

# CAMBRIDGE UNIVERSITY REPORTER

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*End of the Official Part of the 'Reporter'*

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UNIVERSITY OF  
CAMBRIDGE

## NOTICES

## Calendar

27 May, *Sunday*. Trinity Sunday. Scarlet day.

29 May, *Tuesday*. Discussion in the Senate-House at 2 p.m. (see below).

8 June, *Friday*. End of third quarter of Easter Term.

12 June, *Tuesday*. Discussion in the Senate-House at 2 p.m.

15 June, *Friday*. Full Term ends.

**Discussions (at 2 p.m.)**

29 May

12 June

19 June

26 June

10 July

17 July

**Congregations**

20 June, *Wednesday at 2.45 p.m.* (Honorary Degrees)

27 June, *Wednesday at 10 a.m.* (General Admission)

28 June, *Thursday at 10 a.m.* (General Admission)

29 June, *Friday at 10 a.m.* (General Admission)

30 June, *Saturday at 10 a.m.* (General Admission)

20 July, *Friday at 10 a.m.*

21 July, *Saturday at 10 a.m.*

**Discussion on Tuesday, 29 May 2018**

The Vice-Chancellor invites those qualified under the regulations for Discussions (*Statutes and Ordinances*, p. 105) to attend a Discussion in the Senate-House on Tuesday, 29 May 2018 at 2 p.m., for the discussion of:

1. Report of the General Board, dated 2 May 2018, on arrangements for senior academic promotions (*Reporter*, 6505, 2017–18, p. 556).

Further information on Discussions, including details on format and attendance, is provided at <https://www.governance.cam.ac.uk/governance/decision-making/discussions/>.

**Additional Discussions on 19 June and 17 July 2018**

The Vice-Chancellor has approved two additions to the schedule of Discussions for 2017–18 in order to enable certain Reports to be discussed at the earliest opportunity; the additional Discussions will take place as follows:

Tuesday, 19 June 2018 at 2 p.m. in Room 11, Mill Lane Lecture Rooms, 8 Mill Lane;

Tuesday, 17 July 2018 at 2 p.m. in the Senate-House.

**Grace 3 of 10 May 2018 (proposed University nursery building): Notice of a ballot**

18 May 2018

The Vice-Chancellor gives notice that he has received a request for a vote on Grace 3 of 10 May 2018 from the 29 members of the Regent House listed in Annex A. The signatories also request the discussion of a topic of concern on the Grace.

The Council has agreed that this topic will be included among the matters for consideration at the Discussion to be held in the Senate-House at 2 p.m. on **Tuesday, 12 June 2018**.

In accordance with Regulation 8 of the regulations for Graces and Congregations of the Regent House (*Statutes and Ordinances*, p. 105), a vote will be conducted by ballot. In connection with this ballot the Registry will arrange for the circulation of any fly-sheet, signed by ten or more members of the Regent House, which reaches her by 1 p.m. on **Thursday, 14 June 2018**. Fly-sheets must bear, in addition to the signatures, the names and initials (in block capitals) of the signatories (*Statutes and Ordinances*, p. 110). Documents which are submitted by fax to 01223 (3)32332 or scanned documents containing a signature sent to the Registry at [Registry@admin.cam.ac.uk](mailto:Registry@admin.cam.ac.uk) will also be accepted. Online voting will open at 10 a.m. on Friday, 22 June 2018 and **close at 5 p.m. on Monday, 2 July 2018**; fly-sheets will be available online. Hardcopy voting papers and fly-sheets will be distributed not later than Friday, 22 June 2018 to those who opted by 2 November 2017 to vote on paper; the last date for the return of voting papers will be **5 p.m. on Monday, 2 July 2018**.

## ANNEX A

B. M. ALCOTT  
P. A. BURNARD  
D. J. CARTER  
J. L. CHIFFINS  
H. J. CREMIN  
A. L. CUTTS  
T. J. DENMEAD  
P. J. DUDLEY

M. J. EVANS  
K. FORBES  
S. HENNESSY  
R. J. HOFMANN  
I. S. ILIE  
R. S. KERSHNER  
Y. LIU  
C. M.-J. MCLAUGHLIN

R. W. MCLELLAN  
L. C. MAJOR  
M. NIKOLAJEVA  
P. M. ROSE  
R. SABATES AYSA  
N. SINGAL  
A. SRIPRAKASH  
A. STYLIANIDES

J. D. H. M. VERMUNT  
S. WATSON  
E. G. WILSON  
E. J. WINTER  
M. WINTERBOTTOM

## General Admission to degrees, 2018: Notice of procedure

The Vice-Chancellor gives notice that at the Congregations for General Admission to Degrees to be held on 27, 28, 29, and 30 June 2018, tickets will be required for admission to the Senate-House. Admission tickets are issued by Colleges, and prospective graduands should apply to their Colleges for admission tickets for their personal friends whom they wish to invite to the Congregations. Other members of the University who wish to be present are also asked to obtain tickets from their Colleges.

The Congregations will be divided into separate sessions, with intervals between the presentation of candidates from successive Colleges, except candidates from Lucy Cavendish College, St Edmund's College, and Hughes Hall who will be presented in a single session. Visitors may not leave the Senate-House except in the intervals between sessions.

Members of the University are required to wear academical dress in the Senate-House. Any member of the University who is not acting as an officer at the Congregations and who holds a degree of another university or degree-awarding institution may wear the academical dress appropriate to that degree; save that this provision shall not apply to those presenting for, or receiving, degrees. The days of General Admission are 'scarlet' days, and Doctors in the different Faculties are asked to wear their festal gowns.

### TIMETABLE FOR THE CONGREGATIONS

#### Wednesday, 27 June

The doors of the Senate-House will be opened at 9.30 a.m. The Congregation will begin at 10 a.m. and graduands are asked to arrive by the following times:

King's College	9.50 a.m.	Peterhouse	2.20 p.m.
Trinity College	10.45 a.m.	Clare College	3.05 p.m.
St John's College	12.20 p.m.	Pembroke College	4.25 p.m.

The Congregation will be dissolved at about 5.15 p.m.

#### Thursday, 28 June

The doors of the Senate-House will be opened at 9.30 a.m. The Congregation will begin at 10 a.m. and graduands are asked to arrive by the following times:

Gonville and Caius College	9.50 a.m.	St Catharine's College	2.20 p.m.
Trinity Hall	11.10 a.m.	Jesus College	3.25 p.m.
Corpus Christi College	12.05 p.m.	Christ's College	4.45 p.m.
Queens' College	12.55 p.m.		

The Congregation will be dissolved at about 5.30 p.m.

#### Friday, 29 June

The doors of the Senate-House will be opened at 9.30 a.m. The Congregation will begin at 10 a.m. and graduands are asked to arrive by the following times:

Magdalene College	9.50 a.m.	Girton College	2.20 p.m.
Emmanuel College	10.45 a.m.	Newnham College	3.40 p.m.
Sidney Sussex College	12.05 p.m.	Selwyn College	4.35 p.m.
Downing College	1 p.m.		

The Congregation will be dissolved at about 5.20 p.m.

#### Saturday, 30 June

The doors of the Senate-House will be opened at 9.30 a.m. The Congregation will begin at 10 a.m. and graduands are asked to arrive by the following times:

Fitzwilliam College	9.50 a.m.	Robinson College	2.05 p.m.
Churchill College	10.55 a.m.	Lucy Cavendish College, St Edmund's College, and Hughes Hall	3.05 p.m.
Murray Edwards College	11.55 a.m.	Homerton College	3.55 p.m.
Wolfson College	1.35 p.m.		

The Congregation will be dissolved at about 5.05 p.m.

## General Admission to Degrees, 2018: Registry's Notice

The Registry gives notice that the latest time for the receipt of supplicats and any necessary certificates of terms for persons who propose to take degrees at General Admission on Wednesday, 27 June, Thursday, 28 June, Friday, 29 June, or Saturday, 30 June 2018 is **10 a.m. on Friday, 15 June 2018**. No further additions to degree lists can be accepted after that date.

## Divestment Working Group Report

21 May 2018

Further to the Council's Notice dated 23 April 2018 (*Reporter*, 2017–18, 6503, p. 529), the Divestment Working Group's Report is now available online at <http://www.admin.cam.ac.uk/reporter/2017-18/weekly/6507/DWG-Report-2018.pdf>. The Council is currently considering the Report and will publish its response in due course.

## Carbon Reduction Strategy

The Council and the General Board have approved a new Carbon Reduction Strategy (available online at <http://www.admin.cam.ac.uk/reporter/2017-18/weekly/6507/Carbon-Reduction-Strategy-2018.pdf>), which replaces the Carbon Management Plan 2010–20. The Strategy sets out a series of revised carbon reduction targets and outlines a framework and set of actions to reduce emissions in line with these targets. Development of the Strategy has been informed by extensive consultation with stakeholders from across the University and provides for a step-change in the University's approach to carbon reduction.

The Council and the General Board have asked the Environmental Sustainability Strategy Committee (ESSC) to oversee the development of plans to implement the Strategy. They have also asked the ESSC to develop an evidence-based approach to refine medium-term targets to ensure these targets are consistent with the University's commitment to achieve carbon neutrality by 2050, and to consider whether the date for carbon neutrality can be brought forward.

## VACANCIES, APPOINTMENTS, ETC.

### Vacancies in the University

A full list of current vacancies can be found at <http://www.jobs.cam.ac.uk>.

**Clinical Lecturer in Obstetrics and Gynaecology in the Department of Obstetrics and Gynaecology**; tenure: four years; salary: £32,478–£57,444, or £31,931–£55,288, or £36,461–£46,208; closing date: 25 June 2018; further details: <http://www.jobs.cam.ac.uk/job/17598/>; quote reference: RH15648

**Clinical Lecturer in Public Health in the Department of Public Health and Primary Care**; tenure: four years; salary: £32,478–£57,444; closing date: 25 June 2018; further details: <http://www.jobs.cam.ac.uk/job/17597/>; quote reference: RH15647

**Head of Academic Centre Administration (Lifelong Learning) in the Institute of Continuing Education**; fixed term: two years in the first instance; salary: £35,550–£47,722; closing date: 15 June 2018; further details: <http://www.jobs.cam.ac.uk/job/17572/>; quote reference: EA15623

**ICE Teaching Officer in International Relations (part-time) in the Institute of Continuing Education**; fixed term: two years at 0.5 FTE (half-time) in the first instance; salary: £35,550–£47,722 *pro rata*; closing date: 19 June 2018; further details: <http://www.jobs.cam.ac.uk/job/17454/>; quote reference: EA15514

*The University values diversity and is committed to equality of opportunity.*

*The University has a responsibility to ensure that all employees are eligible to live and work in the UK.*

## EVENTS, COURSES, ETC.

### Announcement of lectures, seminars, etc.

The University offers a large number of lectures, seminars, and other events, many of which are free of charge, to members of the University and others who are interested. Details can be found on individual Faculty, Department, and institution websites, on the What's On website (<http://www.admin.cam.ac.uk/whatson/>), and on Talks.cam (<http://www.talks.cam.ac.uk/>).

Brief details of upcoming events are given below.

<i>Fitzwilliam Museum</i>	5 June – 9 September 2018: <i>Floral fantasies</i> , an exhibition of botanical watercolours and drawings, including works by Clarence Bicknell, Walter Crane, Pierre-Joseph Redouté, and Gerard van Spaendonck.	<a href="http://www.fitzmuseum.cam.ac.uk/calendar/whatson/floral-fantasies">http://www.fitzmuseum.cam.ac.uk/calendar/whatson/floral-fantasies</a>
<i>Cambridge ESRC Doctoral Training Partnership</i>	Cambridge ESRC DTP Annual Lecture 2018: <i>Changing behaviour: a case for closer links between behavioural, social, and political sciences to tackle obesity and climate change</i> , by Professor Theresa Marteau, Director of the Behaviour and Health Research Unit in the Clinical School, on Thursday, 14 June 2018 at 5.30 p.m., in Rooms B3 and B4, Institute of Criminology.	<a href="https://www.eventbrite.co.uk/e/cambridge-esrc-dtp-annual-lecture-2018-tickets-45929362961">https://www.eventbrite.co.uk/e/cambridge-esrc-dtp-annual-lecture-2018-tickets-45929362961</a>

**NOTICES BY THE GENERAL BOARD****Senior Academic Promotions Committee: Appeals 2018**

The procedure for senior academic promotions (Section 11.1) provides that applicants have the right to lodge an appeal against the decision of the General Board's Academic Promotions Committee not to promote.

In accordance with the policy that Committee membership for the senior academic promotions exercise be published, the members of the Appeals Committee for the 1 October 2018 exercise agreed by the General Board are as follows:

Professor Richard Hunter (*Chair*)  
 Professor Jonathan Crowcroft  
 Professor Fiona Karet  
 Professor Sarah Worthington  
 Professor Val Gibson  
*Secretary:* Andrea Hudson

**REGULATIONS FOR EXAMINATIONS****Linguistics Tripos**

(*Statutes and Ordinances*, p. 373)

**With immediate effect**

The General Board, on the recommendation of the Faculty Board of Modern and Medieval Languages, have approved amendments to the list of papers available for examination in Parts IIA and IIB of the Linguistics Tripos as follows:

The following papers will continue to be suspended in 2018–19:

- Paper 17. *A subject in linguistics to be specified by the Faculty Board from time to time* (also serves as Paper Li.17. of the Modern and Medieval Languages Tripos).
- Paper 19. *A subject in linguistics to be specified by the Faculty Board from time to time.*

**Modern and Medieval Languages Tripos**

(*Statutes and Ordinances*, p. 393)

**With effect from 1 October 2018**

The General Board, on the recommendation of the Faculty Board of Modern and Medieval Languages, have approved amendments to the regulations for the Modern and Medieval Languages Tripos so as to allow candidates for Part II to optionally submit their Year Abroad Project in a language offered for examination at Part I and to clarify the procedures for applying for approval for Year Abroad plans, as follows:

Regulation 27(i)(d).

By amending the sub-paragraph to read as follows:

- (d) A year abroad project may be written in English or in a language offered for examination at Part I. Quotations from primary sources must be in the language of the original. An optional dissertation may be written in a modern foreign language instead of English if the Faculty Board so agree.

Regulation 29.

By removing from the second sentence the words 'through the candidate's Director of Studies'.

**Doctor of Philosophy, Master of Science, Master of Letters, and Master of Philosophy by dissertation**

(*Statutes and Ordinances*, p. 499)

**With effect from 1 October 2018**

The General Board, on the recommendation of the Board of Graduate Studies, gives notice that Regulation 22 of the regulations for Doctor of Philosophy, Master of Science, Master of Letters, and Master of Philosophy by dissertation has been amended so as to read:

- 22.** Before being admitted to the Ph.D. Degree, a student shall deposit with the Secretary of the Board one or more copies of her or his dissertation in a form or forms approved by the Board. The Secretary shall deposit the copies of the dissertation in the University Library where they shall be made available for consultation by readers in accordance with University Library regulations and copies of the dissertation provided to readers in accordance with applicable legislation, unless access to the dissertation is managed on grounds approved by the Board of Graduate Studies.

## Examination in Management Studies for the M.Res. Degree

(*Statutes and Ordinances*, p. 551)

### With effect from 1 October 2019

The General Board, on the recommendation of the Faculty Board of Business and Management, has approved the following amendment to Regulation 1(b) of the regulations for the examination in Management Studies for the degree of Master of Research:

Regulation 1(b).

By amending the text of the sub-paragraph to read as follows:

- (b) five or more modules selected from a list of mandatory and optional modules published by the Degree Committee not later than the end of the Michaelmas Term next preceding the examination.

## NOTICES BY FACULTY BOARDS, ETC.

### Modern and Medieval Languages Tripos, Part II, 2019

The Faculty Board of Modern and Medieval Languages gives notice of the following variable subjects to be examined in the Modern and Medieval Languages Tripos in 2019:

#### PART II

##### French

Fr. 7. Topics in medieval studies (also serves as Paper 34 of Part II of the English Tripos):

*Defining the human in medieval French literature and culture*

Fr. 14. A special topic in French studies (A):

*Theatre: theory and practice, 1600–2000*

Fr. 15. A special topic in French studies (B):

*Ethics and the erotic in medieval French Occitan writing*

Fr. 16. A special topic in French studies (C):

*Colonization, Empire, and globalization: technologies of space in French culture since 1700*

##### German

Ge. 12. A special period or subject in German literature, thought, or history (i):

*History and identity in Germany, 1750 to the present*

Ge. 13. A special period or subject in German literature, thought, or history (ii):

*Aspects of German-speaking Europe since 1945*

### Natural Sciences Tripos, Part II (Biological and Biomedical Sciences), 2018–19

The Faculty Board of Biology gives notice that the following combination of Major and Minor Subjects, additional to, or amending, those previously published (*Reporter*, 2017–18, 6494, p. 382), will be offered in the Natural Sciences Tripos, Part II (Biological and Biomedical Sciences) in 2018–19:

#### Major Subject:

	<i>Major Subject</i>	<i>Permissible Minor Subjects</i>	<i>Examination requirements</i>
411	Biochemistry (maximum 7 candidates)	107, 108, 114, 115, 116, 118, 122, 124, 128, 129	Five written papers: four papers of three hours each, and one paper of three and a quarter hours.

The Faculty Board of Biology also gives notice, further to that published on 7 February 2018 (*Reporter*, 2017–18, 6494, p. 382), that the Minor Subject 122, also offered in Part II, is limited to 25 candidates and that its examination requirements have been amended as follows:

	<i>Minor Subject</i>	<i>Examination requirements</i>
122	EnterpriseTECH (Judge Business School) (maximum 25 candidates)	An individual assessment (25% of the Minor Subject mark), a two-minute team video (10% of the Minor Subject mark), a six-minute team pitch (15% of the Minor Subject mark), and a 3,000-word team commercial feasibility report (50% of the Minor Subject mark).

## **CLASS-LISTS**

### **Approved for degrees**

The Board of Graduate Studies has approved the following persons for the award of degrees. In the case of degrees where dissertations are required to be deposited in the University Library, the title of the dissertation is shown after the name of the person by whom it was submitted.

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**ACTA**

**Approval of Graces submitted to the Regent House on 10 May 2018**

Of the Graces submitted to the Regent House on 10 May 2018 (*Reporter*, 6505, 2017–18, p. 562), a request for a ballot was received on Grace 3 (see p. 578) and all the other Graces were approved at 4 p.m. on Friday, 18 May 2018.

