular definition.’¹⁰ The idea of viewing definitions as ‘tools’ to further our understanding is aligned significantly with the Working Group’s views on the educative role of any definition for use at UCL.

4.2 *Educative vs. Proscriptive Functions*

27. The Working Group has identified a distinction between educative and proscriptive functions for a definition of antisemitism within a university context. Although these categories are not mutually exclusive, they serve two somewhat distinct tasks, and the specific use at UCL should be clarified by Council.

28. An educative definition is intended to provide a way of understanding and identifying antisemitism, offering examples of antisemitic acts and belief systems. It would encourage critical reflection on how antisemitism functions today with the aim of encouraging student and staff awareness of antisemitism and tools to identify instances of anti-Jewish discrimination as part of UCL’s work around equality, diversity, and inclusion. Such a definition can enlighten the UCL community about the nature of anti-

⁹ Association for Jewish Studies, ‘[A Working Report from the AJS Task Force on Antisemitism and Academic Freedom](#)’ (December 2021) para.2.

¹⁰ *ibid.*

Jewish prejudice, how to recognize it, and how to combat it. An educative definition may help in identifying instances of antisemitism that fall short of causing a level of harm or offence that makes them liable to some form of disciplinary action, but which still call for a response of some kind by the university or its relevant communities.

29. A proscriptive definition, by contrast, would seek to identify expressions of antisemitism in respect of which the university should seek to take disciplinary action, block an event, or exercise some other form of control. For proscriptive purposes, a ‘crisp’ definition of antisemitic acts (including expressions of antisemitic beliefs) is useful in clarifying, precisely and in advance, likely triggers for complaint and disciplinary action. As will be seen in Section 4.4 below, a range of behaviours may trigger currently effective disciplinary procedures both in connection with antisemitism and with related forms of discriminatory, abusive, offensive and hostile behaviour. An insufficiently precise proscriptive definition runs a risk of generating chilling effects; that is, of deterring not only offensive speech, but also speech that may be perceived as falling within the imprecisely-marked definitional boundaries.
30. While the educative function of a definition would be to commence dialogue about how to combat antisemitism, the proscriptive one would support stronger intervention. It is possible that the university could adopt a broad educative definition of antisemitism; or a more narrowly defined proscriptive one that is tailored to avoid coming into conflict with free speech norms; or indeed two definitions, each to perform separate functions.
31. Some maintain that an educative definition would allow us to reframe our effort to improve understanding of how group-specific racism functions within our community and how to address discrimination. As an institution, UCL may not need to define antisemitism with the precision that would be required of a criminal law or even a university regulation — but we do need to educate staff and students about what antisemitism is, how to recognize it, and how to combat it.
32. Others may take the view that while an educative role is part of the picture, it is not enough. So far as the law allows, the university should not only “call out” but also discipline instances of antisemitism to make real its commitment to combatting the problem in a meaningful way. Proponents of this view must take account of the legal limits imposed on the university’s ability to control speech and debate on campus, addressed in particular in Section 4.3 below.
33. Having regard to such considerations, Working Group members perceived a lack of clarity about the function of any definition of antisemitism. The Provost accepted an invitation to attend a meeting of the Working Group on 9 June 2021, where he clarified that he saw the principal function of a university-wide definition as educative and awareness-raising, since the problem of antisemitism is poorly understood. The definition would not be formally incorporated into policies, procedures, or contracts. While those implementing UCL policy and procedures could look to the definition as one among many tools to help understand complaints, the procedures for investigating and assessing complaints of antisemitism would remain unchanged. Further, the definition would not affect UCL’s

robust processes to protect freedom of speech and academic freedom, which it is legally obligated to uphold. Nor would the definition alter UCL's existing policies on assessing and managing external speakers; so long as scheduled events can be held safely and within the law, these events should proceed.

34. However, it should also be noted that the Provost expressed the view that any adopted definition of antisemitism might nevertheless be 'taken into account' in considering complaints concerning harassment, discrimination, bullying and other disciplinary policies at UCL. The Working Group also takes the view that unless otherwise specified, any definition of antisemitism, even one that is officially educative in purpose, may end up being relevant in disciplinary and complaints proceedings at UCL, for complaints that involve antisemitism – an observation shared by several respondents to the consultation (e.g., 'I therefore think we have to assume that any "adopted definition" will be used as proscriptive one, whatever its initial function was supposed to be'). Having said that, the manner in which the leading educative definitions of antisemitism have been framed and worded – including the IHRA – makes them of limited utility in defining harassment and related acts of discrimination. Their wording is often illustrative rather than definitional, and thus tends to be too vague to be of much use in determining what exactly might constitute harassment, discrimination or similar behaviour in a university environment.
35. The Working Group's conclusions on what the function of any definition should be and how to mitigate any chance of it having a chilling effect on legitimate speech are detailed in Section 6 below.

4.3 Law on Freedom of Speech and Academic Freedom

36. Article 10 of the European Convention on Human Rights sets out the right of freedom of expression, which is made effective in UK public law under the Human Rights Act 1998 and applies to universities.¹¹ Various other UK statutes impose more specific concrete duties in the academic setting. The Education (No 2) Act 1986 imposes a duty on the university to 'take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.'¹² The 1986 Act was essentially concerned with 'no-platforming' – i.e., with ensuring that 'any premises' not be 'denied to any individual or body of persons' in connection with their 'beliefs or views' or their 'policy or objectives.' The existence of these 'free speech' duties, which are designed to promote academic freedom, is backed up by the provisions of UCL's Charter and Statutes. Statute 18 regulates the disciplinary procedures that apply within UCL to academic staff and takes effect as a term of their employment contracts.¹³ The opening clause of Statute 18

¹¹ [Article 10](#) of the European Convention on Human Rights; [section 1](#) of the Human Rights Act 1998.