**Congregation of the Regent House on 19 May 2018**

A Congregation of the Regent House was held at 10 a.m. All the Graces that were submitted to the Regent House (*Reporter*, 6506, 2017–18, p. 575) were approved.

The following degrees were conferred:

*This content has been removed as it contains personal information.*

*This content has been removed as it contains personal information.*

E. M. C. RAMPTON, *Registrar*

**END OF THE OFFICIAL PART OF THE 'REPORTER'**

## REPORT OF DISCUSSION

### Tuesday, 1 May 2018 (continued)

A Discussion was held in the Senate-House. Deputy Vice-Chancellor Dame Carol Black was presiding, with the Registrar's deputy, the Senior Proctor, the Senior Pro-Proctor, and ninety-two other persons present.

The record of the remarks made on the Reports listed below was published in the *Reporter* on 10 May 2018 (*Reporter*, 6505, 2017–18, p. 567):

- Report of the Council, dated 18 April 2018, on external finance for income-generating projects including housing solutions in the non-operational estate (at p. 567);
- Report of the Council, dated 18 April 2018, on a new University nursery building (at p. 568, see also p. 578 above);
- Report of the General Board, dated 27 March 2018, on the establishment and re-establishment of certain Professorships (at p. 568).

The following topic of concern was also discussed:

***Topic of concern to the University: Standard of proof applied in student disciplinary cases*** (*Reporter*, 2017–18, 6496, p. 396 and 6497, p. 413).

Ms L. M. OLUFEMI (CUSU Women's Officer and Selwyn College):

Deputy Vice-Chancellor, I am the Cambridge University Students' Union Women's Officer, and my job is to campaign for and represent women and non-binary students in the institution, to bring issues that affect them to the forefront. I am the head of the Women's Campaign, a body made up of student volunteers who help facilitate this campaigning work. My role was created because, historically, women have been failed by this institution on everything from sexual violence to academic attainment to equal pay – we have always had to carve out our own spaces of belonging, fight ingrained sexism in teaching and interpersonal relations with our peers, and to organize to make sure that our specific needs are met by the institution.

Students have spent an hour tying ribbons to the Senate-House Gates to mark this Discussion. One of the things I encounter repeatedly when issues of structural reform come up is, well how many students support this? How do we know this is what they want? Outside this building there is one ribbon for the survivors who have been silenced and the over 800 students who have signed the Women's Campaign open letter to the Vice-Chancellor about how reforming the disciplinary procedure is both a necessary and urgent step towards trying to create a University where all feel safe and supported.

I have been in this institution for four very long years and have been engaged with student activism since I began – because I had no choice. I could not ignore the racism and sexism that caused the mental and physical deterioration of my friends but most notably, I could not ignore this institution's profound and disgusting silence on the issue of sexual assault. So I got involved with the Women's Campaign – I went to organizing meetings where we planned how to raise the issue with the University, I helped collect data on the 2015 Mind the Gap Report which was a document created by the Women's Campaign, which

alongside a report by the Women's Officer in 2014, Lauren Steele, pressured the University to recognize that sexual assault was a problem at Cambridge and that the close, personalized nature of study within the College system exacerbated it. In that 2014 student survey run by the Women's Campaign, we found that 77% of respondents said they had experienced some kind of sexual harassment whilst at University, of which the majority did not report the incident to anyone. This was in line with the National Union of Students' Hidden Marks Survey of 2012 which found that 68% of respondents had experienced sexual harassment, 1 in 7 survey respondents had experienced a serious physical or sexual assault during their time as a student, and over a third of students felt unsafe when visiting their University or College buildings at night. I shared the frustration of the student activists around me when we were told again and again by College and University officials that sexual violence could not happen in a place like this, that responsibility lay with the Colleges and the University could not interfere. We organized our own survivor support groups and were trained by Cambridge Rape Crisis Centre, whilst the University let students slip through the cracks over and over again. Until last year, there was no way of reporting or bringing forward cases of sexual assault and harassment at a University-wide level – this is something to be thoroughly ashamed of. Now, with the creation of a new informal procedure, called the Harassment and Sexual Misconduct Procedure, the institution seems to have woken up. But not only is this new procedure deeply flawed, it barely scratches the surface without reform of the standard of proof used in disciplinary matters. The informal procedure makes no findings, it simply puts forward 'suggestions' that the respondent and complainant must both agree to in order to be adopted. If for any reason both parties do not agree to the suggestions, the process ends and complainants are then referred to a disciplinary procedure that is not fit for purpose. Eleven people out of the whole University student body of over 21,000 have accessed this informal procedure for sexual violence since it came into being. None chose to take their cases forward to the disciplinary procedure and that is not because all of these cases were satisfactorily resolved. That is because many could not bear to put themselves through the trauma of another cold, impersonal procedure that was a poor imitation of the court room, where they'd be asked to call 'witnesses' and their evidence would be treated as if they'd entered the criminal justice system.

The onset of *Breaking the Silence* – the new University-wide campaign and range of initiatives introduced with the aim of ending all forms of sexual misconduct – seems to signal that the University is waking up to the crisis in regards to sexual violence that has been happening for years; I've even been turned into a spokesperson for it, as have many other University officials. But what student activists have always asked and will always ask is – is this a meaningful project? What does *Breaking the Silence* mean without fully-funded in-house support services? What does *Breaking the Silence* mean without a disciplinary procedure that survivors of sexual assault are aware of, can access, and doesn't treat them as if they were in a criminal court? What does *Breaking the Silence* mean if the discipline committee sat no more than five times in the year 2016–17, but there were 173 anonymous reports of sexual misconduct reported to the University in the space of nine months? Nine months. What does *Breaking the Silence* mean when up until 4 August, you could not even take a case of sexual misconduct to the disciplinary stage if it had not happened 'in the course of a University activity'?

Well, it means that *Breaking the Silence* is about posters and coasters and a well-produced video. It is a PR project that has no real effect on student's lives. Students aren't accessing formal procedures, we know this – and it is not because there is something wrong with them. It is because basing internal disciplinary procedures on a criminal court prevents individuals from coming forward and does students a great disservice because it does not prioritize their welfare.

We know that rape and sexual assault are the most under-reported and under-convicted crimes, that the police do not have a good track record with dealing with sexual misconduct. Nationally, we know that conviction rates for rape and assault are far lower than other crimes, with only 5.7% of reported rape cases ending in a conviction for the perpetrator. But this is not in line with the fact that nearly half a million adults claim to have been sexually assaulted in England and Wales each year. Requiring individuals to prove instances of sexual assault and rape beyond reasonable doubt throws up all kinds of barriers: is there physical evidence? Whose testimony counts more? And so on. It turns the procedure into a farce. The Universities UK Taskforce on tackling sexual violence in universities has explicitly stated that institutions should not use a criminal standard of proof in internal disciplinary matters. This recommendation has been upheld as a gold standard by the Office of Independent Adjudicators. This task force was created to provide best practice for universities, so why have we ignored them? What is so sacred about our disciplinary proceedings that we persist in the face of the most up to date guidelines from university regulators? The Zellik guidelines, which effectively stated that universities should do nothing in cases of sexual harassment and assault and instead defer to the police, have long been discredited. We are entering a new cultural moment in the way we assess these experiences and we must be progressive. We cannot latch onto a misguided belief that beyond reasonable doubt is the only suitably rigorous standard of proof. Or that balance of probabilities is somehow at odds with the notion of 'innocent until proven guilty'.

Even this is untrue – we will hear how in instances of plagiarism, for example, the balance of probabilities is not adequate, that it is somehow not as robust or does not provide the correct level of scrutiny. The balance of probabilities is used in civil cases: the standard is satisfied if the claim is more likely to be true than not true; in other words, if there is greater than 50% chance that the claim is true. It is often adopted in cases where the 'cost of error' in both directions is deemed equal. The cost of error here is not somebody's public image – most if not all disciplinary matters are kept private – it is not their criminal record that could last an entire lifetime – in internal disciplinary matters, the stakes are lower than that of a criminal court. In internal disciplinary matters, the University recognizes its responsibility to make the institution a liveable space for complainants. It means signalling what it will and will not stand for – and the current standard of proof signals that it will condone sexual violence. We must also ask ourselves why we are so preoccupied with the possibility of 'destroying reputation' at the expense of having procedures that are, at their most basic level, functional.

Adopting the balance of probabilities would not increase the risk of being 'falsely accused', nor would it affect the rigorous nature of disciplinary matters. Especially in the context in which these conversations are happening – I don't doubt that the scrutiny of the University Advocate and the Discipline Committee will remain high no matter if the standard of proof is reformed. We are one of the few, if

not the only UK university that uses a criminal standard of proof in disciplinary proceedings; even the General Medical Council does not do this, even though they consider cases about whether or not doctors should lose their right to practice. Stephen Toope, the Vice-Chancellor of the University – as a human rights lawyer – has expressed his support for this change and signaled the need for this institution to do better, as have CUSU and CUSU Council. The case for changing the standard of proof is clear and compelling.

As Women's Officer, I spend a lot of my time dealing with crisis. With students who have experienced sexual violence and don't know who to turn to in the aftermath, with Women's Officers who want to be able to provide specific aftercare in these circumstances, responding to the University's decisions in regards to gender. *Breaking the Silence* is framed as an exercise where the University encourages survivors to come forward, but the more important question is, why should they come forward? What has the institution done to signal that it will protect, believe, and provide institutional justice for them when it will not reform its own procedures? When University officials are scared to express their support on this issue for fear of backlash? We are presenting ourselves as leaders in the sector on this issue, and as always we are the last to respond adequately and attentively to the needs of our students. Change happens slowly, nobody knows that more than the students who have been organizing around this issue from 2015. But changing the standard of proof used in disciplinary matters in all cases is important: because it means the most serious cases of sexual violence might be dealt with as well as racism and physical violence, stalking, and a whole host of other issues. But this is only the beginning: *Breaking the Silence* must be turned into a meaningful project – that means the inclusion of provisions relating to domestic violence in our procedures, in house support services, better and more standardized welfare provision across Colleges.

The University must properly recognize its duty of care to its students or it must be honest. Instead of marketing itself as a place of intellectual rigour, a safe, inclusive, and diverse environment or in its own words a place that will 'continuously work to improve the prevention, response, support and investigation of all instances of harassment and sexual misconduct; and to enable staff and students to make disclosures without fear of reprisal'. It must say that it cares more about tradition than it does the wellbeing of its students. This is what is already being signalled everyday that the standard of proof remains the same. The aims of the *Breaking the Silence* initiative are directly undermined by a disciplinary procedure that is shrouded in mystery and uses a criminal standard of proof. Suffice to say, the University must pick a side on this issue and it must do so quickly, because there is no middle ground.

Ms B. S. SHAFFREY (GU Women's Officer and Hughes Hall):

Deputy Vice-Chancellor, I am here today like many of my fellow speakers to address the current University disciplinary regulations. As it currently stands, Cambridge is the only university in the UK that still requires disciplinary matters to be proven beyond reasonable doubt. The last time I checked Cambridge was not a criminal court but instead an academic institution, so the necessity for this regulation is not only baffling, but its procedural usage highlights the environment of victim-blaming and shaming, minimization, and injustice that this University continues to foster.

Conviction rates for sexual assault against women are incredibly low. In the United Kingdom, for example, only 6% of rape allegations result in a conviction. The implementation of beyond reasonable doubt is culpable in this low national percentage. At Cambridge, only eleven students utilized the disciplinary procedure this past year. Ultimately, the purpose of beyond reasonable doubt is to convince or influence the decisions of those adjudicating. It is argued to be a fair, non-biased approach to judicial matters,<sup>1</sup> and the best known rationale for its maintenance is centered around the idea that, for those falsely accused, the harms of a false conviction can be incredibly severe and life-altering. As 18th century jurist Sir William Blackstone stated: 'It is better that ten guilty persons escape than one innocent should suffer'.

In maintaining beyond reasonable doubt, Cambridge remains complicit in the victim's suffering. In an article by Larry Laudan, published in fact by Cambridge University Press, Laudan outlines that this quick move to protect those accused neglects the harms of false acquittal.<sup>2</sup> Christopher Wareham and James Vos, summarizing Larry Laudan's findings, write in their article 'Why rape cases should not be subject to reasonable doubt':

*In considering whether or not a standard of proof is justified, we should consider not just the harm done to the one man wrongly convicted, but also the harm done by the ten men wrongly released.*

Simultaneously, the argument towards maintaining beyond reasonable doubt perpetuates the narrative of victim-blaming and minimization, including the maintenance of rape myths such as a person falsely claiming rape after sex or lying about their experiences with intimate partner violence. These myths feed and substantiate our institutionalized and systematic bias and are incredibly prevalent in our society. Their influence is not just limited to daily interactions and in fact play a role in a court of law. For example, in her research on juror decision making, Professor Morrison Torrey writes that:

*Jurors will even distort and twist evidence until it becomes consistent with their attitudes ... Jurors will strive to reach a verdict in a rape case that will not conflict strongly with the rape myth cognitions they hold at the beginning of the trial.*<sup>3</sup>

In cases of sexual assault, the emotional and mental harm inflicted upon the victim are extraordinarily severe. Victims are badgered into reliving their scarring experiences while being expected to convincingly convey the trauma they have faced. If they fail to do so and a false acquittal is reached, they are branded as liars and the cycle continues. So I ask you: why do we as an institution fear more for the harm done to the accused, than we do for the victim? Fear for the victims? What does that say about Cambridge as an institution and what does that say about the environment we are cultivating?

As an M.Phil. student, I have only been a part of Cambridge's community for a few months. As Women's Officer for the Graduate Union, my time has been even less. However, what I have gained in my seemingly short time here is an in-depth insight into the failures pervading this institution. In my twelve weeks as Women's Officer, I have encountered story after story from victim after victim of how the current disciplinary procedure has treated them less as a victim and more as a perpetrator themselves. I have heard about relentless interrogations of someone's character, behaviour, and memory; I have watched as person after person struggles to tell me of their experiences, fearing that I too will choose not to believe

them. After each one of these conversations, I am filled with a pervading sadness and intense fury. I am heartbroken that the system continues to fail so many people, and I am enraged that there has been such a staunch resistance to changing it. Because of the disciplinary procedure's inadequacies, and refusing to feel even more marginalized and ignored, many students choose not to use it. How is this not indicative of the need for change? How can a University so willing to tote its alumni's accomplishments not feel some sense of responsibility towards its students and their welfare, past, present, and future? Indicated by the 800 signatures on the CUSU Women's Campaign open letter, there is a demand for change and progress. I address you in this room as a signatory, and demand that you finally abandon this relic of tradition and make the University of Cambridge an institution for all.

<sup>1</sup> [http://www.nationalguard.mil/Portals/31/Documents/J1/SAPR/SARCVATraining/Barriers\\_to\\_Credibility.pdf](http://www.nationalguard.mil/Portals/31/Documents/J1/SAPR/SARCVATraining/Barriers_to_Credibility.pdf)

<sup>2</sup> [https://www.cambridge.org/core/services/aop-cambridge-core/content/view/497AAA6BBFCAE86F1C0E6800E36FE42B/S1352325203000132a.pdf/is\\_reasonable\\_doubt\\_reasonable.pdf](https://www.cambridge.org/core/services/aop-cambridge-core/content/view/497AAA6BBFCAE86F1C0E6800E36FE42B/S1352325203000132a.pdf/is_reasonable_doubt_reasonable.pdf)

<sup>3</sup> <http://bigthink.com/aeon-ideas/why-rape-cases-should-not-be-subject-to-reasonable-doubt>

Ms M. FRAZER-CARROLL (CUSU and GU Welfare and Rights Officer, and Corpus Christi College):

Deputy Vice-Chancellor, today I'm asking you to respond to my own, and countless other students' demands to change the standard of proof used in the disciplinary procedure from beyond reasonable doubt to the balance of probabilities.

The use of beyond reasonable doubt as a burden of proof, in the case of sexual violence, plays into a culture that disbelieves survivors, who are disproportionately women. Cambridge is the only university that still uses this standard of proof, which is a criminal standard, despite the fact that the University is not a criminal court. This seems contradictory and hypocritical considering its decision to publicly position itself as a leader in combatting sexual misconduct; the University currently talks the talk, but does not have the infrastructure in place to support survivors on a disciplinary level.

During my three years as a student, I saw *countless* cases of students being made powerless by systems, or lack thereof, in place for survivors. In my current role as Welfare and Rights Officer, I directly support students, and also train hundreds of Officers, and I often find myself in the uncomfortable position of referring them to a procedure that I have little faith in. The introduction of the Sexual Assault and Harassment Advisor at the University Counselling Service is groundbreaking, but the function of the role in providing practical support is undoubtedly hindered by using the criminal standard of proof.

Experiences differ, but for many survivors, there are a series of traumas rather than an isolated incident. There is of course, the trauma of the event, but rehashing those experiences repeatedly is also often re-traumatizing. Being questioned, disbelieved, and asked to re-engage in depth with evidence of what happened, is re-traumatizing. Potentially having to come into contact with the perpetrator during proceedings is re-traumatizing. Having to continue to live alongside perpetrators is re-traumatizing. And in cases where disciplinary action is sought, after all of this emotional and psychological labour, being told that the evidence collected will not be enough to bring about tangible outcomes, due to a broken system, is re-traumatizing.

As we know from the figures that are rapidly emerging, which undoubtedly only represent a fraction of actual incidences, the vast, overwhelming majority of students do not even engage with the disciplinary procedure. *The procedure is used by less than ten students a year – and we should be ashamed of this.*

The current procedure is not only logistically misguided, but represents a much broader cultural attitude that disempowers and silences survivors. Only 5.7% of reported rape cases end in a conviction for the perpetrator using the criminal burden of proof. It is notoriously difficult to prove sexual violence beyond reasonable doubt – and I fear for the message we send as a ‘leader in the sector’ if this is what the future of the sector is supposed to look like.

There are 800 signatures on the Women’s Campaign open letter – and a ribbon for every signature on the gates outside, and support has been shown by CUSU Council, the Students’ Union, and the stance of Universities UK Guidance task force. Support for this is overwhelming.

We are currently in the midst of a crisis, but also on the brink of a historical turning point. As the Welfare and Rights Officer of the University of Cambridge, but also as a former student, and a woman, I call on the University to seize this pivotal moment that has been directly presented to it by students. This change represents what it truly means to ‘break the silence’ around sexual misconduct.

Mx E. O. C. TRAVIS (St John’s College, and Committee Member of CUSU LGBT+, Women’s, and Disabled Students’ Campaign):

Deputy Vice-Chancellor, I made some arguments yesterday in a debate about this issue that resulted in my being accused of being emotional and bringing my emotions to a topic that should be a rational debate. Putting that aside, whether or not we bring emotions into this type of conversation, the statistics say enough to begin with. Some have been cited already; one that I found was that Rape Crisis UK say that 62% of students experience sexual violence whilst at university. The tiny if not negligible/non-existent number of Cambridge students that completed the official disciplinary procedure for a case of sexual violence shows simply that the procedure is not fit for purpose.

As people have said already, the procedure treats students as though they are taking part in a process of criminal justice. This is not a criminal court and it is not the job of the disciplinary procedure of the University to determine whether a crime has been committed. It is the job of the procedure to determine whether a breach of the code of conduct that we enter into when we become members of this University has been breached.

Furthermore, when a case is taken to a criminal justice court the procedure involves people whose full-time job it is to investigate – criminal investigators – that this University does not have. Therefore even though providing proof to a criminal standard is already difficult in cases of sexual assault, it makes it even more difficult/impossible when there is nobody to investigate that proof.

False allegations, as we have said, are highly/almost negligible. The ratio in the UK – and I googled this this morning – of prosecutions for false allegations v. the ratio of prosecutions for rapes in 2011–12 was 1:162. Who are we valuing? When we keep using the criminal standard of proof what we are saying is that it is more important that this tiny tiny potential percentage of people who might be innocent and be judged not to be innocent is more important than the material, massive group of people that we know exist that experience sexual violence.

You can tell I am emotional and I will go back to the emotions point because the problem with discussions like this is that often there is this idea that we shouldn’t bring emotions into it, which is ridiculous when for anybody who has experienced it, it will be an emotional topic. It means that the voices that are privileged in debates like this are the voices of people who have not experienced sexual violence and who then do not have this personal, emotional stake in the discussion. And so I am coming to the table with my emotions as a survivor of repeated sexual assault and I am being perceived as having bias, whereas those who come to the table without that experience and without those emotions are perceived as not being biased, when actually that is another form of bias itself.

I have had almost first-hand experience of the official disciplinary procedure. It is re-traumatizing as described by an actual licensed therapist. It depends on the whims and the bias of individuals involved in it who are making the decisions. It is opaque, it is unbalanced in terms of the perpetrator and the victim, who gets to hear what first, who gets the chance to ask what.

*Breaking the Silence* is not about breaking individual silences, as Lola said, it is not about whether I feel comfortable about speaking up. It’s about who’s listening; and the University thus far is not listening.

Ms F. KIDD (Newnham College Women’s Officer):

Deputy Vice-Chancellor, we have heard a resounding call from multiple sides imploring the University to change its disciplinary procedure. The Students’ Union, CUSU Council, and Vice-Chancellor Stephen Toope have all expressed their support for this urgent reform, not to mention the some 800 individuals who signed the open letter put forward by the CUSU Women’s Campaign.

Today, I add my own voice to these calls. I add that 77% of respondents to a 2014 student survey said they had experienced some form of sexual harassment whilst at University, and thus, I add that it is unlikely I will complete the next year as Women’s Officer without needing to support any of my peers through such an experience.

This is not unique to me or to my College. Our Colleges in general are thus far ill-equipped to deal with these complex, emotionally demanding situations. As a result, Women’s Officers need to be able to refer complainants to a University-wide system that they can have confidence in. We need to be able to point survivors towards sufficient in-house services tailored to supporting them through experiences of sexual violence, and outsourced services that are fully funded. We need the University to recognize the issue of intimate partner violence within its policies. We need the University to lead our Colleges, pressuring them to build webs of resource to protect their most vulnerable students.

The disciplinary procedure as it stands has not earned my vote of confidence, nor that of the students I represent. I believe that a procedure which uses the civil standard of proof – the balance of probabilities – is much more likely to offer survivors the justice they deserve.

We know that, nationally, conviction rates for rape are much lower than those of other crimes. Only 5.7% of rape cases end in a conviction for the perpetrator, and this is because of how notoriously difficult it is to prove that sexual violence has occurred beyond reasonable doubt. Sexual violence often occurs in private, within the context of pre-existing relationships, or in situations where proof simply cannot be obtained.

The University does not have the resources to carry out a criminal investigation to acquire a criminal standard of proof, and thus should not be demanding such a standard in cases which are not taking place in a criminal court of law. Reporting an incident of assault is already a brave, astonishingly difficult, and often re-traumatizing thing to do, and I find it reprehensible that the University are making this process even harder than necessary.

It should not be forgotten that sexual violence disproportionately affects women of colour and the LGBT+ community, and particularly, the intersection between those groups. It is unacceptable that marginalized students who are already bearing the brunt of structurally oppressive and exploitative conditions have been forgotten by the University as they negotiate these traumatic, yet all too common, experiences.

The crux of the matter is this: all students deserve to feel safe and supported during their studies. For far too long, the University has ignored the damaging effects of sexual violence on student welfare, allowing poor self-esteem, low academic performance, and mental health problems to dangerously worsen in the absence of sufficient support for survivors.

If the University is serious about *Breaking the Silence*, these changes must happen. Cambridge University is the only university in the UK that still requires disciplinary matters to be proven beyond reasonable doubt. As a university which prides itself on pushing boundaries, Cambridge owes more to its staff and students. It must push the boundaries of its social policy – not just its academic research – in order to be aligned with best practice. The University is not a court of law and should not behave like one.

It is essential that drastic reforms are made to the disciplinary procedure. It is essential to demonstrate the University's commitment to instigating a cultural shift around sexual violence. It is essential to perform its duty of care towards students, to show seriousness in setting boundaries, and, Deputy Vice-Chancellor, to carry on breaking the silence.

Ms S. C. COOKE (King's College):

Deputy Vice-Chancellor, I would like to speak in favour of the motion to change the standard of proof for the disciplinary procedure from beyond reasonable doubt to the balance of probabilities.

I was abused for a long period of time by another student at Cambridge. After I managed to get away from him, I felt constantly scared and unsafe knowing that there was nothing preventing him from contacting me or approaching me, but I was desperate to continue my professional and social life at Cambridge.

I went to the University body in the hope of having regulations put in place to protect me. The informal procedure was not yet in place, but even if it had been, I do not think my abuser would have agreed to any conditions. I put in a formal complaint and attended a meeting with the University Advocate. We went through everything and, although they were sympathetic, it became increasingly clear that they couldn't help me.

Most abuse happens behind closed doors, and there usually aren't witnesses. As a result, trying to reach the standard of proof of beyond reasonable doubt can be extremely hard. I did have other things against me too: it was still the case that any harassment had to have taken place as part of a University activity, which has now changed. However, even if that had not been the case, I feel

I could not have continued with my complaint. The formal procedure involves a wait of up to six months and a trial, in which complainants are cross-examined. I was, and still am, traumatized and suffering with PTSD. I couldn't put myself through that without a good chance of a successful outcome, which, because of the standard of proof required, I couldn't be sure I had.

So, for the last eight months, I have been scared. I spend more time away from Cambridge than I would like to because I am terrified of bumping into my abuser as there is nothing stopping him trying to approach me. Fortunately, my department took it upon themselves to ban him from my building, but that was only because of the care of individual staff there, they didn't have to do that. So I have two safe spaces – my department and my house. Whenever I am outside of those, I cannot fully relax.

In the criminal courts, the burden of proof has to be high because if defendants are found guilty, they could be imprisoned. Here, the potential outcomes are far less severe, so that doesn't need to be the case. The University should be prioritizing keeping students like me safe. Cambridge used to feel like my home, but it doesn't anymore.

We cannot maintain the status quo, where students feel they cannot formally report assault and abuse because the burden of proof is too high. Not only does this prevent victims from feeling safe, it shows perpetrators that their actions have no consequences and leaves others vulnerable to them too. As such, I feel we must change the burden of proof for the disciplinary procedure to balance of probabilities.

Ms C. W. COSTELLO (Newnham College and Executive Committee of the CUSU Women's Campaign):

Deputy Vice-Chancellor, I believe the current standard of proof used in the University disciplinary regulations (beyond reasonable doubt) should be changed to proof on the balance of probabilities in student cases.

In the criminal courts, the seriousness of an accusation of sexual misconduct as well as the seriousness of punishment if convicted makes the criminal burden of proof necessary. The University of Cambridge is, however, – as I hope we're all aware – not a criminal court. As such, its disciplinary procedure does not have the power to pass judgement on a defendant in the same way. If found guilty by the disciplinary procedure, they will not be sent to prison, they will not have a criminal record for the rest of their lives, they will not have their names publicly available on the sex offenders registry, etc. The seriousness of consequences for the accused in the disciplinary procedure does not even begin to compare to that of a defendant in a criminal court: since there will be no criminal conviction if found guilty, the criminal burden of proof is not necessary.

As well as not having the same powers as a criminal court in sentencing a defendant, the University of Cambridge also does not have access to the same investigative powers or resources as the police. As I'm sure everyone in this room is already aware, the criminal justice system generally fails to establish a criminal burden of proof in criminal cases of sexual assault. Indeed, only 5.7% of reported rape cases end in a conviction for the perpetrator, despite nearly half a million adults claiming to have been sexually assaulted in England and Wales each year. If the courts – despite their comparatively better resourced, expert investigations – nearly always fail to ascertain a criminal burden of proof, then it's even less likely that this University's disciplinary procedure would be able to.

Requiring the extremely difficult establishment of criminal burden of proof rather than the proof on the balance of probabilities therefore makes it unlikely even 5% of victims of sexual assault who try to access the disciplinary procedure would find justice and support in its findings.

Indeed, the focus of the disciplinary procedure should be on these survivors' wellbeing. The care system in the UK, for instance, requires proof on the balance of probability to decide whether or not to remove a child from the care of a parent. This is because their primary focus is not on punishing a negligent or abusive parent but on a child's welfare. This should be the case here at the University of Cambridge too: a balance of probabilities allows the focus to be on what steps need to be taken to support a survivor rather than focus on the punishment of a defendant. This would encourage the likelihood that affected students would engage with the procedure: as it stands, only about ten students per year use it despite 77% of Cambridge students who responded to a 2014 student survey reporting they had experienced sexual harassment during their time at this University.

The University has rightfully received a lot of positive attention – both from the media and from University members – for their *Breaking the Silence* campaign, which claims that the University takes a zero-tolerance stance towards sexual misconduct. So far I have accepted the claims of this campaign in good faith, but at its core the *Breaking the Silence* initiative remains incomplete without enacting the proposed reforms to the disciplinary procedure. Every single other university in the United Kingdom, along with most professional bodies, including the General Medical Council and the Bar Standards Board, defines proof according to the balance of probabilities. I stand with the 800 students who have signed the Women's Campaign open letter, with the Students' Union, and with CUSU Council, in requesting the disciplinary procedure be reformed along these lines.

Ms S. E. CREELY (King's College):

Deputy Vice-Chancellor, I believe the standard of proof should be changed to proof on the balance of probabilities for the following reasons.

Reporting and conviction rates for rape and assault are pitifully low. The reasons for this are many and complex, but the fact that survivors are often re-victimized during the reporting process is a major deterrent. Shame, fear of not being believed, and fear of lack of evidence are often-cited reasons and we ought to applaud those who come forward and do battle with a justice system that is difficult for them to navigate.

Time and time again survivors are afraid that they will not be believed. In the news we've seen cases of famous men being able to get away with being serial harassers, purely because the women who bring accusations against them are written off as attention seekers, motivated by a desire to ruin the lives of the men who assault them. By maintaining the burden of proof, the University ensures the idea that women should not be believed is upheld by the very disciplinary procedure that is meant to protect them.

Beyond reasonable doubt is a criminal standard of proof, and the University is not a criminal court.

It does not have the resources to gather the extensive proof necessary in cases of sexual violence, where often it is one person's word against another's, beyond reasonable doubt. It is therefore nigh on impossible for a complainant to successfully bring a case against another student through this procedure. Other UK universities use the balance of

probabilities, an accurate reflection of the capabilities of an internal university investigation.

To compound the emotional, cultural, and institutional obstacles that confront victims of sexual assault with a standard of proof which is near-impossible to achieve is to systematically deny justice to those the University ought to be supporting.

Changing to the balance of probabilities increases the likelihood that survivors of sexual violence will use the disciplinary procedure, that perpetrators will face the consequences of their actions, confront a culture of impunity, and ensure the supportive University environment that all students deserve. Sexual violence has wide-ranging effects on student welfare, being linked to poor self-esteem, low academic performance, and affected mental health. If the University cannot guarantee a student their bodily integrity, and assure them that the violation of this bodily integrity has consequences, we cannot expect them to realize their academic potential.

Of course the issue of the burden of proof goes beyond sexual violence, and is not an issue only of concern to women. Reports of cases of racial harassment, harassment on the basis of religion, of sexuality, or of gender identity, are all affected by a standard of proof which is far beyond the University's capacity as an investigatory body. We doubly fail those students at the sharp end of policies such as Prevent or the 'hostile environment' if we deny them the ability to face those who harass them through the disciplinary procedure.

In short, the University does not have the capacity to gather evidence which would be sufficient to result in a conviction using the burden of proof. It should not act as a criminal court and should follow the example of other UK universities in changing to the balance of probabilities in order to ensure that students are able to bring perpetrators of sexual misconduct to justice.

Ms D. EYRE (CUSU President and Jesus College):

Deputy Vice-Chancellor, I support changing the standard of proof in the disciplinary procedure from beyond reasonable doubt to the balance of probabilities on both a personal and principled level – though, of course there isn't truly a distinction between the two.

I'm arguing for this change on behalf of all the women, my friends, and myself, who have been through sexual violence and will do in the future – the disciplinary procedure should bring justice, not further trauma.

I'm also arguing for this as the President of Cambridge University Students' Union, with a duty to represent and fight for the rights of all students at this University. The battle to break the silence on sexual misconduct in Cambridge was started by the CUSU Women's Campaign in 2014, and we need to see it through, to ensure that a difficult and sensitive procedure works as well as it can. With only ten students using the procedure per year, when we know so many more face sexual misconduct, there is clearly something wrong, and this change will make the process less intimidating and less onerous for students.

This does not mean to say that it is not fair. Fairness for all students is of paramount importance here. Firstly, given that the vast majority of professional bodies, including the General Medical Council, use the balance of probability; there is no evidence-based argument to say that this change undermines the fundamental value of a fair trial. Further, it seems clear to me that the current procedure is not fair on victims, who are placed in a very difficult position. The fact is that this University is not a criminal court and does

not have the resources to try cases on the basis of beyond reasonable doubt, especially in cases of sexual misconduct, but also beyond.

Students have spoken loud and clear on this issue, with CUSU Council supporting the change to the balance of probability and the open letter by the Women's Campaign gaining over 800 signatures. As their representative, I believe we should adopt the balance of probability as the standard of proof in our disciplinary procedure.

Mr A. BEDORF (Downing College):

Deputy Vice-Chancellor, is there a problem with sexual assault at UK universities? Yes there is, and I agree with that. But I don't agree with lowering the burden of proof in disciplinary procedures at the University of Cambridge.

That the University deals with accusations of sexual harassment and assault is a relatively new development, and in my opinion that is to be criticized in itself, because I don't think Cambridge should have a law system next to the UK law and the court system. The University of Cambridge and other universities in the UK have only been dealing with these cases since 2016, when Universities UK published the *Changing the culture* report (which went against the 1994 Zelic Report, which had suggested universities should keep away from the duties of dealing with sexual assault, rape, and sexual harassment, for different reasons that I'll point out later).

Since 2016, Cambridge has become even more of a bubble. Now we have our own court system; you can if you want not go to the police but to the University, and now the next step is to lower the burden of proof to make it even easier to get your point through. And this is not just for sexual assault but for all cases that this will be implemented; all of the cases in the disciplinary procedures, and therefore a similar effect on all of the University's procedures in the future.

I think we are all in agreement that sexual assault and rape are terrible crimes. I also think we agree that those crimes are difficult to prove. They are difficult to prove if you have the whole police investigation apparatus at hand, and even more so if you are a University tribunal having no access to any evidence but spoken accounts. Unfortunately, under pressure of student movements, the University now is in this situation to have to deal with it. But without the police investigation behind what we have heard a lot today, I don't think having a very subjective system of judging a case is the right way to go. Yes, the tribunal is not a criminal court but it is used as a replacement for one and there are real allegations made. And tell it to those who were falsely accused that the effects are not severe and have no affect on their lives. Tell that to the former Oxford Union President who was dragged through the newspapers, both at University and national level; tell that to the young Jay Cheshire who, even though he was freed of charges and rape allegations, took his life under the pressure of public opinion. And please remember what happened when *Rolling Stone* published the so-called 'rape on campus' story and to those people who were involved in that.

Being the victim of sexual assault is terrible and there has to be a fair system in place to deal with those issues. And if you want to take that in front of the University board instead of the law, it still has to be fair and has to be fair for both sides. Because only a fair system gives confidence to everyone involved in handling those cases.

I think this is the main aim of the motion and I am sure it was made in good faith: to motivate victims to come forward with allegations and with their experience. But

why is it necessary? Why do we need a motion to give victims confidence in the system? Is there a deep distrust of the system? I think there is; but what causes it? The Women's Campaign and some of the speakers here today say the system isn't working, but that's not the case. It is working, and I cite the numbers from the so-called Stern Report from 2010. The numbers for convictions in rape cases used in the motion and the speeches given here today span from between 5 to 6%. This number is wrong. It describes a sort of attrition rate – meaning how many people accused of rape are, on average, being convicted for rape in the end. Adding into it the numbers of those who were not convicted for rape but for e.g. sexual assault or violence, we get to 12%. This is in line with the average for crimes in the UK. If someone is actually charged with rape and is put in front of the courts there is a conviction rate of 58%. In comparison: all other crimes have a conviction rate of 57%. The system works. It is not skewed against the alleged victim. Cases are handled by the law and the police in a fair and successful manner. That should be the message going out to victims: that they can believe in the British judicial system because it works. And you can trust in the need for evidence as well. You don't have to come to the University for it.

The need for evidence is not archaic; it is the very foundation of our legal system and our society and the only way cases can be handled fairly for both sides. Lowering the burden of proof has severe detrimental effects. For one, it deters victims from going to the police even further, choosing the easier way by going to the University tribunal, which has not and should not have any mandate on judging crimes. But they go for that process because it's the easier, more promising way.

It puts the University tribunal in an awkward position as it has to judge differently from how a criminal court would, because it has a lower burden of proof. I want to remind everyone why it was the case that the universities in the UK haven't dealt with those cases for a long time. It was the case of Austen Donnellan in 1992, who was accused of rape, thrown out of his university by King's College London, later acquitted of all allegations, who then sued his university for a huge sum. This was the reason for the Zelic Report of 1994, which demanded that universities should not engage in sexual assault cases and rather should motivate alleged victims to go to the police.