¹² [Section 43](#) of the Education (No 2) Act 1986.

¹³ [Statute 18](#) – Redundancy, Discipline, Dismissal and Removal from Office (Academic Staff).

provides that every aspect of this disciplinary procedure ‘shall be construed in every case to give effect to’ the aforementioned statutory definition of academic freedom.

37. Clause 1 of the Higher Education (Freedom of Speech) Bill, before the UK Parliament at the time this report is published, would impose stringent duties on governing bodies of higher education institutions to ‘take steps’ that are ‘reasonably practicable’ to secure freedom of speech to members and visiting speakers. This includes a duty to protect ‘academic freedom’ (a legal category introduced in the Education Reform Act 1988) among academic staff, which is defined in the Bill as ‘the freedom...to question and test received wisdom’ and ‘to put forward new ideas and controversial or unpopular opinions’ without fear of losing their jobs or privileges. Clause 2 of the Bill also imposes a duty on student unions to protect freedom of speech by not denying the use of student union premises on account of beliefs and views. Clause 3 of the Bill provides for a new statutory tort allowing any person to sue (for damages) for a breach of the duties set out above.

38. The Government’s intention with the Bill is plain, and is set out in its Command Paper:

‘Government is therefore clear that any activities at [Higher Education Providers] that seek to limit lawful free speech and academic expression, rather than contribute to the promotion of free speech and academic freedom, present a risk to lively intellectual life on campus and across the nation.’¹⁴

39. Further on it adds:

‘Higher Education Providers should ... ensure that lawful speech which may cause offence but which does not constitute unlawful behaviour under the Equality Act 2010 is protected.’¹⁵

40. The Government repeatedly emphasises its aim is to continue the protection of ‘freedom of speech *within the law*’ (section 43 of the 1986 Act). This means that anything not prohibited by law is not only permissible but protected. The ‘law’ permitting legal restrictions on speech includes certain provisions of the criminal law and the Equality Act 2010, both discussed in section 4.5 below.

41. The effect of the existing laws, and of the Higher Education (Freedom of Speech) Bill which is expected to become law shortly, is that UCL has little latitude to discipline any form of behaviour, or forbid any organized talk, which is not already liable to disciplinary action under existing UK law and UCL policy. However, these restraints do not necessarily conflict with the purposes of an institution adopting a wide-ranging educative definition of antisemitism.

¹⁴ [Higher Education: Free Speech and Academic Freedom](#) (CP 394) (February 2021), pp.7, 10.

¹⁵ *ibid*, p.35.

4.4 Legal and UCL Policies on Discrimination, Harassment etc.

42. All students and staff at UCL are bound by the criminal law, applicable standards of equality law, and certain other UCL rules relating to misconduct.

The Public Order Act 1986

43. Certain forms of public antisemitic behaviour may breach the Public Order Act 1986, as amended by the Racial and Religious Hatred Act 2006 – in particular ‘incitement to hatred’, or similar intentionally motivated acts. These are criminal standards, generally enforced by the police and/or public prosecutors bringing a prosecution before the courts. However, it is rare for such prosecutions to be initiated. Moreover, incidents of incitement to hatred that do result in criminal convictions under these statutes tend to involve speech that is relatively overt and abusive, in the way that it expresses identity-based prejudice. As standardly interpreted by the courts, these statutes do not prohibit all instances of identity-prejudicial speech. They restrict a subset of the more aggressive cases of identity-prejudicial speech.

Equality Act 2010

44. Like any other employer and/or service provider, UCL is subject to certain non-discrimination legal duties, as set out in the Equality Act 2010 and associated case law.¹⁶ The 2010 Act is ‘civil’ in nature, meaning it imposes legal obligations that individual victims of discrimination can enforce before the courts.

45. Part 2 of the 2010 Act prohibits discrimination based on certain ‘protected characteristics’, which include race and ethnic origin (section 9) and religion or belief (section 10). Case law dating back to the early 1980s has established that Judaism can be both a ‘race’ and a ‘religion’ for the purposes of this legislation.¹⁷ Discrimination arising from the perception of being Jewish, or from associating with persons who are Jewish, is also covered. This means that if UCL as an institution, or its employees acting ‘in the course of their employment’, discriminate against staff members or students on the basis of their Jewish identity, then this will breach the 2010 Act.

46. Prohibited forms of discrimination include (i) direct discrimination, where someone is treated less favourably than others have or would be because of their Jewish faith or ethnicity;¹⁸ (ii) indirect discrimination, where an apparently neutral criterion is applied in a way that would put persons of Jewish faith or ethnicity at a ‘particular disadvantage’ compared to others, where the application of that criterion cannot be shown to be

¹⁶ [Equality Act 2010](#).

¹⁷ *Seide v Gillette Industries Ltd*, 1980, IRLR 427 EAT; *Mandla v Dowell-Lee* [1982] UKHL 7; more recently, *R (E) v The Governing Body of JFS and others* [2009] UKSC 15.

¹⁸ [Section 13](#) of the Equality Act 2010.

objectively justified;¹⁹ (iii) harassment, where a person is subject to ‘unwanted conduct’ related to their Jewishness, and this has the ‘purpose or effect’ of violating that person’s dignity, or creating an ‘intimidating, hostile, degrading, humiliating or offensive environment’ for them;²⁰ and (iv) victimisation, where a person is subject to less favourable treatment because they have initiated a discrimination claim or the alleged discriminator believes they may do so.²¹). The 2010 Act benefits from an extensive case law considering all aspects of its definition and many applied instances. The Equality Act 2010 also protects people with a Palestinian or Arab ethnicity, or Muslim faith, on the same basis.

47. UCL is also subject to the requirements of the positive equality duty set out in the Equality Act 2010.²² This requires public bodies such as UCL to have ‘due regard’ to the need to eliminate discrimination, advance equality of opportunity and foster good relations between members of different ethnic and religious groups. In furtherance of these requirements, UCL has adopted various statements on race, religion, and an overarching Equity, Diversity and Inclusion Plan for 2020-21.²³

University Policies

48. To help staff comply with these legal requirements, and to further its aspiration to provide a welcoming and inclusive environment for all staff, students and visitors, UCL has adopted the ‘Prevention of Bullying, Harassment and Sexual Misconduct Policy’.²⁴ This prohibits UCL staff and students from engaging in discrimination, harassment, and bullying.²⁵ The policy presently identifies antisemitic harassment as an example of racial harassment.²⁶
49. Staff in breach of this policy may be subject to disciplinary action under the appropriate rules and procedures²⁷ as set out in their contracts of employment – as read subject to

¹⁹ [Section 19](#) of the Equality Act 2010.

²⁰ [Section 26](#) of the Equality Act 2010. The requirements of the Protection from Harassment Act 1997, which prohibit persons engaging in a harassing ‘course of conduct’, may also be relevant.

²¹ [Section 27](#) of the Equality Act 2010.

²² [Section 149](#) of the Equality Act 2010.

²³ UCL, [Equality and Inclusion Plan 2020-21](#). Various other documents are available at <https://www.ucl.ac.uk/equality-diversity-inclusion/>.

²⁴ Office of the President and Provost (Equality, Diversity & Inclusion), [UCL Prevention of Bullying, Harassment and Sexual Misconduct Policy](#).

²⁵ UCL Prevention of Bullying, Harassment and Sexual Misconduct Policy, [section 3: Definitions](#).

²⁶ UCL Prevention of Bullying, Harassment and Sexual Misconduct Policy, [Appendix 1: examples of unacceptable behaviour](#)

²⁷ UCL’s current definition of harassment are to be found in Office of the President and Provost (Equality, Diversity & Inclusion), [UCL Prevention of Bullying, Harassment and Sexual Misconduct Policy](#).

the requirements of unfair dismissal legislation, academic freedom duties (see above), the Human Rights Act 1998 and any other applicable contractual, legislative or common law norms. Staff may be issued with an informal warning, a formal oral warning, a written warning, a final written warning or dismissal.

50. In the case of academic staff covered by Statute 18, if dismissal for gross misconduct is a possible outcome, a Tribunal will be convened under paragraphs 14-20 of UCL's Statute 18. The procedure in Statute 18 gives special protection to academic freedom and it provides for various procedural rights. In all other cases the standard procedure is used, with a single senior academic chair (Dean or Vice-Provost). Staff not covered by Statute 18 who are subject to a gross misconduct allegation also face a three-person panel. All formal sanctions are subject to a right of appeal with the potential for a lesser outcome or revised findings of fact.

51. Non-academic misconduct by students is addressed under the Student Disciplinary Code and Procedure²⁸ which is established under UCL Statute 13.²⁹ A non-exhaustive list of examples of misconduct is given, including but not limited to the following examples:

- “violent, indecent, disorderly, threatening or offensive behaviour or language”,
- “sexual, racial or other kind of harassment”,
- “breach of the provisions of UCL’s Code of Practice on Freedom of Speech,”
- “distributing ... any publication which is offensive, intimidating, threatening... including the ... electronic distribution of such material”; and
- “behaviour which brings UCL into disrepute.”

52. Under the Procedure, allegations of major offences are heard by the Discipline Committee, which has a range of penalties available to it up to and including permanent expulsion from the university. Examples of major offences include offensive behaviour that is distressing to others and harassment of any kind.³⁰ However, it is questionable whether provisions concerning ‘offensive behaviour’ and ‘bringing UCL into disrepute’

²⁸ UCL Academic Manual 2020-21, Chapter 6: [Section 8: Disciplinary Code and Procedure in Respect of Students](#).

²⁹ [UCL Charter and Statutes](#), Statute 13: Jurisdiction over Students.

³⁰ UCL Academic Manual 2020-21, Chapter 6: [Section 8: Disciplinary Code and Procedure in Respect of Students](#), para.26.

would without amendment be compatible with the Higher Education (Freedom of Speech) Bill, when it becomes enacted into law.³¹

53. Off-campus behaviour by students, including online activity, may be subject to internal disciplinary procedures if it has a direct connection with or impact on the university or members of the university. Discipline-specific professional conduct procedures may also apply.
54. Staff and students can make anonymous disclosures of potential breaches of these policies through the UCL Report and Support system.³² Both may also make an informal complaint against other students or staff, by notifying a range of persons (from manager or personal tutor to trade union representative). Students may also lodge a formal complaint against either other students and staff through Report and Support or via the Student Casework Team; and staff may do the same following the Staff Grievance Policy.³³
55. All told, where antisemitism is found to rise to the level of harassment, bullying, discrimination, or abuse of power it may be investigated under disciplinary procedures and result in a warning, or even dismissal or expulsion. In an extreme case, it may result in a referral to the police. To the extent, therefore, that any definition of antisemitism is used to interpret these categories (see Section 4.3 above), it is essential that it does not inadvertently censor legitimate speech and debate, as the consequences are likely to be grave. Nevertheless, forms of speech that are considered offensive but do not rise to the level of discrimination or harassment are likely to be protected by freedom of speech laws applicable to UCL and to its Student Union and therefore robust action against them is likely to fall foul of legal free speech protections.