Coming back to other statistics, up to 12% of accusations are false in rape cases; 3 or 4% are malicious cases, but the vast majority are false allegations that are made not knowingly or just with wrong information. So, out of those 173 people who sent in anonymous allegations over the last months, 5–10 are statistically likely to be false allegations, and I believe the University tribunal is in no position to distinguish between real and false cases. I don't think the tribunal members should be put in those situations – to have to decide a student's future without being able to collect the right evidence. Until now, the members of the tribunal had at least the security to judge on proof and evidence. Changing that would force them to make subjective decisions affecting the future of the students.

The main issue here is that the most important point for the authors of this motion is that every alleged victim who comes through the door is to be believed. I think that's the wrong way to go. I believe that they need support and I fully support the parts of the motion calling for better counselling, for the alleged victims to be treated well throughout the process, to be listened to, and so on. This is important, and helps them to cope if the alleged perpetrator is acquitted of the allegations in the end. But alleged

victims should not be believed before the tribunal; they should, however, be given every support and they should be taken seriously.

What is important is that victims hear again that the legal system works, and that it is not working against them. And the University, if it thinks it is entitled to handle these crimes, should at least behave in a proper, fair way. It should work towards what the Vice-Chancellor said during the promotion of the *Breaking the Silence* campaign, and be a social leader.

And I thoroughly believe that a social leader should not bow to an agenda putting the needs of one side – the side of the alleged victim – in front of the other side, over a fair and balanced process. Such a leader should support the very values that are the basis of our society. You are innocent until proven guilty; you have the right to be treated fairly; your words have the same weight as the word of the other side; you have the right to make your case. But you don't have the right to be believed the moment you walk through the door.<sup>1</sup>

<sup>1</sup> Sources for statistics:

- [http://webarchive.nationalarchives.gov.uk/20110608162919/http://www.equalities.gov.uk/pdf/Stern\\_Review\\_acc\\_FINAL.pdf](http://webarchive.nationalarchives.gov.uk/20110608162919/http://www.equalities.gov.uk/pdf/Stern_Review_acc_FINAL.pdf)
- <https://fullfact.org/crime/allegations-rape/>

Dr N. S. M. GUYATT (Faculty of History and Trinity Hall): Deputy Vice-Chancellor, I am a Reader in the History Faculty, and a Fellow and tutor of Trinity Hall. I spent five years in Cambridge as an undergraduate and postgraduate in the 1990s, and I returned as a member of staff in 2014. On the basis of this experience, I welcome the proposal that the standard of proof in University disciplinary cases be revised to the balance of probabilities, and I'd like to express my gratitude to the students and staff who have led the campaign to highlight this issue.

I support this change for three reasons. First, the University is isolated both nationally and internationally in requiring beyond reasonable doubt as the standard of proof in misconduct cases. The head of the Office of Student Conduct, Complaints, and Appeals, Sarah D'Ambrumenil, confirmed to *Varsity* last week that 'We are definitely in the minority' in our insistence on beyond reasonable doubt, and that 'many, many more universities use the balance of probabilities.' A recent *New York Times* article on misconduct procedures in US higher education noted that 80% of American colleges and universities were using the balance of probabilities even before the Obama administration tightened the so-called Title IX provisions in 2011 in response to an epidemic of sexual misconduct on American campuses. Clearly the standard of proof isn't a magic bullet, a point to which I'll return in a moment; but even by the pre-Obama standards, our insistence on beyond reasonable doubt makes us an outlier on this vital question in both Britain and the United States. Given the current US administration's efforts to undermine the standard of proof, the University of Cambridge finds itself aligned on this question – inadvertently, I hope – with Donald J. Trump.

My second reason to support this change is that the current pathways for redress are unnecessarily complicated and confusing. College disciplinary procedures vary considerably in their format and even their standard of proof; as a tutor, it's hard to explain to a student reporting serious sexual misconduct why their College will believe them on the balance of probabilities but the University will not. I've had the opportunity to witness effective and supportive disciplinary proceedings within College

settings, but my own view is that sexual misconduct presents institutions with particular challenges. For complainants, it's hugely reassuring to meet with highly trained and experienced administrators, investigators, and disciplinary panel members; these forms of training and experience are much more easily acquired within the larger setting of the University. It's also important for complainants to have some release from the narrow confines of the College environment, where the potential for conflicts of interest and anxieties about confidentiality is much greater. And yet at the moment, the disparity between the lower standard of proof in many Colleges and beyond reasonable doubt in the University means that tutors may dissuade students from seeking the University disciplinary route. This seems perverse, and in nobody's best interest.

My final argument for supporting this change is that cultures of sexual harassment and misconduct are huge obstacles to the achievement of gender equality in the University. In my College we're currently celebrating the fortieth anniversary of the admission of women; and yet the proportion of women on our Fellowship is just 25%; in my Faculty, that number creeps upwards to 32% for University Teaching Officers. Those of us who sit on hiring committees frequently ask ourselves why what we know to be true of our students – that women have at least as much talent and potential as men – somehow fades to the margins when we assemble and then reproduce Faculties and Colleges in which men clearly outnumber women. This is a multifaceted problem; but many of us will know the damage done to victims of sexual misconduct, and the sense of alienation and helplessness felt by individuals who assume that College and University officials will not believe their complaint. If we preside over and defend an environment in which student complaints are subject to criminal standards of proof – even in the knowledge that, every year, hundreds of cases of sexual misconduct go unreported – we should not be surprised when many female students conclude that academic life is not for them. The proposal to adopt the balance of probabilities will not in itself solve Cambridge's gender problems, but it is an important step in the right direction. I hope very much that my colleagues will support it.

Dr R. H. ABBOTT (Faculty of English and St John's College): Deputy Vice-Chancellor, as a Director of Studies in my College, and a University Lecturer in my Faculty, I have supported several students who have survived sexual violence and tried to report it through many channels, including formally reporting to the University and to the police. This experience, and the experience of expert charities such as Cambridge Rape Crisis Centre, is clear: reporting sexual violence, whether formally or informally, can be agony. It can be hard to find the words to describe what has been done to you, and you may struggle with feelings of guilt, shame, anxiety, and hopelessness; the very experience of speaking about the assault, for the first time or the hundredth time, can bring it all back, and damage you afresh. Seeking redress through official channels can compound these difficulties, especially when the processes are impersonal and confusing. It is all too easy to end up feeling more alone than ever, and let down at the very moment when you had finally found the courage to speak out. So I am glad that we are here today to think together about ways in which we can improve our students' experience of formally reporting misconduct, and make our disciplinary procedures fit for purpose.

Last year, I had the privilege of serving on the University's Harassment Avoidance Working Group, working towards the launch of the *Breaking the Silence* campaign. With the launch of the campaign, we publicly expressed our commitment to ending sexual violence within this collegiate University, and we established an array of new measures – training, policies, campaigns, publicity – that were aimed at bringing about a change in the institutional culture. It was a proud moment for this University, and it sent an important signal to students who had suffered, and felt unheard or let down. Now, Cambridge Hub is evaluating the campaign, and students, staff, and administrators are reflecting on what is working well and what still needs development. So it is a good moment to address those areas in which we are not yet the national leader that we wish to be on this issue. The standard of proof currently used in our disciplinary regulations is one such area, and, like CUSU and my colleagues, I wish to propose that the standard be changed.

At present, the University of Cambridge is the only university in the United Kingdom that still requires misconduct to be proved beyond reasonable doubt for disciplinary action to be taken. This is a criminal standard of proof, which Universities UK has argued is inappropriate for internal disciplinary cases. It is therefore reasonable and right that all other British universities besides ourselves, alongside other comparable bodies such as the General Medical Council and the Bar Standards Board, judge disciplinary cases on a civil standard of proof instead: the balance of probabilities. Such judgements are no less rigorous or careful, and the procedures involved are well-established as fair and robust across the sector. To attend to the balance of probabilities, rather than attempting to prove misconduct beyond reasonable doubt, is to recognize that we are a civil institution, not a criminal court. It is also to recognize that the ways in which we present and conduct our disciplinary procedures have an effect upon our students' willingness to use them.

We wish to end sexual violence within this University, and we have focused on positive measures that will contribute to this goal, such as training, awareness raising, and better support for survivors through the Office of Student Conduct, Complaints, and Appeals (OSCCA), and the new University Sexual Assault and Harassment Advisor. Today, we are proposing that we reassess our punitive measures too. We will all be in agreement that formal disciplinary action should be taken against perpetrators of sexual violence, when the misconduct is identified and established with the survivor's consent. The question is how that process should function. I believe that we must pay attention to best practice across the sector, and make our disciplinary processes civil rather than criminal. It would show our students that we are no less committed to ending sexual violence than any of our peers. It would show our students that we are not trying to put them off reporting, by employing an inappropriate and overly complex standard of proof that gives the wrong impression that they are under trial.

The University of Cambridge is rightly unable to impose criminal sanctions. So it should not use a criminal standard of proof. This seems self-evident to me, whatever the particular disciplinary issue concerned. But I think that sexual violence cases are particularly important to consider. There have been many reports and studies of the prevalence of sexual violence in UK universities over the last few years, undertaken by local and national bodies including the NUS, CUSU, the *Guardian*, the 1752 Group, Universities UK, and our Harassment Avoidance Working Group. All of these reports and studies have demonstrated

the same appalling fact: British universities in general, and the University of Cambridge in particular, have a disproportionate problem with sexual violence, perpetrated by students and by staff. I would hazard a guess that there is no individual in this room who has not had some kind of experience of this issue in this University, whether as a survivor, a supporter, an administrator, an advisor, or a friend. Imagine the good that we could do by showing our students and our colleagues once again that we are serious about stopping this. Imagine the good that we could do by showing our students and our colleagues that we are not just willing to acknowledge sexual violence, but willing to take action against it too. Changing the standard of proof in our disciplinary procedures, discarding the requirement that misconduct be proved criminally, beyond reasonable doubt, and employing instead the civil standard of the balance of probabilities, would not only bring us in line with the sector, it would also make our commitment to ending sexual violence unarguably clear.

Dr T. PAGE (Department of Sociology):

Deputy Vice-Chancellor, I am the co-founder of The 1752 Group, a national research and lobby organization that specifically addresses the issue of staff sexual misconduct in higher education and through this connected forms of power-based harassment and violence and the ways in which institutions respond.

Like others here today I am here to support the change of the current standard of proof used in the University disciplinary regulations in student cases, from proof beyond reasonable doubt, which is criminal standard of proof, to proof on the balance of probabilities, which is a civil standard of proof.

I work in the area of sexual violence and gender inequalities in higher education because I have experienced first-hand when I was a Ph.D. student making a complaint about the sexual misconduct of staff how university disciplinary procedures fail students at every turn. While I realize this discussion is focused on student disciplinary cases, it should be part of a wider concern to address University disciplinary procedures and ensure that students and staff can give voice to their experiences, and have confidence in the ways in which Cambridge will respond to their reports and complaints, and make it a fair system for all.

I have had both students and staff come to me with cases of student and staff sexual misconduct, who refuse to report to the University because of fear of retribution, concern over the impact that using the University system will have on their studies and career, and that they won't be believed.

In our research, we know that few students report instances of power-based misconduct – whether it be from students or staff. It is critical that the University understands the nature of this particular violence. Sexual and gender-based violence is often not believed, and it can be difficult to provide acceptable forms of proof, especially with intimate violence. It takes place in private spaces that make it difficult for students to prove beyond reasonable doubt that forms of violence have occurred, especially when relations change over time.

But it also takes place in public – students at this institution are subjected to racism, sexism, transphobia, Islamophobia, forms of ableism, and are discouraged from reporting their experiences, but also from articulating their experiences as being real and valid. Having a disciplinary procedure that requires the same standard as a criminal case is sending a clear message to students not to break the silence but to remain silent.

Currently, the disciplinary process is used by less than ten students a year, when we know that a far greater number of students experience sexual violence at Cambridge. In a 2014 student survey, 77% of respondents said they had experienced some kind of sexual harassment whilst at University. There has been a strong uptake of anonymous reporting – with 173 reports of improper behaviour between May 2017 and January 2018. This is connected to the issue we are discussing today. Students do not trust the University reporting and disciplinary procedures to keep them safe. No direct action is taken in response to an anonymous report. That students will only report anonymously reinforces that there is a strong culture of silence and distrust.

To support this, our research shows how the process for reporting of violence can be just as traumatic as the actions themselves at times. And yet the University has so far only focused its energy on what can be seen – the website for *Breaking the Silence*, the reporting procedure, but not on its process for investigating and disciplining. In our research, this is where institutions continue to fail students.

Research that we conducted with NUS consists of a national survey of 1,839 students and found that only 9.6% of participants reported staff–student sexual misconduct. The connection to this topic today is that it relates to issues of power, and the relation that students have to their institution.

For those that did report:

- 50% of respondents believed that their institution had denied their experience of sexual misconduct;
- over 30% of respondents said that their institution had suggested that their experience might affect the reputation of the institution;
- 54% believed the response of their institution to what they had reported was inadequate; and
- almost 40% believed that their case had been mishandled.

In none of these instances will an allegation having to be proved beyond reasonable doubt encourage reporting. We also know that students in all cases are discouraged from making police reports and from using the disciplinary procedure, and one of these reasons is the emotional toll that it takes on students, in providing sufficient evidence of violence that has occurred.

International research in the US by Smith and Freyd explains how students feel betrayed by the institution that was entrusted to provide them with an education in a safe environment. The impact is long-lasting and can cause serious consequences for student mental health, for academic studies, personal relationships, and even for future employment. They feel that the institution literally has betrayed their trust – firstly to protect and meet its duty of care, and then to believe them and to respond in ways that are just – as institutions and not as a criminal court.

The disciplinary procedure should seek to operate in a fair manner. It is not designed to reproduce elements of the criminal justice system. It is also not a formal legal process. The rules of evidence in English law do not apply – and this is clearly spelt out within the disciplinary procedures within other universities. Cambridge is the outlier here. The standard of proof, as being the balance of probabilities – means that a fair process that will insist that it is more likely than not that the alleged misconduct occurred.

Furthermore, as the University is aware, the latest guidance from Universities UK arising out of the 2016 Taskforce examining violence against women, sexual harassment and hate crime, makes it clear that the dated Zelic guidelines no longer apply. It now acknowledges and I quote:

*The nature and scope of an internal disciplinary process and the nature and scope of a criminal process are fundamentally different.*

It goes on to state:

*The internal disciplinary process is a civil matter, is based upon an allegation that a student has breached the university's rules and regulations, the allegation has to be proven on the balance of probabilities and the most serious sanction that can be applied is permanent expulsion from the university.*

Right now it is very confusing for students. Sector guidance is that universities will deal with allegations of misconduct as potential breaches of discipline and not as criminal offences. And yet at Cambridge, due to the standard of proof required, the University is treating allegations of misconduct as criminal offences, without having the authority to name these as a particular crime, or instil criminal punishments. It is deeply unfair that students experiencing forms of sexual and gender-based violence should have to meet different standards of proof than those at other institutions in the UK.

When very few students report to the police it means that the only means of justice and of action being taken – both to discipline the misconduct that has occurred, and to prevent it reoccurring – is through the University's internal procedures. Irrespective of any criminal case, there is a case to answer for in violation of University policy.

This becomes an issue of gender equality in access to education – we know that statistically sexual violence and assault happens to those who identify as female, and non-binary and LGBTQ. We also know that students of colour face institutionalized forms of racism on a daily basis at this University. These are all very difficult to prove beyond reasonable doubt. Changing the standard of proof to the balance of probabilities begins to address this, and needs to be part of a wider reform of implementing transparent, just disciplinary procedures.

Dr N. TANNA (Faculty of Modern and Medieval Languages and Christ's College):

Deputy Vice-Chancellor, I was an undergraduate and graduate student at Cambridge and I am now a College Lecturer. I speak in my capacity as a supervisor and, above all, as a Director of Studies with responsibility for arranging supervisors for my students. Our job is to teach, to facilitate teaching, and to create safe environments for learning and I feel that it would be much easier to do so if Cambridge could address circumstances in which many perpetrators of sexual violence face no consequences.

It is my understanding from conversations with students that the current disciplinary regulations put off students from accessing formal procedures in cases of staff–student sexual misconduct. I have had students say to me that they feel they will not be believed or taken seriously or will not be able to 'prove' what happened to them to a criminal standard of proof of beyond reasonable doubt. This creates an environment of open secrets surrounding particular individuals and their conduct with students.

We cannot rely on Directors of Studies trying to decipher whispers, murmurs, and silence to ensure their – our – students' welfare. We need to make formal changes to back up Cambridge's very important campaign around *Breaking the Silence*; a real commitment to breaking the silence requires words and actions. We need students to feel more confident and to trust that the institution is taking them seriously so that more students access procedures and we can work towards ending cultures of sexual misconduct.

The recent NUS report with the 1752 Group on staff–student misconduct reveals a deeply troubling picture nationwide. I feel that Cambridge (currently the only UK university that requires a criminal standard of proof in disciplinary matters) should not be lagging behind on this matter, quite the reverse. Cambridge needs to take particularly seriously the potential for the abuse of power in the pedagogical sphere due to the intimate nature of the supervision system upon which it relies and prides itself, and its collegiate structure. Residential Fellows may literally be teaching next to their private spaces and their bedrooms. College environments, for all their many benefits, blur boundaries. There are social spaces like Hall, dinners that are partly academic and partly social, alcohol at such dinners and at many other events, and academic staff living in close quarters with students.

The NUS report with the 1752 Group reveals that this is also an equality issue, as others have detailed. In order to back up Cambridge’s commitments to breaking the silence and to issues of equality, we need reform of disciplinary procedures. We should not have procedures in which we give the benefit of the doubt to those with existing power and privilege where an abuse of this power has taken place.

Mr H. N. WRIGHT (Clare College):

Deputy Vice-Chancellor, it used to be common sense that you didn’t punish someone for something when you had no idea if they’d actually done it. It seems that those days are now, regrettably, behind us, for we see today a great call by huge swathes of the student body for this, the best university in the eastern hemisphere (supposedly), to eschew the way of thinking which is plain to many and instead to alter their disciplinary proceedings to weigh now on a balance of probabilities, a vague term which no one who is a fan of justice should welcome at all.