5 Alternative Definitions of Antisemitism

56. A core aspect of the Working Group's mandate is to consider alternative definitions of antisemitism and report on which (if any) would be suitable for use at UCL. There are various international initiatives that have involved extensive multi-year consultations and discussions leading up to a proposed definition of antisemitism. UCL is not in a position to duplicate these processes, nor would it be wise for it to ignore previous efforts. Having consulted on the options outlined below, we now share our considered view on each.

³¹ So much is implied by the comments in the Government's Command paper on the Bill, *Higher Education: Free Speech and Academic Freedom* (CP 394) (February 2021), p.40.

³² <https://report-support.ucl.ac.uk/>

³³ <https://www.ucl.ac.uk/human-resources/ucl-staff-grievance-policy>.

5.1 Helen Fein

57. Professor Helen Fein is a historical sociologist whose work has focused on genocide and human rights, and was the founder and first president of the International Association of Genocide Scholars. Her definition of antisemitism, located in her book *The Persisting Question: Sociological Perspectives and Social Contexts of Modern Antisemitism* (De Gruyter, 2012) is as follows:

A persisting latent structure of hostile beliefs towards Jews as a collective manifested in individuals as attitudes, and in culture as myth, ideology, folklore and imagery, and in actions – social or legal discrimination, political mobilisation against the Jews, and collective or state violence – which results in and/or is designed to distance, displace, or destroy Jews as Jews.

58. The advantages of this definition are: (1) that it addresses both beliefs/ideologies and political action and violence; (2) that it addresses realms of the sociopolitical and folkloric/mythological; (3) that it ignores any problematic conflation of Israel/Zionism with antisemitism, and (4) that it addresses the possibilities of individual and collective acts. For some respondents to the consultation, the lack of examples in the Helen Fein was an actual advantage, though most respondents preferred a definition to include illustrating examples. Among its perceived downsides are that it employs the ‘Jews as Jews’ phrase (on which see further in Section 5.3 below), that it is ‘too broad’, ‘very waffly’, ‘too complex and wordy’, ‘not specific enough’, and its avoidance of the question of Israeli/Palestinian relations is to avoid a core issue that requires direct attention, that it was ‘too broad to be useful’ and it offers less detailed guidance, including examples, which are helpful for resolving concrete disputes about what constitutes antisemitism.

59. On balance, the Working Group considers that whatever the educative and scholarly value of the Helen Fein definition, it is not suitable as a single definition for use at UCL in the current context. It may, however, be helpfully included in a set of recognised definitions as is recommended in Section 6 below.

5.2 Nexus Task Force

60. The Nexus Task Force is a project of the Knight Program in Media and Religion at the University of Southern California’s Annenberg School of Communication and Journalism. It was formed in 2019 to address what it describes as a ‘disturbing trend to politicize and exploit antisemitism and Israel [that] is growing in conservative and right-wing political circles.’³⁴ The definition, set out in the Nexus Document,³⁵ is oriented towards policymakers and professionals in a US domestic context. The definition reads as follows:

³⁴ ‘Liberal Jewish Scholars Present Antisemitism Definition That Allows More Freedom for Israel Criticism’ *Haaretz* ([Online](#)) (17 March 2021).

³⁵ [The Nexus Document: Understanding Antisemitism At Its Nexus With Israel and Zionism.](#)

Antisemitism consists of anti-Jewish beliefs, attitudes, actions or systemic conditions. It includes negative beliefs and feelings about Jews, hostile behavior directed against Jews (because they are Jews), and conditions that discriminate against Jews and significantly impede their ability to participate as equals in political, religious, cultural, economic, or social life.

As an embodiment of collective Jewish organization and action, Israel can be a target of antisemitism and antisemitic behavior. Thus, it is important for Jews and their allies to understand what is and what is not antisemitic in relation to Israel.

61. The Nexus Document goes on to enumerate examples of what is and what is not antisemitic. In contrast to the IHRA, which includes as an example of antisemitic Israel-criticism 'Applying double standards by requiring of [Israel] a behavior not expected or demanded of any other democratic nation,' the Nexus document identifies circumstances under which applying a double standard to Israel is not antisemitic.
62. The Nexus definition describes ways in which anti-Israel bias can manifest as antisemitism. For example, it provides that 'It is anti-Semitic to treat Israel in a negative manner based off of a claim that Jews alone should be denied the right to define themselves as a people and to exercise any form of self-determination.' However, it also notes that '[p]aying disproportionate attention to Israel and treating Israel differently than other countries is not prima facie proof of anti-Semitism.' It adds: 'There are numerous reasons for devoting special attention to Israel and treating Israel differently, e.g., some people care about Israel more; others may pay more attention because Israel has a special relationship with the United States and receives \$4 billion in American aid.'
63. The Working Group considers the Nexus Document more scholarly and careful than some of the alternatives considered thus far. It also sees some advantage in its provision of examples. As one respondent observed, the Nexus definition 'also provides some clarification that the JDA does not, e.g. [by defining] antisemitism as denigrating or denying the Jewish identity of certain Jews because they are perceived as holding the 'wrong' position – whether too critical or too favorable – on Israel.' However, a major downside is that it appears preoccupied with issues that are a more prominent feature of US political controversies than those relevant to present-day Britain and Europe. The Working Group has thus concluded that while the Nexus definition is a valuable tool, it is not the best option if UCL were to pursue the use of a single definition. Its potential role in a scenario where multiple definitions are used is addressed below.

5.3 *The Jerusalem Declaration on Antisemitism (JDA)*

64. The JDA is the result of an initiative that began at the Van Leer Institute in Jerusalem, involving a wide range of experts in the study of antisemitism and related fields.³⁶ The signatories include over 300 leading scholars in the field of Holocaust history, antisemitism, the history of Modern Israel, and Jewish Studies from around the world. The JDA holds:

Antisemitism is discrimination, prejudice, hostility or violence against Jews as Jews (or Jewish institutions as Jewish).

65. The JDA proceeds to offer general guidelines on how the definition ought to be interpreted and applied; specific guidelines on how to think about antisemitism in the context of debates about Israel/Palestine; and an FAQ that answers a wide range of further questions about the definition.

66. Several members of the Working Group have signed the Jerusalem Declaration. In recognition of this fact, deliberations over it and the drafting of the analysis of the Jerusalem Declaration for the purposes of the consultation paper and this report were led by members of the Working Group who are not signatories to the Declaration, and knew little about it before joining the Working Group. Having considered the matter afresh, and in the light of the consultations, the Working Group believes that the Jerusalem Declaration is slightly weaker than initially perceived but remains the best of any single definition on offer.

67. There are several perceived advantages to this definition for use within UCL.

- First, the JDA offers a clear, principled, and scholarly definition of antisemitism. Unlike the IHRA definition's focus on the 'expression of hatred against Jews', this definition captures non-hateful forms of prejudice and discrimination. Three hundred leading scholars of antisemitism and Holocaust studies have signed the JDA and this suggests that the definition will be a suitable and authoritative text for use in the university context. Since its publication in March 2021, it has been recognized as a valuable educational tool by several institutions of higher education in the UK and globally.
- Second, it fruitfully links the fight against antisemitism with "the overall fight against all forms of racial, ethnic, cultural, religious, and gender discrimination." This is important because it conceives the work of combatting antisemitism not as isolated but as properly embedded within, and supported by, a broader antiracist struggle. However, some may see this position as contestable, and could be seen as erasing the

³⁶ [The Jerusalem Declaration on Antisemitism](#).

specificity of antisemitism.³⁷ The Working Group recognises that antisemitism has its own specific character and history, but that is true of all forms of racism and discrimination, and experience of it has, if anything, emphasised ‘intersectional’ forms of discrimination and institutionalised forms of discrimination experienced by various communities.

- Third, the JDA enables those who disagree deeply about Israel/Palestine to nevertheless share a definition of antisemitism and be allied in the struggle against it. For example, according to the JDA, it is not necessarily antisemitic to oppose Zionism as a form of nationalism, or to endorse a Boycott, Divestment and Sanctions (BDS) movement. Yet when these positions, or general hostility toward Israel, are manifestations of anti-Jewish animus, they clearly qualify as antisemitic. The Working Group considers that the provision of guidance relating to the specific examples just mentioned is a major advantage of the JDA.
- Fourth, as with the IHRA definition, the JDA provides examples of what is, on its face, antisemitic. It also gives examples of what is not, on the face of it, antisemitic. These provide greater clarity when applying the abstract definitions and will help educate university members when considering whether or not certain statements or allusions are antisemitic in character. There is nevertheless a concern about the balance of attention accorded to the respective, as we come to below.

68. Some commentators have raised certain perceived disadvantages over the definition.

- First, there is a concern about the JDA that the locution “Jews as Jews” (likewise, “Jewish institutions as Jewish”) is problematic and exclusive. It does not address, on this view, the discrimination against non-Jews who are perceived to be Jews – a real and problematic instance of antisemitism at UCL. However, the JDA’s Frequently Asked Questions explicitly mentions that the definition extends to ‘discrimination by perception’ and ‘discrimination by association.’ The expression ‘Jews as Jews’ is also contained in the Helen Fein definition as well as the Nexus Task force definition, and is meant to clarify the grounds for the hostile or negative behaviour and attitudes, as is required in any anti-discrimination analysis. In any case, the Working Group interprets “as” here to mean “because they are”; thus harassment toward Jews, for example, qualifies as antisemitic if it is directed to them because they are (or perceived to be) Jews. The formula is evidently designed to capture the idea that antisemitism paradigmatically involves animus toward Jews; it is based on negative generalisations about them (e.g., as sinister forces controlling the world), and is hence different simply from negative treatment of a Jewish or perceived Jewish person for reasons nothing to do with the person’s (perceived) Jewish identity. Nevertheless, in light of doubts

³⁷ For an argument along these lines, see e.g. J Berstein, ‘On Antisemitism Relativised: Some thoughts on Yair Lapid’s interpretation of antisemitism’ [Medium](#) (2 August 2021).

expressed, the Working Group recommends that the issue be clarified by way of an accompanying statement issued alongside any adoption of the definition.