This debate is not about the heinous reality of the crime of rape, nor the need to punish rapists; I can imagine very few people would honestly dispute either of these. No, it is about this principle, which I said at the start and will say again and again, because it is so obviously true by its own merits that I feel no amount of open letters (or even actually good arguments) can ever overturn: that you don’t punish someone for something when you don’t know that they’ve done it. What even is this balance of probabilities? When we require a criminal level of proof, we consider the evidence rigorously and see if there is any reasonable way that the evidence could allow for the innocence of the defendant; with the balance of probabilities we weigh up evidence against evidence to see if, ‘yes, oh, there’s a slightly more than 50% chance that he did it. Kick him out.’ What is the calculus for this? To me, it seems fairly arbitrary. In the past, the University’s disciplinary proceedings have restrained themselves by requiring a criminal level of proof. This proposed change is not just a procedural one, however much you may like to think so; it is a fundamental change in the University’s undertakings, from one where they expel people, which let’s remember is no light punishment, for something which they can reasonably believe to be true to one where they expel people because, hey, they probably did it. Do we really want the University to start expelling students more or less arbitrarily? I see little benefit in that. What I want is a University which exercises wisdom and common sense in its dealings regarding these matters.

I have one more point, before I sit down. This very weekend, in the small hours of Saturday morning, I was at Life when some girl who lived near me clattered down the stairs and whacked her head. After bringing her back up

the stairs, one step at a time, she wasn’t responsive to the bouncers, her head drooping down perpendicular to her body. Then suddenly she sprang to life and ran off in the opposite direction to where she lived, screaming, slipping over, running in front of taxis. My College dad and I ran off after her, and dragged her off the road, told her the way home, and ran after her as she sprinted away in that direction, desperate to stop her running in front of cars again, or wandering off and getting lost, or whatever. For most of the time, she was screaming at us to stop following her, or she’d report us for rape. Eventually we guided her home and she fell asleep, we got the porter to check on her, and when she woke up she didn’t remember a thing. But what if she had remembered me following her, and grabbing her, but not remembered the taxis rushing towards her. What if my College dad hadn’t been with me as a witness? I see now that this kind of situation is completely plausible, where I could have been accused of harassment by this girl. Now at the minute, with the safeguard of a criminal level of proof, I have no fear to stop me playing the Good Samaritan in situations like this. I could even tolerate her threats because I knew that even if she had gone on to accuse me, I could defend myself sufficiently. But what if all that’s needed to expel me is a balance of probabilities? Then, I’m afraid, I would be more reluctant to help her, as any man would. Why risk getting expelled from Cambridge for helping your neighbour? This is what this kind of thing will lead to, of that there is no doubt.

So please, I implore you, do not throw away this most important bit of common sense for some short-term fashion trend, do not dispose of this principle, so crucial, that you don’t punish someone for something when you have no idea if they’ve done it.

Dr M. MORENO FIGUEROA (Department of Sociology and Downing College, and University Race Equality Champion):

Deputy Vice-Chancellor, I am here to support the proposal that the current standard of proof used in the University regulations for student disciplinary cases should be changed from proof beyond reasonable doubt, which is criminal standard of proof, to proof on the balance of probabilities, which is a civil standard of proof.

I have been working at the University of Cambridge for almost four years, and during that time three of my female undergraduate and postgraduate students have told me about sexual abuse they have suffered. These students came to me in tears and rage about what had happened to them. I saw these relaxed and trusting young women transformed: their lightness gone, engulfed by fear, upset, wariness. I asked all three students a question that is never straightforward: ‘what do you want to do?’ Their answers echoed the many other cases I have heard about in the University and elsewhere: ‘I don’t want to be more upset’; ‘I don’t want this to be more difficult’. These students were resourceful and pro-active: they raised the abuses they had suffered in Tutors’ and Directors of Studies’ offices, they went to see the College Nurse, tried to get on the waiting list for counselling sessions and, in the latest case, tried to get hold of the newly appointed University Sexual Assault and Harassment Advisor to no avail. These students have asked for help and then spend weeks and months deciding what to do about reporting the sexual abuses, while also dealing with having to see those that abuse them in corridors, halls, and classrooms, and trying to carry on with their studies and lives. Moreover, they have to think about what to do with the overwhelming sense of injustice and the pervasive feeling that they won’t be believed.

One major deterrent to getting women like my students to report, even with the recent establishment of the informal Sexual Harassment procedure in 2017, is that if they were to be unhappy with the resolutions of this informal procedure, the formal procedure is still inaccessible due to it being based on the principle that proof has to be presented beyond reasonable doubt. As my students tell their stories, explain, and try to get the courage to put their cases forward, they are faced with the extreme unease that they might not have the evidence, in the forms currently required, to prove beyond reasonable doubt that what happened to them is the truth. Not just because in sexist societies like ours women's voices are usually put into question and abused men don't dare to speak up, but also because cases of sexual abuse are, more often than not, complicated, messy, with no witnesses, and usually involving someone they knew, someone to whom they said no and who didn't listen.

According to the latest 2017 report from the National Office of Statistics<sup>1</sup> and The Crime Survey for England and Wales (CSEW), 20% of women and 4% of men have experienced some type of sexual assault since the age of 16, equivalent to an estimated 3.4 million female victims and 631,000 male victims. From March 2016 to March 2017 an estimated 3.1% of women (510,000) and 0.8% of men (138,000) aged 16 to 59 experienced sexual assault. The survey also showed that around 5 in 6 victims (83%) did not report their experiences to the police.

Our University is no exception to the prevalence of sexual abuse and to the low reporting percentages, and why would it be the case if the University does not offer assurance to our students that the institution they are in and where the abuse happens will facilitate dealing with such unfair and despicable events?

In a 2014 CUSU student survey, 77% of respondents said they had experienced some kind of sexual harassment whilst at the University. The option of anonymous reporting is telling of this reality: between October 2017 and March 2018, one hundred and sixty anonymous reports were filed under the *Breaking the Silence* campaign.

The question then is how we go from anonymous reporting to the full use of disciplinary procedures in ways that not only restore some sense of fairness and care for our students, but that also give meaningful steps towards changing the prevailing culture where silence about sexual abuse is allowed.

Using a civil standard of proof (balance of probabilities) increases the likelihood that victims of sexual violence will use the disciplinary procedure. Currently, it is used by less than ten students a year, when we know that a far greater number of students experience sexual violence at Cambridge.

The fact that students do not want to proceed to report to the police or that they do not want to report formally or even informally does not and should not let the University be free of responsibility of both, caring for affected students effectively, or doing everything in its power to provide a safe environment.

Students that put their cases forward are treated as if they were in a criminal court – having to 'present evidence' for a panel to consider. It makes perfect sense to think that relaxing the standard of proof would make the process less intense and stressful for students that have already gone through a nightmare.

While it could be claimed that requiring proof beyond reasonable doubt has been the way these issues have been treated for a long time, it is clear now that it has not worked. Not only are we unearthing historical cases of sexual abuse in the University and around the world, but also the statistical

evidence and the students' experiences are demanding real change. The University needs to demonstrate a will to try out a different progressive approach that starts by acknowledging the raw and damaging reality of this phenomena: there are damaging effects of sexual violence on our students and they are linked to poor self-esteem, low academic performance, and mental health. These effects are far too great to dismiss as minimal. The University needs to provide robust formal procedures that students can easily access. The unnecessary complication of the procedure makes it inaccessible. Changing the standard of proof and simplifying the procedure will demystify it.

What use is a campaign like *Breaking the Silence* if a clear and reliable ability to deal with cases of abuse and harassment is not in place? This changed standard of proof will not only signal that the University is serious about ending all forms of sexual misconduct, but will pave the way for better and serious handling of all cases of misconduct, be they sexual or racial harassment, or other set of issues that could benefit from this development.

If the Universities UK Guidance says that universities should not be using a criminal burden of proof, why is the University of Cambridge requesting this? If recent data gathered by the 1752 Group found that students feel betrayed by institutions and that they do not believe they can trust them to provide the justice they need in these situations, why is the University of Cambridge not responding?

<sup>1</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendmarch2017>

Ms A. J. W. SEBATINDIRA (Former CUSU Women's Officer, and Trinity Hall):

Deputy Vice-Chancellor, I apologize that my speech will be unpolished as I have chosen to summarize parts of it in order to not take up too much time.

I would like to preface my speech by urging future speakers supporting the status quo to not take this issue lightly, especially because there are survivors in the room. The people in this room are not here to be an audience to your ostensibly comedic posturing. This is not the Cambridge Union. Grow up. Let your speeches stand on the alleged strength of your arguments, and leave your jokes at the expense of survivors of rape in your College bars.

I want to begin by dispelling the myth that the system as it currently stands does not look out for those accused of rape. The very fact that engagement with the sexual misconduct procedure results in a conduct agreement is evidence that the interests of the accused are central to the current process. Rather than modifying the existing disciplinary procedure, the sexual misconduct procedure ensures that no one accused of rape or sexual assault is ever formally found to be a sex offender. Instead, a conduct agreement is produced that places restrictions on someone successfully accused, which allows survivors to live the lives of dignity and safety that they deserve without labelling their rapist a rapist. Moreover, the launch of *Breaking the Silence* was in fact delayed last year by concerns that those accused would not be sufficiently protected by the procedure, and the procedure was consequently re-drafted.

I would also like to point out that during my time as CUSU Women's Officer I listened to a lot of student survivors within and outside of Cambridge. My understanding is that survivors rarely seek to punish those they accuse. They just want to be able to occupy their homes and universities without feeling unsafe and without

risk of further harassment. I doubt, therefore, that survivors would use a lowered burden of proof to punish their rapists or harassers. It has already been shown that survivors are hesitant to use the disciplinary procedure because it requires the re-hashing of a traumatic experience. This re-hashing will still be necessary if the burden of proof is lowered, so it's unlikely that the procedure would be used willy-nilly to hurt those accused of assault.

Furthermore, the idea that a large number of women make up rape allegations is a patriarchal fantasy used to silence survivors. The idea that the system as it currently stands works is also a patriarchal fantasy. I think it is highly unlikely that rape crisis centres across the country, severely underfunded as they are, would seek to increase their workload by overstating the extent of the problem. These fantasies also do not hold up to the facts presented by feminists, sociologists, and criminologists who have produced thorough research on the matter and found the system to be lacking.

I would also like to focus on fairness, as has been and will be brought up. The issue of fairness comes up long before procedures are in use. Some survivors can go through the procedures with ease, but this is not the case for many. The first obstacle many survivors have to go through is identifying a rape as rape. This is very difficult to do in a society that normalizes sexual violence, particularly against women. They have to take a feeling of unease and decide that something terrible has happened, difficult as that may be in that societal context.

Next they have to tell someone else. Maybe a friend, a family member, a counsellor, or a nurse. They might hope, as I would hope and as you should hope, that that person would believe them and immediately offer support. But those people have also been socialized in an environment that normalizes sexual violence against women. So they are instead likely to be asked 'are you sure?', 'why was he in your room in the first place?' These questions come at someone who is already uneasy about defining what has happened as rape. And nothing like what I have described is experienced by the accused before they are brought before a panel.

Future speakers might draw on principles of strict egalitarianism as upheld within the criminal justice system, but the criminal justice system is nowhere near as removed as they might pretend. If we take the example of women, gender-specific approaches to sentencing as one example, have been widely accepted and rolled out. As far as I can see, liberal democracy in this country has not been reduced to dust as a result.

To draw on another idea concerning criminal justice, it is important that we talk about legitimacy. Legitimacy is what determines that the University has a right to impose upon us and give us sanctions. Legitimacy is also determined differently by different audiences, which means that a dialogic approach to legitimacy should be taken, as has been argued extensively by academics like Justice Tankebe and Anthony Bottoms. The University cannot claim that it is legitimate in demanding survivors accept a criminal burden of proof when it does far too little to support survivors in the ways that have been described as necessary by people that spoke before me. The system as it currently stands is legitimate as concerns people that do not fear sexual violence, people that are not survivors, and, more broadly, men. It is not legitimate as concerns survivors. So on a basic level conversations like these are part of a dialogic idea of legitimacy, where survivors speak truth to power and demand that the University meaningfully listen to their concerns.

To finish, the system is already rigged. There is already a presumption against believing survivors. We are not starting from a position of neutrality which would be subverted if we changed the burden of proof. We are beginning from a position where survivors are already disadvantaged, and this is just one of the many ways through which we redress that balance.

Ms F. K. SCHWARZ (Robinson College):

Deputy Vice-Chancellor, I speak today in support of the motion to change the current standard of proof to proof on the balance of probabilities in students' cases. Specifically, I would like to address a counter-argument that I have heard repeated multiple times over the last couple of days; that this motion has been brought forward and supported by students 'blinded by feminist ideology'. That it has been brought forward and supported by students, who have questionable understandings of legal matters or 'how things work in the real world'; and, essentially, that it has been brought forward and supported by students who have no idea what they are talking about.

I strongly disagree with this argument, and I urge the Vice-Chancellor to recognize that the people who truly have the strongest understandings of the disciplinary regulations of this University are the students who have been in positions where they have either considered using them or experienced them in action and felt the consequences of the committees' decisions on their own lives here at the University. What I suggest is that you listen carefully to these students and take their concerns seriously.

Currently, the disciplinary procedure is used by less than ten students a year, although a far greater number of students experience sexual violence at Cambridge. I am aware of two people who alleged they have been raped at Cambridge. One took their case to their College, and the other to both their College and the police. In the first case, the perpetrator was asked to live off-site for a while but is now living back in College. In the second case, nothing happened.

As other speakers have repeated, we know that conviction rates for rape and assault are far lower than other crimes, with only 5.7% of reported rape cases ending in a conviction for the perpetrator. But this is not in line with the fact that nearly half a million adults claim to have been sexually assaulted in England and Wales each year. It is extremely difficult to prove sexual violence 'beyond reasonable doubt' because of the nature of the crime; sexual assault usually happens behind closed doors, in situations where the victim knows the perpetrator. If you have just arrived at university, as was the case with my two friends, your fear of being stigmatized or simply not believed combined with the strangeness of being in a completely new environment, or feelings of embarrassment and guilt, make it so much harder to speak up immediately and increase the unlikelihood that you will consider going through a forensic medical examination within hours of being assaulted.

Again, I would like to stress the importance of showing that you will take these students seriously, when or if they decide to speak up. It is so important that the University signals that it wishes to help victims of sexual violence; that this is a safe space where students are listened to. If a functional disciplinary procedure had been in place, my friends might have avoided having to complain to a College which is not equipped with the knowledge, expertise, or the resources to deal with cases of sexual violence appropriately.

For too long, the University has ignored the pleas of victims of sexual violence, who have been brave enough to speak up about the damaging effects of this type of misconduct on self-esteem, academic performance, and mental health. I have experienced these effects first-hand, as I too have been raped, although not here at Cambridge. What I have experienced at this institution, however, is attending CUSU's support group for rape victims. There, I have listened to countless students express their sadness, frustration, and anger with a University which prefers to protect its own reputation over the wellbeing and safety of its students.

Of course, I think most people are happy that the University has recently launched its *Breaking the Silence* campaign, yet, in my opinion, the campaign is incomplete without a change to the disciplinary procedure, and students will continue to have little to no faith in the institution's ability to deal with cases of assault and harassment.

Finally, I want to emphasize that I hope that the Vice-Chancellor and everyone else will take me seriously when I say that our support of this motion is not grounded in empty ideology or ignorance of what is really going on, but rather the exact opposite; our support is grounded in concrete first-hand experiences of the very real consequences that sexual violence has on our lives or the lives of those we care about. So please; don't tell us that we do not know what we're talking about.

Mr H. J. MITSON (Gonville and Caius College):

Deputy Vice-Chancellor, I speak in opposition to the Women's Campaign's proposed changes to the disciplinary procedure.

The issues raised by the CUSU Women's Campaign are, of course, of the utmost seriousness. The fact that the open letter organized by the Women's Campaign gained over 800 signatures is testament enough to the strength of student feeling on the issue of how the University approaches disciplinary procedures, especially in cases of sexual assault and harassment.

This strength of support for a change should be listened to by the University and it is obvious that the University should periodically review its disciplinary procedures to ensure that they remain effective. I do, however, have some comments on the claims made by the Women's Campaign in their open letter and some general concerns about reform of the disciplinary procedure. I do not believe that reform of the disciplinary procedure should be pursued in the way proposed by the Women's Campaign.

One of the most important points made in the open letter from the Women's Campaign is that 'the penalties that may be inflicted on a student by the University have no effect on their criminal record or their standing in the eyes of the law' and that as a result 'the severity of consequence should an individual be wrongly accused would not be irrevocably damaging'. This does not follow. While, of course, the University does not impose criminal sanctions, it must approach any disciplinary action with the utmost care and seriousness. It is important to note that the University, while not a criminal court, does have the power to impose sanctions that would be irrevocably damaging to a member convicted by a disciplinary panel. The penalties set down in Section 3 of the Special Ordinances under Statute D (ii) extend to 'deprivation or suspension of membership of the University', 'deprivation or suspension of degree, or postponement of, or disqualification from, admission to degree', 'deprivation or suspension of the status of Bachelor of Arts' and rustication. These are wide-ranging powers which would have a

significant effect on a member *in statu pupillari*. The effect of any of these penalties, in some cases, could be so significant as to lead to loss of employment following graduation. The most severe of these penalties cannot be considered light and thus we should consider whether the Women's Campaign has been naïve in their presentation of the significance of their proposed changes.

It must be said also, that should a University disciplinary proceeding conclude that a member is guilty of a breach of University discipline, there is nothing to stop the media from reporting this. Though the result of proceedings are not published it is foreseeable that journalists may acquire this information and the effect of the University's judgement on an individual's standing in society would be significant and irrevocable. In the 2012 case of *The University v. Mr Owen Holland*, leaked documents from the University disciplinary procedure were published by a number of newspapers and the case was reported nationally. If a member were wrongly convicted of a serious breach of University discipline the effect could be irrevocably damaging to the member's standing in society as well as to their career. With such wide-ranging powers to impose penalties upon members of the University, it is my view that the highest possible standard of proof should be appealed to in cases of University discipline.