- Second, some have expressed the view that in the JDA's enumeration of examples of expression that presumptively are or are not antisemitic, there is too much emphasis on examples of things that are not antisemitic. While there are an equal number of examples of each, the nub of the complaint is that there is a larger number of words devoted to explaining the latter. The perception is that the definition is more concerned with protecting speech that is hostile towards Israel than with rooting out antisemitism. The majority of the Working Group does not agree with the objection. It is well-known that the conflation of antisemitism with criticism of the state of Israel is a principal area of difficulty created by the IHRA working definition. Seven of the eleven examples of antisemitism in the IHRA definition relate to criticism of the state of Israel. Thus, that issue has become the most acute matter calling for the most careful clarification.
- A third criticism of the definition is that the IHRA definition is already widely adopted, and advocating the JDA is somehow conspicuous in its attempt to diverge from this emerging norm. However, the problems with the IHRA definition were surveyed comprehensively in the Report of the Working Group on Racism and Prejudice. We agree with the AJS Taskforce Statement that universities should 'resist campaigns pressuring them to codify one particular definition.'³⁸

69. The JDA definition benefits from having commenced with the same problem as this Working Group is tasked to answer. As stated in its preamble, '[i]t was developed by a group of scholars in the fields of Holocaust history, Jewish studies, and Middle East studies to meet what has become a growing challenge: providing clear guidance to identify and fight antisemitism while protecting free expression.' While we feel it is the best single definition, we nevertheless conclude that it is not necessary for it to serve as the sole definition for reasons set out in Sections 5.5 and 6 below.

5.4 A Bespoke Option

70. A bespoke definition would combine elements of the other proposed definitions discussed thus far. It would not mean going back to square one and producing an entirely new definition of antisemitism. It might mean drawing on the best elements of existing definitions, to create a definition that incorporates the strengths of other definitions and avoids the weaknesses.

71. Beyond the prima facie benefit of incorporating strengths and avoiding weaknesses, a bespoke option could also allow us to customize particular elements to address UK- and/or UCL-specific issues. For example, in presenting examples of expression that

³⁸ Association for Jewish Studies, '[A Working Report from the AJS Task Force on Antisemitism and Academic Freedom](#)' (December 2021) para. 2(3).

presumptively is / is not antisemitic, a bespoke definition could select examples that are of particular significance to the UCL community, e.g., examples aimed at illustrating where “the line” is for student society or staff critique about Israel that has incorrectly been construed as antisemitic, or examples that navigate the crafting of syllabi and teaching material where antisemitism is a distinct object of scholarly inquiry.

72. One major downside of a bespoke definition is that existing definitions plausibly have a significant degree of cohesion and theoretical integrity and grow out of extensive multi-year consultation with a broad range of experts and stakeholders. A minority of respondents to the consultation expressed support for such an approach: ‘As great as the challenge of drafting a bespoke definition is, it seems worth attempting, notwithstanding uncertainty whether it will turn out to be achievable.’ Among those respondents to the consultation in favour of adopting the IHRA working definition of antisemitism, this work has already been accomplished through this definition, which also represented the view of an assumed “Jewish community” at UCL – therefore, for these respondents a bespoke definition was as superfluous as alternatives to the IHRA definition. Also, many warned of pursuing a bespoke definition: ‘Please do not do this. I think a lot of time will be wasted reinventing the wheel, presumably without the personnel or time resources to do it properly.’
73. Ultimately, the Working Group concluded that to combine elements of different definitions may be to create something that has internal tensions, either in its background theoretical understanding of antisemitism, or in the implicit behavioural guidance that it would be offering to members of the UCL community. Seeking to avoid these tensions could inadvertently drag out the UCL process for selecting a discrete and readily available educational definition for university use.
74. The Working Group does not recommend that UCL pursue a bespoke option.

5.5 A Range of Definitions

75. Most Working Group members have come to the view that no single definition is ideal for use in a university environment, and that pressure to adopt a single one should be resisted. This is for a number of reasons, several of which are outlined in the AJS Taskforce Statement of December 2021.³⁹ One is that a university should be recognised as a site for learned exchange and free speech, and as a repository of its own internal expertise for resolving the tricky contextual issues that arise in complaints about antisemitism. Another is that no definition is without flaws. Even if, as the WORKING GROUP concludes, the JDA is superior to its alternatives, that does not mean it is ideal, or that in principle any single definition should be adopted.

³⁹ Association for Jewish Studies, ‘[A Working Report from the AJS Task Force on Antisemitism and Academic Freedom](#)’ (December 2021) para. 2.

76. On the other hand, the Working Group was tasked to supply a definition or definitions that could be potential alternatives to the IHRA working definition. Furthermore, some members are of the view that being non-committal or entirely neutral about definitions would leave university members without educative guidance.
77. One option is to recognise multiple definitions as educative ‘tools’, as recommended in the AJS Taskforce Statement. This approach could represent a good way forward. It is particularly so where the role of a definition is educative and not proscriptive. In particular, if a set of ‘approved’ definitions were to be used as concurrent tools - with none being set as an enforceable ‘code’ of one sort or another – then the educative mandate could be fulfilled quite robustly, leaving room for differences of opinion about emphasis.
78. Further, elements of the IHRA document that raise concerns in connection with discussions about the Israeli state’s treatment of Palestinians are addressed to a significant extent by the other definitions. Those seeking to advance arguments on that issue who might be in some doubt about the scope of the IHRA definition may be able to rely on and be guided by the other definitions when framing their arguments.
79. In following such an approach, the University would have to consider what position to take where definitions come into conflict. The problem does not arise as between the Helen Fein, Nexus, and JDA definitions, though differences of emphasis and depth exist.
80. Some respondents to the consultation considered there to be an advantage to having multiple definitions in this kind of way: One response to the consultation stated: ‘The fact that there are multiple definitions of antisemitism indicates that this is a legitimate area of discussion and debate, which it is inappropriate for the university to cut off by proscribing how scholars should define their terms.’ The Working Group’s position is in line with this observation. We nevertheless recognise that a strong majority of consultation respondents to the consultation were opposed to having multiple definitions. However, and for reasons amplified in Section 6 below, the Working Group was led over the natural course of discussions over a dozen meetings, to the position that (for educative purposes only) this was the best option for UCL’s academic community. It felt that the objections to having multiple definitions relate chiefly to the fear of them being applied as a code for proscriptive purposes. Our recommendations address how that problem can be avoided.

6 The Working Group’s Recommendations

81. The Working Group has concluded that the adoption of a single definition for use in any university context is not ideal. The Working Group therefore recommends that AB advise that UCL recognise a range of definitions of antisemitism that have gained currency in recent years, and that such definitions be recognised only for educative and not proscriptive purposes.

6.1 Our Reasons

82. Institutions generally do not adopt definitions of forms of prejudice and discrimination, i.e. it is not common for universities to sign up to a detailed form of words defining racism, sexism, Islamophobia, or similar concepts.
83. The 'added value' of adopting a definition of a concept such as antisemitism is its educative potential – a view confirmed overwhelmingly in the response to our consultation paper. In contrast, the use of such a definition for proscriptive purposes, in particular disciplinary proceedings, would be legally complex. It would give rise to difficult issues relating to how such a definition would relate to the definition of discriminatory conduct as set out in the Equality Act 2010, the protection given by Article 10 of the ECHR to academic free speech, the specific provisions of Statute 18, and the wording of the UCL Code on Harassment and Bullying etc. In this regard, it is worth noting that none of the definitions of antisemitism that attract wide support from academic experts, civil society groups and Jewish communities (including those listed in section 5) were designed to have any form of legal effect.
84. From a pedagogical perspective, an educative approach is probably best achieved by UCL engaging with a broad range of authoritative definitions of antisemitism – recognising that these have different strengths and weaknesses in terms of both (i) the clarity of their wording and (ii) their applicability to educational and research institutional settings. Furthermore, selecting one definition over others risks narrowing and distorting debate, over what qualifies as antisemitism – just as would be the case if UCL were e.g. to adopt a specific definition of racism, sexism or Islamophobia.

6.2 The Form and Status of a Recognised Set

85. We believe that any set of recognised definitions should include the JDA, Nexus definition and Helen Fein definitions at the least. The recognised set could be made available in a dedicated resource page, together with an introductory statement, guidance explaining why these are chosen for inclusion, an FAQ section about the definitions, and how they may be used in an educative but not proscriptive fashion. For proscriptive purposes, such as disciplinary investigations, other standards should be employed – including the provisions of the Equality Act 2010, the UCL Code of Harassment and Bullying etc.
86. The set of definitions can be used to frame awareness programmes, and may be drawn to the attention of university members. They may be taken into account by either students or staff in a proactive fashion when hosting events or discussions. They can also be used reactively when members field complaints or objections about plans or particular behaviours, where such complaints are not intended to trigger formal disciplinary mechanisms. Provided such definitions are used to start conversations about potential antisemitism, and not end them, there is merit in having diverse definitions as tools to facilitate such discussions.

87. There remains the question of what use would be made of the recognised definitions when interpreting UCL Codes of conduct where allegations of antisemitism are raised. We observe first that most complaints will be fact-sensitive rather than draw inspiration from general definitions. Secondly, there is nothing blocking any adjudicator from having regard to such definitions as interpretive aids at the present time. It is nevertheless the case that having ‘recognised’ definitions may tempt those who handle complaints relating to antisemitism to use such definitions indirectly as interpretive aids.
88. The Working Group has addressed this issue in the draft resolution it has set out in Appendix 7.1 to this report. It proposes there ‘That these definitions shall not be given determinative weight in the resolution of any proceedings relating to the discipline of university staff or students, in decisions relating to events, or in any other decision affecting the status of staff or students.’ The entire Working Group agreed that reference to the definitions could not be determinative of any complaint. In other words, it is the legal categories and UCL policies that are applied, not the definitions. Where events are concerned, we feel the legal framework protecting free speech is very robust and further guidance is not needed.
89. The University should furthermore adopt guidance on how and subject to what limitations adjudicators of complaints under such procedures may have any regard to the recognised set of definitions, and how they may be reconciled with the existence of academic freedom and free speech. Such guidance should be laid before Academic Board for comment before it takes effect. Members of the Working Group would remain available to assist in formulating such guidance.