On reading the open letter from the Women's Campaign I was struck by some of the claims made in the document. Much of the letter hinges upon the claim that:

*by requiring cases to be 'proven beyond reasonable doubt,' the University is implying that there is [sic] unlikely to be consequences for perpetrators in disciplinary cases pertaining to sexual misconduct, unless the survivor goes to the police.*

No such implication is being made. It is written in Section 16 of the second chapter of Statute D in the University's *Statutes and Ordinances* that:

*subject to any limitations that may be imposed by Ordinance, the fact that any person has been or is liable to be prosecuted in a court of law in respect of an act or conduct which is the subject of the proceedings before them shall not affect the jurisdiction and powers of the Septemviri, the University Tribunal, or any disciplinary panel established under Section 10 of this Statute.*

This is an explicit statutory confirmation of a disciplinary panel's jurisdiction and right to proceed whether a legal proceeding is likely to or has already occurred or not. It is not the case that the University has taken the view that they will not discipline a member because they are the subject of proceedings elsewhere and there is certainly not an implication that 'there is [sic] unlikely to be consequences for perpetrators in disciplinary cases pertaining to sexual misconduct, unless the survivor goes to the police' as the Women's Campaign has claimed. Indeed, under current rules, set down in Section 11 of the Special Ordinances under Statute D (ii), the chair of a disciplinary panel may, but is not obliged to, stay or temporarily halt University disciplinary proceedings in the case that legal proceedings are underway elsewhere. The Statutes are clear that University disciplinary proceedings are already independent and entirely separate from any legal proceedings against a member of the University and make no implication of a requirement to go to the police about a disciplinary matter although in cases of alleged criminal conduct this may be appropriate. Indeed, as the 1994 Zellick Report to the Universities All Party Parliamentary Group concluded: 'only in exceptional circumstances should the university report an alleged crime to the police contrary to the wishes of the victim' (s.22).

It seems to me that the penalties that the University discipline committee is able to impose are significant and can have an irrevocable effect upon the convicted member of the University and, thus, the grounds on which these penalties are imposed should be reached in accordance with the highest standard of proof. It is also true to say that disciplinary proceedings within the University are independent of criminal proceedings already and that the changes proposed by the Women's Campaign are not necessary to achieve their stated aim to pursue proceedings within the University without involving the police. It seems to me unacceptable that the University should mete out penalties upon its members upon the arbitrary basis of probability when for so long this University has effectively and competently upheld the principle that a member is not guilty of a breach of the disciplinary code unless they are proven so beyond reasonable doubt.

Ms F. E. ROOT (Clare Hall):

Deputy Vice-Chancellor, it's actually astounding to see: when we work so closely together you can believe that it becomes common sense that these things should happen, and then you come to places like this and just see the planet that some people live on – it's distressing. Aside from that, I'm not going to rehash what has been said. This is an impassioned and angry response to what is going on here. The fact that it is so hard for me as a survivor to speak about this issue is the very reason why the current disciplinary procedure fails in its attempts to support us. How we are made to feel matters.

And I have found, in my five years of higher education, often in supposedly progressive and enlightened spaces such as this one, sexual harassment and violence is so covert, so cleverly hidden, because it knows it has to be if it is to survive as an oppressive power structure. In these supposedly progressive spaces, sexual harassment and violence evolves, hiding cleverly in certain ways with words and looks, in unwanted messages and in the use of pernicious forms of threat when we show an unwillingness to play the game. It is impossible to call out the operation of such pervasive forms of sexual violence when they are draped in cloaks of progression. 'How could I have done that?', he asks. 'But look how enlightened I am,' they say. They apologize for making you feel that way, but not for actually committing the act itself. They are sorry that they made you feel that way but they do not believe that it happened as you see it. Our abusers, those in positions of power, play this clever game of words, a game where their unwanted remarks or looks or touches are worked so carefully into something that we must repeatedly swallow and just harmless fun that we are all taking far too seriously.

The current disciplinary procedure itself reflects this structure. It says 'I am sorry that you feel this way but I don't actually believe you and you can't prove it anyway'. I cannot tell you the amount of times I have not spoken because I am told that what I have in my hands is not enough to be believed. Enough has to be enough. Changing the current standard of proof in student cases means that students like me, who carry around instances of abuse with them because we are told that what we know is not enough; students who have to live every day with these painful experiences; students who resort to blaming themselves for actions of those who felt they were entitled to take what they had earned just in order to find a way to cope with what happened because attempting to live with the reality of the fact that you were abused and objectified and it wasn't your fault but there's nothing you can do about it

and there is no one that will hear you out, is often the more unbearable reality to accept.

We will not stop falling through the cracks until you tell us that we are enough; that our experiences are enough; that you care about the experiences of your students enough to take our pain seriously at the very least. Would you speak out knowing that what you had lived with would not be believed? I think not. Please change the disciplinary procedure for all of us who still feel that we must scream in silence.

Mr W. J. PHELPS (Corpus Christi College):

Deputy Vice-Chancellor, I will be presenting an argument in opposition to the motion.

Prior to any analysis of the details or intricacies of the issue at hand, we must ask ourselves if it is right that the University should issue judgement on serious misconduct prior to and separately from judicial review. I will argue that if we are serious as a University about tackling not only sexual assault and other serious crimes to which this ruling would apply, we must give due deference to police investigation and the role of prosecuting authorities. Sexual assault is a crime, and it must be treated as such. The present system of demarcation between matters that should be dealt with internally and those that require a specialist procedure is a sensible one, and for such reasons the present disciplinary policy should stand.

Part 3 of the second Special Ordinance under Statute D of the Statutes of the University of Cambridge explains the punishments that may be issued to those members of the University who find themselves before a disciplinary committee. These penalties vary greatly, from the relatively light (g), to the more serious, such as the suspension from the right to use University facilities (f), to the most severe: suspension of membership of the university (a) or the deprivation of a degree (b). It's undeniable that the latter two penalties are of utmost seriousness. Interruption or negation of a course of study has huge impacts as to the future and present livelihood of a student. Yet the open letter, in the third paragraph, argues that:

*the severity of consequences should an individual be wrongly accused would not be irrevocably damaging precisely because the University does not and cannot impose criminal sanctions.*

Yet, as previously mentioned, the most severe punishments outlined in the Special Ordinances will be irrevocably damaging. Whether through the loss of a job offer, general lost earnings, the negation of years' worth of education, it cannot be denied that there are serious implications to the ruling of the University's disciplinary committee.

It's at this point the question I opened with becomes pertinent, and members of the University and its governing bodies must ask themselves whether they would feel comfortable with decisions of such severity being issued not only prior to judicial review, but also on the balance of probabilities, a standard of proof not equipped to handle such cases in the way being proposed.

However, this is not a new discussion. In 1994 the APPG on universities published the Zellick Report in response to growing unease as to the handling of cases of severe misconduct by universities. In summary, the report advises that universities never deal with behaviour amounting to serious criminal offences under their own disciplinary structures, but instead advise students to report such matters to the police for criminal proceedings. The report further recommends that universities act in accordance with a police investigation, ensuring that their internal rulings neither

contradict nor re-run the criminal proceedings but instead respond accordingly. This is not to say that universities should not proceed to take internal disciplinary action once a trial has concluded, but that any penalty imposed by the university should take into account the outcome of the trial and the punishment imposed by the court.

In instances of serious misconduct this only seems correct. Whether sexual assault, grievous bodily harm, or murder, for example, it seems appropriate to defer to the authorities who are undoubtedly better equipped to conduct a thorough investigation. It only seems reasonable that the University should institute its own disciplinary action as secondary to legal process, particularly when the penalty threatened is as serious as exclusion or expulsion from the University.

In the open letter, it is stated that:

*the University is implying that there is unlikely to be consequences for perpetrators in disciplinary cases pertaining to sexual misconduct unless the survivor goes to the police.*

With the Zellick Report and the severity of the penalties under the Special Ordinances in mind, this is surely a good thing. As part of its commitment to halting harassment and sexual assault, it appears apt that the most thorough of processes, namely the judiciary, is relied upon. Unless we are to question the worth of our legal system, this is difficult to dispute. Sexual assault is a crime and must be treated as such.

Moreover, if the wording of the aforementioned part of the letter were to be reversed and instead read:

*the University is implying that there is likely to be consequences for the accused in disciplinary cases pertaining to sexual misconduct notwithstanding the survivor going to the police*

a dangerous precedent is now set. By failing to acknowledge the necessity of police involvement in matters of deep severity, an avenue of unjust and, as established, irrevocable punishment is opened. As stated, unless we desire to second guess the legitimacy and ability of the law to issue judgement, it seems natural that it must be given deference in cases of such severity.

As stated in my opening, this is not to say that all cases of misconduct are to be referred to the police. Instead, a sensible policy of demarcation that recognizes the necessity of escalation is key both for the victim and the accused. In ensuring that rightful justice is delivered to all parties, we must ensure that the best methods of investigation are given precedence and acknowledged in internal judgement.

This leads on to the second, equally important point that is raised by questions of procedure, namely the function of the University's disciplinary committee as an internal court of law.

Whilst the Zellick Report does argue rightly that universities should not escalate cases to the police without student consent, this does not mean that their internal investigatory procedures should radically differ from courts of law. For the reasons established above, the nature of punishments issued means that there must be an internal process of equal seriousness. It is wrong to treat exclusion or suspension as light merely because they do not have direct legal ramifications.

If one is to look at sexual assault in particular, Chapter II of the Ordinances of the University of Cambridge (*Statutes and Ordinances*, p. 218) sets out a specific procedure for the handling of sexual assault which not only takes into consideration the particularly heinous nature of the crime, but also adapts standard procedure for it. This is

acknowledged in the open letter. However, the letter goes on to criticize the fact that:

*should this informal procedure breakdown or fail to achieve its intended outcome, the complaint is often referred to a student disciplinary procedure that is not fit for purpose.*

There are two points to raise here. The first of which is with regards to the language of 'intended outcome'. The nature of the University's internal disciplinary procedure is to deliver impartial and correct judgement. This is what should be the intended outcome and must be differentiated from desired outcome which I believe is being referred to here. If this is the justification given for a move away from a court-like system, it is important to be cautious.

Furthermore, if the 'student disciplinary procedure...is not fit for purpose', this only adds to my earlier point that it is correct for the legal authorities to lead the investigation. If the University is truly committed to rightful investigation and proper outcome, we should not neglect this fact. The solution is not to move away from tried and tested methods of investigation, but instead embrace them more closely.

It's also worth remembering that the current University disciplinary procedure is already tailored to internal process. The suggestions of the Women's Campaign that the University's system is completely judicial is not correct. As declared in Section 16, Chapter 2 of Statute D, the University is not obligated to act in any particular manner as a result of judicial proceedings. It is more a matter of principle that, for the sake of justice at the top end of misconduct, is necessary.

It is with this in mind that I urge the University to oppose this rejection of our current standard of proof and the involvement of legal procedure therein. In line with the judgements of the Zellick Report, the severity of the punishments at hand and the internal nature of the University necessitates a reflective disciplinary procedure.

To ensure that justice is served to the greatest extent, both to the victim and the accused, we must not turn away from those facets of justice which do it best. To suggest otherwise is, unfortunately, very dangerous, and for the sake of all students at the University and not belittling sexual assault and other serious crimes I feel it must be opposed.

Mr E. Z. GRANET (Clare College):

Deputy Vice-Chancellor, I begin with the stark and horrifying fact of our collective failure. Despite quite heroic effort and investment on the part of many organs of this University, the abject evil of harassment and sexual assault persists undaunted. I see no evidence that any further amount of posters or advice lines or consent training will alter this unacceptable state of affairs, because all these well-intentioned initiatives are taking place under the aegis of our current disciplinary procedure. Simply put, to quote Audre Lord, 'the master's tools will never dismantle the master's house'.

Our current disciplinary standard – that of reasonable doubt – did not come to us from on-high. It is not some profound moral truth or sacred tradition. Instead, it was developed by and for the patriarchy. The high hurdles to action against assaulters, harassers, and rapists were designed and implemented by powerful men who were likely themselves assaulters, harassers, and rapists. It is a system specifically made for the benefit of men, and to the detriment of women and non-binary people. Those opposing the proposed changes talk of fairness, but they ignore the fact that the system as it stands is fundamentally

unfair. Reasonable doubt is not neutral. It is biased towards protecting the dangerous individuals who actively harm members of our community. So long as we retain this standard as the backbone of our disciplinary procedure, we will never eradicate the scourge of sexual misconduct.

Now, of course no standard of proof is perfect. But the consequences of the flaws of the two systems under discussion are vastly different, because each is flawed in sharply different directions. The balance of probabilities standard leans excessively towards protection, and will inevitably result in some more wrongful disciplinary action against the falsely accused. On the other hand, the reasonable doubt system leans excessively towards leniency against the guilty, and will result in more people being harassed, assaulted, and raped. The utilitarian math is simple, irrefutable, and morally binding. Put bluntly, if we choose to retain the reasonable doubt standard, we choose to have more rapists in our University. If choose to retain the reasonable doubt standard, then we are choosing to abandon women and non-binary people in favour of a system which benefits rapists. To reiterate the choice one last time: more rapists at Cambridge, or less rapists at Cambridge?

Of course, there are other costs and benefits to the two systems, but, I ask you, what cost is not worth paying to make our campus safer? What cost is not worth paying to spare even just one student physical harm?

Now, those who oppose the balance of probabilities standard absurdly suppose that more rapists at Cambridge is a fair price for protecting the alleged rights of innocent straight, cisgender men like me. That is a patently absurd claim, but just to be sure it gains no traction, I have come here today to rebut that claim in the strongest terms: No! Not in my name! I do not need this supposed protection, I do not want this supposed protection. Not in my name. Do not sacrifice the physical safety of women and non-binary people upon the altar of misplaced concern for straight, cisgender men. Not in my name! Do not claim that women and non-binary people must endure one day more of continuous unending assault so that I can have slightly more protections in a disciplinary setting. Not in my name! Their logic is sick and twisted, and it is wrong. I would much, much rather live in a world where I have a marginally higher chance of being wrongfully disciplined than in a world where a rapist has a significantly higher chance of being allowed to remain at Cambridge and harm my colleagues, faculty, and friends. This is a price I am willing to pay, and I think it is selfish, sexist, and immoral for anyone to prefer otherwise. I assure you, Deputy Vice-Chancellor, it is not for the rights of straight cisgender male students you ought to be concerned. Trust me, we'll be fine. Rather, it is for the right of every student to be able to receive their education free of the threat of physical or sexual harm. The only way to protect these students, to extricate them from their immediate danger, is to change our standard of proof.

The current situation at Cambridge is intolerable. If we continue to perpetuate this system through our inaction, then we are complicit in all the harm that will come as a result of it. So long as the reasonable doubt standard remains in place, the epidemic of sexual misconduct at Cambridge will continue. Right now, the status quo is the implicit toleration of sexual misconduct. This attitude is embedded into the very fibre of the University's discipline process. This state of affairs is so radically wrong that only a move as radical as altering the standard of proof can even begin to correct it.

This is a historic moment in the history of our University. We have an opportunity to free ourselves from the shackles of this twisted, rapist-defending standard of proof. We can cleanse the false idols of patriarchy from this sacred temple

of learning. We must seize this opportunity. I therefore, most respectfully urge you, Deputy Vice-Chancellor, to change the standard of proof to the balance of probabilities, and make this University a safer place for all.

Ms N. C. O. EAMES (Churchill College Women's and Non-Binary Officer):

Deputy Vice-Chancellor, the theory behind the use of the current standard of proof (beyond reasonable doubt) is that, even if based on the evidence it is more probable that the accused is guilty, it is better for a guilty person to be acquitted than an innocent person to be convicted. In turn, it is believed that a fair society is one built on the principle that no person can be convicted of a crime unless there is absolute certainty about their guilt. Whilst this is important in criminal cases, it is ill-fitted to the University's disciplinary procedure. The use of proof beyond reasonable doubt is problematic for three main reasons: first, this standard of proof unfairly advantages the accused over the survivor. This bias becomes even more weighted and significant when we consider the second problem in using this high standard of proof, that the disciplinary procedure results in civil sanctions, not criminal conviction. Therefore, it should rely on a civil standard of proof, not a criminal one. Finally, the University has committed itself to being a 'leader in the sector' on combatting sexual violence. This claim is empty if we continue to rely on a traditional disciplinary procedure, rather than one which is adapted to the needs of survivors of sexual harassment.

The primary problem with the use of proof beyond reasonable doubt is that it prioritizes the accused over the survivor in incidents of sexual harassment. The potential impact of a false sanction, for the accused, is clear in terms of reduced prospects and an adverse impact on mental health. This is patently an important consideration, and we should recognize the University's responsibility to the accused. However, the current use of proof beyond reasonable doubt fails to recognize the potential impact of a false acquittal on a survivor. Sexual misconduct impacts the survivor's mental health, learning, and future career prospects. In a recent report by the NUS released with the 1752 Group, it showed that just under a fifth of survivors experienced mental health problems, 16% reported avoiding going to certain parts of campus, and 13% felt unable to fulfil work roles at their institution. In addition, the impact of continual false acquittals makes it less likely for survivors of sexual harassment to come forward. Once again looking at the NUS and 1752 Group report, 81% of respondents who experienced or were aware of misconduct indicated that it was not reported. Only 9.6% of participants indicated that they had reported staff-student sexual misconduct. This bias towards the accused in the current disciplinary procedure become even more apparent when we take account of the fact that sexual harassment is by its nature extremely hard to prove when using the standard of proof beyond reasonable doubt. The vast majority of sexual harassment cases take place in secluded places, usually with few or no witnesses. Nationally, conviction rates for rape and assault are far lower than other crimes, with only 5.7% of reported rape cases ending in a conviction of the perpetrator. Thus, the disciplinary procedure in relying on proof beyond reasonable doubt is unsuitable to cases of sexual harassment as it has a harmful impact on livelihood of the survivor, it prevents survivors from coming forward, and it makes it disproportionately hard to sanction in cases of sexual assault where proof can be convincing, but often not beyond reasonable doubt.

As well as being unsuited to cases of sexual assault, the reliance of proof beyond reasonable doubt is improper to use in the disciplinary procedure as a whole. The University cannot impose criminal sanctions, so there can not be a chance of wrongful conviction – which is the basis of the theory behind using proof beyond reasonable doubt. Therefore, the civil standard of proof is much more compatible to the disciplinary procedure than that of criminal standard of proof. This is evident in the UUK Guidance Task Force recommendation, that universities should not be using the criminal burden of proof in disciplinary procedures. Further, the civil standard of proof has already been adopted by other universities, with Cambridge being the only university currently in the UK that requires disciplinary matters to be proven beyond reasonable doubt.

It is clear we need to reform the current disciplinary procedure, which is often inaccessible or daunting, to one which is robust and well-equipped to deal with all cases. Lack of access to the disciplinary procedure is far-reaching. In Churchill College, no students have used the University disciplinary procedure within the past decade, despite there being a number of internal cases. However, often, Colleges are ill-equipped with knowledge, expertise, or resources to deal with cases of sexual violence appropriately. This is especially true when the complainant and perpetrator are at different Colleges. In Cambridge, if students are unhappy with the resolutions provided by the informal Sexual Harassment procedure, they are referred onto the disciplinary procedure. Often, students are discouraged from pursuing cases to this measure, and thus Cambridge is allowing survivors to slip through the cracks. Currently, cases of sexual harassment which are considered ‘low-risk’ are dealt with internally in Colleges, or by the Sexual Harassment procedure. Those which have the potential for criminal conviction are usually handed over to the public domain, and legal system. Despite this, there is a clear need for a disciplinary procedure which has the capacity to handle cases which do not result in criminal offence, but there is significant evidence of sexual misconduct. In such cases, we require a reformed disciplinary procedure, which relies on proof on the balance of probabilities, to deliver University sanctions.

Stephen Toope pointed out when the University’s *Breaking the Silence* campaign was launched in 2017 that Cambridge must take the lead in targeting sexual violence by updating rules and procedures. However, Cambridge cannot claim to be a leading force on dealing with issues of sexual harassment, when its own disciplinary procedure remains unreformed. I urge you to listen to the 800 students who have signed the CUSU Women’s Campaign open letter on this issue, and reform the disciplinary procedure.

Mr P. PODDAR (Pembroke College):

Deputy Vice-Chancellor, I am here today to vehemently oppose the proposed changes to reform the disciplinary procedure so that it no longer relies on a criminal standard of proof (beyond a reasonable doubt) but the balance of probabilities.

First of all, can we all agree that across this chamber we all want a just and fair system that works for everyone and that respects individual choices, liberty, and diversity? Let’s make one point clear – we, who are opposing the motion, aren’t in favour of rapists or sex offenders.

I don’t believe there is a single person in this room who will be opposed to the idea of bringing justice to victims, but trial inspired by populist arguments such as #MeToo

does the opposite. It makes individuals and institutions believe they need to be seen doing something, however inefficient that process may be. I’m, in principle, not opposed to the idea of reforms in general. However, in this case, this reform not only will fail to deliver the aimed objectives but will present a dangerous precedent.

Let’s start with what this is really about. Drive of a court or any process leading to punishment is the proof. The essential underlying principle of all these cases is to uncover the truth by providing the proof and evidence. In a civil case, for example, the damages after an industrial accident, the claimant who is bringing the claim for the damages has the burden of proving the negligence at a workplace and proving the quantum of the damages. Now, on the criminal side, the police who bring the claim has the burden of proving them. In the US, it’s *State v. Smith*, in this country, it’s *R (stands for Regina, the Crown) v. Smith*. So, the civil and criminal cases share the same thing – the person who brings the allegation has the burden of proving them. Now when you think about it, that’s a very good thing – we would have lived in a much less free society if we had to clear our names when something is said against you. The fundamental principle of a free society is the person who brings the claim whether the prosecution or a litigant in a civil case has the burden of proving the claim – we act on proof. Now, in civil cases it is sufficient to get out a verdict if one proves that it is more probable than not: 51% is enough. However, in criminal cases, the burden of proof is much higher – it’s proof beyond reasonable doubt. The reason this is high is that the consequences are high as well. The disciplinary result, generally not exclusively, has severe implications on one’s professional life, and therefore, it should be decided with a higher burden of proof.

In support of my argument, I’d like to cover two aspects of this change:

- the legal background; and
- the social implication (academic/student relationship) of such a reform.

I’d like to begin with the legal background. Deputy Vice-Chancellor, one of the most fundamental principles of our legal system is the presumption of innocence: *Ei incumbit probatio qui dicit, non qui negat*. Presumption of innocence serves to emphasize that the prosecution has the obligation to prove each element of the offence beyond reasonable doubt (or some other level of proof depending on the criminal justice system) and that the accused bears no burden of proof.

The presumption here means:

- With respect to the critical facts of the case whether the crime charged was committed and whether the defendant was the person who committed the crime the state (or in this case the relevant body) has the entire burden of proof.
- With respect to the critical facts of the case, the defendant does not have any burden of proof whatsoever. The defendant does not have to testify, call witnesses, or present any other evidence.
- The jury or judge (in this case the relevant body) is not to draw any negative inferences from the fact the defendant has been charged with a crime and is present in court. They must decide the case solely on the evidence presented during the trial.

With this in the background, it’s quite evident that the proposed reform fails due to the following reasons:

- if the offence caused would normally be the criminal burden, it would be detrimental to the student to change it and potentially put the University in a powerful position;

- if it's a 'he said/she said' incident with the balance of probabilities, the University could rely on a petty reason for siding with someone without the correct evidentiary requirement;
- potential for more vindictive or false allegations which would work to the detriment of students as a lower standard of evidence required. If one moves to a procedure which mirrors civil procedure, hearsay becomes generally admissible.

Having presented a strong legal basis to oppose the proposed reform, I now would like to move to the social implication of this reform.

For more than eight centuries this great University led the world in every possible academic dimension including science, technology, literature, arts, etc. Without a doubt, a key element to that success is the mutual trust among different stakeholders within the University. This proposed reform will bring mistrust and unhealthy scepticism among the stakeholders vital for this world-class University to carry forward its great heritage.

Deputy Vice-Chancellor, reform is supposed to take us forward not backward, and with this reform, we will travel back in time prior to the 6th century by breaking the fundamental principle of a free society and the most fundamental principles of our legal system. Additionally, the mistrust among various stakeholders will harm the University in the long-term. I don't think anyone in this chamber is against the disciplinary actions, but one must be certain beyond a reasonable doubt before affecting someone's career, in most cases, irreversibly. One wrongdoing doesn't justify institutionalized irresponsible behaviour.

**Procedural note: the following remarks were not read out in the Senate-House due to lack of time but were ruled admissible by the Deputy Vice-Chancellor for inclusion in the formal published record. The remarks are ordered alphabetically:**

Ms E. BRAIN (Fitzwilliam College Women's Officer):

Deputy Vice-Chancellor, I implore Cambridge University to match every other UK university who have already changed their disciplinary regulations to be the balance of probabilities in student cases. A student survey in 2014 indicated that 77% of respondents had experienced some kind of sexual harassment whilst at university. Yet, as little as ten students a year decide to go through current Cambridge disciplinary regulations. *Ten*. One in thirteen female students experienced attempted and/or serious sexual assault during their time in Cambridge. Yet, ten students a year feel comfortable enough to take this through current Cambridge University procedures. *Ten*. There must be some reason for this, and the University has a duty to improve these statistics that I find shocking, harrowing, and deeply distressing.

It is notoriously difficult to prove sexual violence, so to ask for proof 'beyond reasonable doubt' is perhaps why just over 5% of reported rape cases end with a conviction for the perpetrator. Perhaps why just ten students a year are taking their cases through this institution's disciplinary procedures. We are asking, pleading, and demanding, that this University does not act as a criminal court, a space which by the nature of sexual assault, is far more likely to side with a perpetrator than a victim. Rather, we ask the University rules in favour of the side more likely to be true. It's as simple as that. Basing conviction on probability – not as soon as they walk through the door, which has been

forementioned – because it is inherently harder to prove sexual assault than disprove. This cannot be compared to any other act.

This is even more pertinent at a University which lacks a centralized policy on sexual or intimate partner abuse, and often there are serious disparities between how students are treated reporting sexual assault, literally depending on their College. I have seen this as a Women's Officer, and personally find this appalling. Stand up to the pledges of *Breaking the Silence*, which states that the University of Cambridge's Colleges are committed to providing a safe environment for their students. Well, Cambridge University, now is the time to prove it. To me, a safe environment is not asking a victim of rape to present their 'evidence' in front of a panel. This simply conforms to the already unequal balance of power victims are likely to have experienced through sexual assault. I have spoken to someone who has experienced sexual assault, abuse, or manipulation and who had chosen not to go through this procedure specifically because we have not matched the rest of UK universities on this. That's one person who slipped through the net because of this, and that is one person too many. Current procedures are deterring victims from reporting assault, not encouraging them. Step up and reject the stereotype that this University is reactionary, traditional, and socially conservative. Stop using a criminal burden of proof at this University, and make reporting sexual assault a possibility for victims that exist *right now* in this institution.

Ms J. C. S. CHURCHHOUSE (Gonville and Caius College):

Deputy Vice-Chancellor, I am strongly in favour of changing the current standard of proof to the balance of probabilities.

The system as it stands is totally inaccessible to survivors of sexual violence, and so is not fit for purpose. We all know the statistics – conviction rates for rape are far lower than other crimes. Only 5.7% of reported rape cases end in a conviction for the perpetrator, according to the Rape Crisis Centre. This is based on proof beyond reasonable doubt. Knowing this, why would any survivor put themselves through the horrendous re-traumatization of going through the current disciplinary procedure when the chance of a successful outcome for them is so low? The answer is: they don't. Currently it is used by fewer than ten students a year.

Within a university setting, proof beyond reasonable doubt is both unnecessary and inappropriate. There is no criminal conviction for the perpetrator based on the outcome of the disciplinary procedure. So why does it require a criminal standard of proof?

Many people argue that a wrongful 'conviction' would be damaging to the individual. However, this damage would be far from irrevocable, given that the University cannot impose criminal sanctions. Furthermore, this argument often totally ignores the untold damage to the welfare of survivors who are unable to access the disciplinary procedure. According to Rape Crisis Centre, 85% of survivors know their abuser. It is therefore highly likely that without disciplinary intervention, the survivor will have to see their abuser again. This is not only traumatic; it also makes them vulnerable to further abuse. So I would argue that the cost of not imposing disciplinary sanctions is just as serious as that of a wrongful 'conviction', and so using the balance of probabilities would be entirely justifiable, and in fact necessary.

The University website claims it is

*committed in its pursuit of ... equality of opportunity, and to a proactive and inclusive approach to equality, which supports and encourages all under-represented groups.*

Survivors of sexual violence are an under-represented group, and we need support from the University. It is shocking that there is only one person whose job it is to support survivors across the whole of the University, when, in 2014, seventy-seven percent of respondents to a student survey said they had experienced sexual harassment whilst at University.

Without meaningful policy change, *Breaking the Silence* is just an exercise in rhetoric. I hope that the University will reform the disciplinary procedure, and begin to put the needs of survivors first.

Professor G. R. EVANS (Emeritus Professor of Medieval Theology and Intellectual History):

Deputy Vice-Chancellor, the principle that the standard of proof in the University's courts is 'beyond reasonable doubt' was firmly maintained during the 'technical review' of the Statutes completed in 2013.<sup>1</sup> The phrase occurs four times in the present *Statutes and Ordinances* with 'balance of probabilities' appearing only twice, within Fitness to Practise procedures. The jurisdiction of the University courts also applies to members of the Senate, or a person 'in statu pupillari who holds either a degree or the title of a degree' and who is 'charged with an offence against the discipline of the University, or with grave misconduct'. For them too the historic standard of proof is beyond reasonable doubt. I suppose I myself as a member of the Senate might be glad of the same protection were I to be deemed to commit 'an offence against the discipline of the University'.

The standard of proof in the University courts was settled at 'beyond reasonable doubt' in the case of academic and academic-related staff when Cambridge's version of the Model Statute designed by the Commissioners under Education Reform Act 1988 s.202 became Statute U (now in the Schedule to Statute C and Chapter III). This was done so as to match the protection for its University Officers with that already available to its students under their own existing disciplinary procedures. So there is even more longstanding authority for this protection for students than for the University's academic and academic-related employees. To make the change would be to go against this history and there would need to be very good reason.

It is not made clear in the call for this Discussion why the ten signatories believe a lowering of the standard of proof in student disciplinary cases is thought to be desirable. The effect would be to make it easier to find a student guilty in the first instance but less onerous for the student to succeed on appeal against that finding. Meanwhile in the University Tribunal and the Septemviri the reverse would be true. Or is it intended that the Septemviri would apply one standard for an appellant student and another for an appellant academic employee?

The change would create a further mismatch. If internal disciplinary procedures apply a lower standard of proof than criminal proceedings, a student may be found guilty in a University court even though he or she would not be found guilty of a criminal offence in a court applying a higher standard of proof. The current Special Ordinances provide that normally if a student is the subject of criminal proceedings any internal process will be paused until the outcome is known and if 'any court of law' finds the charge

'proved' that conviction will be admissible in evidence in subsequent internal proceedings (Special Ordinance D (iv) 1). But if the student was not convicted, what then? Could it be possible for a University court to find him or her guilty on the lower standard of proof?

<sup>1</sup> <http://www.admin.cam.ac.uk/reporter/2010-11/weekly/6233/section5.shtml>

Dr E. A. O. FREER (Robinson College):

Deputy Vice-Chancellor, first, I would point out that this Discussion concerns lowering the standard of proof in all student disciplinary matters, not just those involving sexual harassment. Therefore, the matter is of far wider impact than some reporting in the student press has suggested. The Advocate would only be required to prove 'academic' offences such as plagiarism or the use of any other 'unfair means' in an examination on the balance of probabilities as well.

Most professional regulators (though not all – the Solicitors' Disciplinary Tribunal, as one example, still use beyond reasonable doubt) now use the balance of probabilities when deciding whether a professional misconduct case is proven. So, for example, a paramedic who is accused of gross misconduct will have a hearing in front of a Panel of the Health and Care Professions Council. When that Panel is deciding whether the paramedic did what is alleged, it will use the balance of probabilities. For this reason, many people might argue by analogy that it is entirely appropriate to have the balance of probabilities standard in University proceedings.

I am uncomfortable with the use of the balance of probabilities because, in cases regarding harassment, including sexual violence, the University will be deciding matters that could still be prosecuted through the criminal courts.

When professional regulators hear a case based upon facts that are capable of founding a criminal prosecution, that hearing is always after any criminal proceedings have occurred, or a decision has been explicitly taken that there will be no charges brought. Furthermore, the professional regulator's sole concern is whether the behaviour alleged, if proven, impairs the person's ability in their professional role. In deciding what resolution to impose in a case in which professional misconduct has been proved to the requisite standard, a disciplinary tribunal of the relevant professional body will have to consider whether the person's ability to continue in their specific role is impaired, and if so, what sanction, short of expulsion from the profession, there should be. The findings will be of misconduct or gross misconduct, for example, not of 'harassment' or 'rape' – labels that carry far greater stigma. Furthermore, professional panels are concerned with forward-looking matters – is this person able to continue properly within this particular profession now, at the time of the hearing? Although these matters may then need to be declared to a future employer, such findings are not able to be as widely used against someone as a finding by the University Court/Panel. Even in cases where the facts are found to be proven, it is not uncommon for the outcome to be that no current impairment to practice is found, and the person is permitted to continue in their role. Even if an adverse finding is made on impairment, it is common for cautions or conditions on practice to be imposed for a restricted period of time.

In my view, the repercussions of such findings are more tightly contained than those arising from a decision of a University Panel. The University Panel is not restricting itself to findings of whether the accused student can safely be allowed to continue to study (though any sanction will of course consider the safety of the complainant); it is determining whether a set of acts amounted to conduct that constitutes a criminal offence, with other considerations only at sanction stage. I would be less concerned by this change if the Panel restricted itself to determining whether the facts are proven, and if they are, whether it impairs the student's ability to be part of the University. But that is not the process. The accused will carry, in effect, the reputation and notoriety of a criminal following 'conviction' without the benefit of a trial to the criminal standard in the criminal courts of the land. Such a conviction on that lesser standard can ruin a young person's entire career and prospects, again without proof to the higher standard or the procedural and evidential protections that are accorded to defendants in the criminal courts.

The current system also leaves open a real possibility that the proceedings at the University (an adverse finding on the balance of probabilities) will then be used in a later criminal investigation, if one occurs. This could jeopardize both the prosecution case and the defence case. It also means that anyone advising an accused student has to have in mind all of the possible outcomes, and uses to which material from the disciplinary procedures might be used in a criminal court. These are magnified if the University is using a lower standard of proof.

The current procedure lacks consistency and transparency in both its aim and operation. The current system was created to deal only with situations of academic misconduct (e.g. cheating in exams and dissertations/theses). It was an appropriate system for such situations. However, to then apply that system to serious sexual violence is clearly inappropriate and risks unfair outcomes for both complainants and accused students. Lowering the standard of proof will have the outcome that more allegations are proven. That does not mean that more justice is being done – it means that less evidence is needed for the allegation to be found proven. For a fair disciplinary response to these matters there needs to be a new procedure developed from scratch – not a current one contorted.

For a university to properly be able to determine such serious issues it would need investigative powers (such as those given to professional regulators), professional defence advocates (again, those appearing before professional regulators usually have access to such representation through their union or federation), and a tribunal with relevant expertise (for example, many regulatory panels will have a combination of lay members and members from the profession of the person whose case is being heard, sitting with a legally-qualified adviser who advises them as to the law that they must apply on relevant matters in issue, such as dishonesty in an allegation of fraud, for example).

It is important that sexual violence is reported, and that complainants have access to support after such an experience. I do not take the view that we should not have internal procedures. What I think is important is that those procedures are transparent, both for the complainant and the accused, and, most crucially, that they are honest about what they can achieve for a complainant. A system that is inherently unfair to either party does justice to neither party.

The University is not equipped to make up for perceived failings towards complainants of sexual violence in the criminal justice system which may contribute to decisions

not to report to the police. We need to be honest and upfront about that. This change to the system is, at least in part, a response to the fact that there are very low conviction rates in the criminal justice system for these types of offences. That leaves many complainants reluctant to report their experiences to the police. This is entirely understandable and wholly regrettable. But as a University, we cannot solve that through our internal process. Our efforts would be better directed to ensuring that there are better support services accessible to all students across Colleges to help complainants make choices about how they wish to proceed after an incident of harassment or sexual violence.

Dr P. GOPAL (Faculty of English and Churchill College):

Deputy Vice-Chancellor, I want to begin by noting, as no doubt others will, that we are in an anomalous position in being the only UK university that still requires disciplinary matters to be proven using criminal standards: beyond reasonable doubt. This anomaly must surely be rectified. Students have pointed out that it is extremely difficult for complainants to use the disciplinary procedure in an instance of staff–student misconduct and the standard of proof is clearly a deterrent to anyone wishing to flag a problem. Given the often private, secretive, and nebulous manner in which sexual misconduct can take place, it seems important – particularly in the context of the very welcome *Breaking the Silence* initiative – to provide an actually reasonable framework in which problems may be investigated and addressed. I note that esteemed professional bodies, including the General Medical Council and the undoubtedly legally-literate Bar Standards Board use the balance of probabilities when considering allegations of misconduct. Why would we wish to set ourselves apart in this regard?