6.3 *The Recognised Definitions and the IHRA Definition*

90. As noted several times in the preceding sections, the Association of Jewish Studies advocates⁴⁰ a similar position to our recommended position. However, it also includes the IHRA definition as being among the potential ‘tools’ – and again, on condition that the definitions not be deployed for disciplinary purposes.
91. We had initially considered it outside our remit to recommend the inclusion of the IHRA definition among the recognised set of definitions. The Working Group was established to consider the merits of alternatives to the IHRA from the perspective of their suitability for adoption in the UCL context, and to ‘supply one that is more fit for purpose in a university context in coordination with the Provost and the Council’ and ‘to bring a maximum of two recommended definitions to the Academic Board.’ Upon further reflection and consultation, however, the Working Group reconsidered its view. We reasoned that proposing to Academic Board that it include the IHRA definition among the

⁴⁰ Association for Jewish Studies, ‘[A Working Report from the AJS Task Force on Antisemitism and Academic Freedom](#)’ (December 2021).

recommended set, which would serve a manifestly educative and not proscriptive role, is a materially different proposition than which was previously considered and objected to strenuously by Academic Board.

92. On the substance of the issue, we concluded that the rationale for recognising multiple definitions could not easily service an argument for the total exclusion of the IHRA definition. This was above all when the accompanying definitions to a very large extent addressed its perceived shortcomings. Furthermore, if the function of the definitions is educative, then the variation of emphasis among the different definitions may even foster useful discussions. For instance, it could prompt interested parties to look into whether certain criticisms of Zionism or of the state of Israel do amount to coded antisemitism; or by contrast it could help explore whether the concept of antisemitism is being misused to shelter persons or institutions from legitimate criticism or accountability under international law. Also of significance is that there is a substantial community of persons at UCL for whom the recognition of the IHRA in some form is important.
93. Nevertheless, there are risks. There would be some inconsistency between the definitions, e.g. where things cited as examples of antisemitism in the IHRA definition are materially qualified or contradicted in the JDA and Nexus documents. Regarding these tensions, we can only state our own view that no definition should be applied as a “code” of any sort and so these tensions will ultimately trigger further discussion. They do not amount to infirmities in punitive or formal proceedings or decisions relating to antisemitism.

6.4 A Proposed Resolution

94. After consulting with the Provost and members of the Governance Committee of Academic Board on the draft final report, the Working Group was prompted to consider framing a resolution or recommendation for action for the benefit of Academic Board. In line with that recommendation, we have prepared a draft resolution (contained in Section 7.1 below). It captures the essential lines of our recommendations and reflects the careful contributions of all Working Group members and other consultees. We believe that passing such a resolution is a significant way to give effect to the most important recommendations in this report. We do not, however, recommend that it be amended prior to any vote. It was designed painstakingly to reflect an overall balance of considerations. We commend it to you for adoption.

7 Appendices

7.1 ***Draft Resolution for Academic Board relating to Definitions of Antisemitism for use at UCL***

The following draft text was drafted by the Working Group, in consultation with the Provost's office and other interested parties, as a carefully considered text that reflects the history of UCL's consideration of this issue and the relationship between the educative and proscriptive functions of any definitions, and the definitions themselves. We furthermore recommend that links to both reports referenced in the introduction be included in the text of the resolution.

"Preamble

Recalling that the Academic Board voted on 10 February 2021 that Council should withdraw its decision to adopt the IHRA definition of antisemitism and replace the definition with another;

Recognising that the precise function of that definition in the UCL context, as at other universities, was not clear;

Recognising that antisemitism is a serious problem at UCL, in other higher learning institutions, and in wider society in general, and that it requires a robust response from the University;

Taking note of the Reports of the Academic Board Working Groups on Racism and Prejudice of December 2020 and on the Definition of Antisemitism of January 2023, both of which investigated and reported on these matters in terms relevant to the interpretation of the resolution below;

Academic Board hereby resolves:

That UCL condemns antisemitism and takes all reasonable steps to combat it, within a framework that respects the principles of free speech and academic freedom at UCL;

That UCL should recognise the existence of multiple definitions and understandings of antisemitism, including in particular those provided by Helen Fein, the International Holocaust Remembrance Alliance, the Jerusalem Declaration on Antisemitism, and the Nexus Task Force;

That the function of such definitions is educative, which means they should be used to promote a better awareness of the existence of antisemitism with a view to addressing and combatting it at UCL;

That these definitions shall not be given determinative weight in the resolution of any proceedings relating to the discipline of university staff or students, in decisions relating to events, or in any other decision affecting the status of staff or students; and

That Academic Board requests that Council recognise and adopt the terms of this resolution.”

7.2 The Working Group’s Composition

The membership of the Working Group, reflecting the constitution agreed by Academic Board at a meeting on 17 March 2021, was as follows:

Two nominees of the Working Group on Racism and Prejudice

- Dr Seth Anziska, Department of Hebrew and Jewish Studies
- Professor François Guesnet, Department of Hebrew and Jewish Studies

Two members with expertise in antisemitism as a contemporary social and cultural problem

- Professor Michael Berkowitz, Department of Hebrew and Jewish Studies
- Professor Ruth Mandel, Department of Anthropology

Two members with expertise in race equality law

- Professor Colm O’Cinneide, Faculty of Laws
- Professor Jeff King, Faculty of Laws (Elected Chair at the Second Meeting)

Two persons with expertise in academic freedom and free speech law and policy

- Dr Jeffrey Howard, Department of Political Science
- Dr Robert Simpson, Department of Philosophy

Jewish Society nominee

- The Jewish Society decided not to make a nomination.

Student Union Sabbatical officer

- Ayman Benmati, Education Officer

Non-voting members

- Sean Wallis, UCU
- Wendy Appleby, Registrar
- Professor Sasha Roseneil, Pro-Provost (Equity and Inclusion)