I am myself persuaded by the argument that using a civil standard of proof ('balance of probabilities') increases the likelihood that survivors of sexual violence will use the disciplinary procedure, which is currently used by less than ten students a year. The *Breaking the Silence* campaign itself is premised on a salutary understanding that a significantly larger number of students experience some form of sexual misconduct at Cambridge than that figure suggests. We can note here that the open letter from the CUSU Women's Campaign on this issue has received over 800 signatures.

We do have an unfortunate reputation for not having taken sexual misconduct and violence as seriously as we should have over the years. I think that changing the standard of proof required by the disciplinary procedure will send a strong and clear signal that we intend to rectify this and that the University will treat all complaints on such matters with due attention and the serious care we owe our students.

Ms G. HENRY (Trinity Hall):

Deputy Vice-Chancellor, I believe that there is an urgent need to reform the disciplinary procedure as it stands, changing the current standard of proof used in the University disciplinary regulations to proof on the balance of probabilities.

As a student who, along with others in my College, has struggled and failed to navigate the current system in order to ensure that the survivor of repeated sexual assault and harassment received the necessary support, and that sufficient action was taken against the perpetrator, I cannot stress enough how important it is that the University reviews its outdated methods.

To simplify the procedure would not be to hinder the efficacy with which the University deals with instances of sexual misconduct, but rather it would allow for the creation of a functional disciplinary procedure that students can easily understand and access when needed. The fact that less than ten students a year use the current procedure, when the number of students affected by sexual violence is much higher, indicates that it is not fit for purpose.

Within Colleges, the lack of knowledge, expertise, and resources to appropriately deal with cases of sexual violence feeds into a wider narrative of institutional indifference and passivity. The inability of Colleges to adequately address instances of sexual misconduct often translates as an indifference towards the personal issues that have a significant impact on students' wellbeing. Not only would a change to proof on the balance of probabilities in student cases of sexual misconduct allow Colleges to better support survivors of sexual violence, but it would also help to restore faith in an institution that has already let far too many of its students down.

Dr I. M. McNEILL (Trinity Hall):

Deputy Vice-Chancellor, I have been a College Lecturer and Director of Studies in Modern and Medieval Languages at Trinity Hall for twelve years. I have also been a Graduate Mentor and, more recently have become a Tutor.

Across these roles I have personally encountered a number of female students who have disclosed experiences of serious sexual harassment and assault from other students whilst studying for their degree. None of them, to my knowledge, has pursued a disciplinary procedure. All of them have suffered significant distress as a result of their experiences, including at least one case which led to severe post-traumatic stress.

I believe that the proposed reform of the disciplinary procedures would be an important step towards helping all those who experience sexual assault to feel supported by this institution and to help students, particularly female students, to feel safe and protected. If more students consequently feel enabled to access robust formal procedures, this will help to combat the apparent perception of impunity for sexual aggression and violence, particularly towards women. I emphasize women here – though this reform would of course make the procedure more accessible for all students – because it is very clear that this is a gender and equality issue, as well as a matter of student welfare. In a survey, conducted by Revolt Sexual Assault in 2017 and 2018 (validated methodologically by Blue Marble Research), of a sample of 4,491 students and recent graduates across 153 different universities in the UK, 70% of female students had experienced sexual harassment or assault, compared to 26% of male students. Non-binary and especially disabled students were also disproportionately affected, at 61% and 71% respectively. These are potentially vulnerable groups who may find it even harder to take action.

We know that most other universities and professional bodies in the UK use a civil standard of proof, most often, on the balance of probabilities, rather than a criminal one. Students who experience sexual violence have the option of reporting it to the police. That the University should offer a civil alternative is in line with guidelines from a Universities UK task force. We are the only university in the UK that requires disciplinary matters to be proven by a criminal standard of proof, that of beyond reasonable doubt.

To insist upon a criminal standard of proof where most other civil institutions do not require it makes a strong statement. By flouting the norm, Cambridge is declaring a

mistrust of students who speak out about sexual violence. The feminist scholar Sara Ahmed writes in her book *Living a feminist life* about such institutional policies and how they foster violence; I quote:

*Sexual harassment works – as does bullying more generally – by increasing the costs of fighting against something, making it easier to accept something than to struggle against something, even if that acceptance is itself the site of your own diminishment.*<sup>1</sup>

At the moment, the University's disciplinary procedures make it easier to accept sexual violence than to challenge it formally, as the very low rates of uptake make clear: currently it is used by fewer than 10 students per year. This runs counter to the University's public position as set out in the *Breaking the Silence* video, in which the Vice-Chancellor states that we should be encouraging more victims to speak out.

Let me be clear: changing the standard of proof of the disciplinary procedure need not mean that it is less attuned to the complexities of individual cases, nor does it mean that every complaint would be upheld. Students will sometimes need to think carefully about whether a disciplinary procedure is the right option. Nor can this reform take the place of ongoing work to educate and inform students about sexual consent. It is important that as an institution we continue to strive to foster a culture of mutually respectful behaviour amongst students and staff.

One of my former students has been involved in a think tank consultancy called GenPol, whose policy paper entitled *Can education stop abuse?* is one of the first studies assessing the quality and influence of sexuality education across all EU Member States. It makes recommendations for educational approaches that can help to tackle and challenge sexual misconduct.<sup>2</sup>

The University and its Colleges still have much work to do to reach our stated aspiration of 'Zero Tolerance' towards sexual misconduct. Reforming the disciplinary procedure is only one part of this, but nonetheless it is a significant step towards closing the gap – to cite Sara Ahmed once again:

*between words and deeds, between what organizations say they will do, or what they are committed to doing, and what they are doing.*<sup>3</sup>

<sup>1</sup> Ahmed, S. (2017). *Living a feminist life*. Durham, North Carolina: Duke University Press (p. 141)

<sup>2</sup> <http://gen-pol.org/2018/03/can-education-stop-abuse/>

<sup>3</sup> Ahmed, S. (2017). *Living a feminist life*. Durham, North Carolina: Duke University Press (p. 107)

Ms K. E. NELSON (Emmanuel College):

Deputy Vice-Chancellor, I will be arguing that the current standard of proof used in University disciplinary proceedings, beyond reasonable doubt, should be lowered to the civil standard of the balance of probabilities.

To do so I will make two brief points:

1. That the punishments that the University are able to impose on those charged with an offence in relation to sexual misconduct is not severe enough to demand that a victim prove their case to such an impossibly high standard, to the extent that the current system contradicts legal principles.
2. My second point mainly relates to arguments I have read about which claim that in lowering the standard of proof a defendant's right to a fair trial will be in jeopardy.

To begin with my first reason for believing that the standard of proof should be lowered to the civil standard, it is because the punishments that the University is able to impose on those charged with an offence, specifically in the context of sexual misconduct, are not severe enough to demand that a victim prove their case to such a high standard.

Since we are discussing the burden of proof in relation to sexual misconduct, it would be useful to consider the punishment that an individual convicted of such an offence would receive in a real criminal court: the least severe punishment they can receive is a ten-year prison sentence. The most severe punishment they can receive is a maximum prison sentence of 25 years.<sup>1</sup>

Contrast this with the University's punishments: the most severe punishment for potentially the same kind of conduct, proved to the same standard of beyond reasonable doubt, is suspension of membership of the University, and lesser punishments include fines and orders to pay compensation.

The standard of beyond reasonable doubt should be reserved for the most serious punishments. The law recognizes this: the standard is only used in criminal proceedings where deprivation of liberty is at stake; in civil trials where the victim is claiming mere compensation, the lower civil standard is used.

If there is one thing that we can all agree on, I hope it is that while suspension of University membership is obviously serious, it is absolutely incomparable to deprivation of liberty for a maximum period of 25 years. The University's insistence on beyond reasonable doubt as the standard of proof is therefore completely disproportionate to the punishment that the person accused will receive if the claim is found to be true, and it is therefore unnecessarily burdensome on victims of such awful conduct.

I'm sure that the extent of this burden on victims and its extremely damaging effects will be discussed by Women's Officers and others who are in line to speak. But a brief point: I am the president of Emmanuel JCR; there have been three women at Emmanuel that our Women's Officer, Lydia, knows about, who have been advised to intermit because their mental health had gotten so bad because of the burdensome nature of the procedure among other things. I'm sure that other Women's Officers have very similar examples, and the collegiate nature of the University probably has the effect of obscuring just how burdensome meeting this standard of proof can be.

Moving on to my second reason for believing that the burden of proof should be changed: it is a rebuttal of the notion that a defendant's right to a fair trial will be in jeopardy. I would argue that implicitly legal language surrounding the defendant's 'rights', particularly in relation to a 'presumption of innocence' being displaced if the standard were lowered, have been hijacked by those opposing the motion and applied inaccurately.

Aside from this, another argument has been advanced about the defendant's right to a fair trial which suggests that any result of the University tribunal is liable to be relevant to subsequent criminal proceedings. This has been suggested by my former criminal law supervisor, Dr Elaine Freer, and it has been taken up by students who have written about the matter.

In relation to this argument I make three points. First, why has this fear that the result of the University tribunal being relevant to criminal proceedings only been advanced now in relation to the burden of proof changing? If this assumption is correct, surely it has always been relevant?

The reason I suspect that the fear has only now materialized, is because implicitly there is an admission

that no one has ever used this procedure successfully for violent sexual misconduct and therefore the tribunal has never come to a 'result' which might have ever been relevant for subsequent criminal proceedings. This in itself is an admission that the current system is failing, and that the new burden of proof would produce results.

For my second point about this argument, I have to make a preliminary one: that the right of a defendant to walk into a criminal court 'innocent until proven guilty' is a cornerstone of the rule of law that we must work with. But I would argue, that even if the assumption that a result of the University tribunal would become relevant to criminal proceedings is true, then the current burden of proof that operates is even more detrimental to a defendant's right to a fair trial.

This is because the current burden of proof is the same as that of the criminal court to which they are entering: if in fact the result of the University tribunal was admissible as evidence, then the prosecution has less to prove, because the University tribunal has met the standard of the criminal court. On the other hand, under the reformed burden of proof civil standard, the defendant has only been proved more likely than not to have committed the offence, which is adequate in my opinion for a University court, but not for a criminal court. The prosecution therefore has more to prove against the defendant under a reformed system.

My third point, very briefly, about this argument is that in any event, I would be surprised if a result of the University tribunal had any relevance at all. No authority has been given for the argument.

The fact that the Bar Standards Board, the regulatory body for the profession of barristers, has the civil standard for their own proceedings, demonstrates that if any relevance would be given to proceedings of this nature at criminal proceedings it must be at most minimal and not damaging to the fairness of the trial, as the bar is undoubtedly committed to notions of the rule of law and fair trials.

<sup>1</sup> See the Sexual Offences Act 2003, sections 1–4.

Ms L. PHILLIPS LEA (Emmanuel College Women's Officer):

Deputy Vice-Chancellor, I echo fully the strength of the legal arguments in favour of a burden of probabilities but what I will be listing today is a few instances which I have encountered in my very brief time as a Women's Officer, which exemplify the immensity of slippages and holes in the interaction between each College's disciplinary system and the current University system. I should note that these instances of institutional misconduct are not absolved by the legal and just necessity of a change from the burden of proof to the burden of probabilities, instead they illustrate the need for a centralized system which works.

In January I began an investigation into Emmanuel students' experiences with the College's sexual misconduct policy and the University policy. Most notable in the feedback was a pattern in the way the threat or the offering, depending on how you look at it, of intermission was used towards survivors of sexual misconduct. These offerings range from the apparently caring: a reaction to disciplinary cases which was so failed by the demand for a burden of proof that a survivor who had been threatened with violence by their perpetrator was offered intermission as a solution to their consequent mental health problems. We have a situation where, when police investigations are pursued, College staff – this case is not at Emmanuel but was brought to my attention as a case which interacted

with multiple Colleges – are blessed with the authority and orthodoxy to warn perpetrators of their imminent arrest and give them time to dispose of evidence.

So I guess I'm advocating for two things: both the desperate need for a change from the burden of proof to the burden of probabilities, for all the reasons so eloquently expressed by fellow speakers, and for a strengthened, caring, and functioning centralized system which would put us in the direction of a future where collegiate systems are less inconsistent: for me it makes absolutely no sense that each College's policy can act in its own arbitrary way, and I believe these kind of centralized governing bodies should sort that out.

This kind of approach would also prevent a situation where randomized authority figures in Colleges – I say randomized because it seems to be a different title in each College can – at least posit themselves – as having absolute authority over the future of each student, where such figures can slam down 'fitness to study' policies in the face of survivors, and call them 'the most trouble' the College has ever seen; this is a different survivor intermission case to the one I mentioned earlier, by the way.

The University system is not a court of law. The outcome of these cases bear no legal consequences. To argue in favour of a burden of proof for 'legal reasons' is farcical considering how the current system – with all its differing collegiate systems – operates so unlike a court of law in that it is arbitrary, undemocratic, undebated, not to mention cruel.

Dr R. F. SEWELL (Trinity College):

Deputy Vice-Chancellor, I am a member of the Senate and a current supervisor of Trinity mathematics undergraduates. I understand from the Notice advertizing this discussion and from the student press that there is a current desire among some to reduce the standard of proof required in student disciplinary cases from beyond reasonable doubt to on the balance of probabilities. I wish to encourage the University to **resist** this suggestion.

Penalties such as deprivation of membership of the University, deprivation of a degree, or exclusion from University premises, are life-changing penalties just as much as would a mild criminal sanction be, and such penalties are specifically within the power of the Discipline Committee as provided at Special Ordinance D (ii) section 3.<sup>1</sup>

Proof on the balance of probabilities simply means being 'more likely than not in the light of the evidence', as more eloquently set out by Lord Denning. In a case of alleged sexual harassment or assault, in which both parties agree on what physical actions took place, but where one party is marginally more convincing than the other on whether consent was given and no recording or other forensic evidence is available, such a 'more likely than not' conclusion on the absence of consent might readily be reached.

Those advocating that this is sufficient to deduce guilt and impose such penalties should beware that they be not themselves found guilty under such circumstances.

It has been suggested that other universities require only the lower standard of proof. I do not believe that observing many others doing inappropriate things makes it appropriate that Cambridge should follow suit; rather we should make up our own minds on the matter. (The standing order that remarks at a Discussion must not include lists of those who agree with the speaker reflects exactly this position.)

It is understandable that some may feel frustrated by the difficulty of proving guilt beyond reasonable doubt. However, this has long been a fundamental pillar of the justice system of this country. I would urge this University not to depart from it, and especially so in any case where the penalty might be other than merely the payment of compensation.

<sup>1</sup> [https://www.admin.cam.ac.uk/univ/so/2017/special\\_d-section2.html](https://www.admin.cam.ac.uk/univ/so/2017/special_d-section2.html)

Ms C. M. S. SMITH (Selwyn College and incoming CUSU Women's Officer):

Deputy Vice-Chancellor, in the elections for the Students' Union I received the most votes of any candidate standing, based on my understanding that we must keep meaningful campaigns at the heart of everything we do. A fundamental part of the manifesto that the student body elected me on was changing the disciplinary procedure from the criminal burden of proof to the balance of probabilities. We as students are campaigning for this change, not because we enjoy having these conversations, but because it has been made clear again and again that using the balance of probabilities will enable those who report cases of sexual misconduct to actually access the system.

Less than ten people a year currently use the disciplinary procedure. We know that far more people in this University experience sexual harassment through our conversations and our experiences; through the amount of people using *Breaking the Silence's* anonymous reporting feature, and through the reports on sexual misconduct in universities (such as the most recent one released by the NUS and the 1752 Group). In a 2014 student survey, 77% of respondents said they had experienced some kind of sexual harassment whilst at University.

Who is *Breaking the Silence* for if the people it is claiming to support do not feel confident that they will be believed and supported when they use it?

The open letter from the CUSU Women's Campaign on this issue has received over 800 signatures. Among the students, there is overwhelming support for changing from the criminal burden of proof to the balance of probabilities. This University is not a law court and it is not a collection of buildings that exist to preserve tradition. Changing from standards such as the burden of proof in disciplinary procedures, like all other universities in the UK, shows that you prioritize the people at this University, over the abstract concept of 'The University'.

A university is its students; students who are currently failed by a disciplinary procedure that remains inaccessible and ineffective.

Satisfying the requirement for proof is often impossible in cases of sexual misconduct, and outside of that it is a stressful and complicated process for a survivor. The Women's Campaign listens to survivors and will continue to campaign for a disciplinary procedure that prioritizes the survivor instead of existing power structures or uninterrogated fears of damage to 'reputation' or the concept of a 'fair trial'. Fair trials do not exist when our society is built on structural inequalities which prioritize certain people at the expense of others.

Deciding to change from the burden of proof to the balance of probabilities in disciplinary cases is a chance for this University to show its commitment to diversity, excellence, and its role as a leading institution. Without this change, those who could report incidents of sexual misconduct will have no confidence that the University's *Breaking the Silence* is anything more than a media campaign.

Ms M. P. STAFFA (Clare College):

Deputy Vice-Chancellor, reporting cases of sexual misconduct is already difficult for many people; it requires a lot of courage and strength that traumatized survivors of abuse often do not have. Demanding that they provide evidence to prove beyond doubt that what they are reporting really happened is not only near impossible due to the intimate nature of the events, it is also an immense burden and means that the healing process of those affected is interrupted and they may potentially be re-traumatized. Changing the University regulations so that they rely on balance of probabilities means making the process of reporting easier. It means listening to victims and not putting even more of a burden on them.

As the University of Cambridge is not a court, their ruling doesn't have any impact on the accused's criminal record. It is not a conviction, and neither does changing the standard of proof imply that the justness of the procedure will be compromised. It does not mean no evidence at all is needed. Both parties will be listened to. A fair ruling is still to be expected; the outcome cannot be predicted beforehand. It therefore cannot be said that the accused party automatically assumes a disadvantaged position and is more likely to suffer consequences.

To assume that changing the standard of proof means people are more likely to be penalized or even wrongfully accused and then penalized implies that the procedure is more likely to be used for nefarious means. This is not only a dangerous and harmful assumption, it is also a deeply misogynistic one, as the majority of those reporting cases of sexual misconduct are women.

Making the reporting process more accessible doesn't make it appealing to people to wrongly accuse others. Making changes to the standard of proof is not about 'ruining' the life of a person who might be innocent. It is about finally listening to those whose lives have already been ruined.

Ms S. SWAIN (Churchill College):

Deputy Vice-Chancellor, I would like to speak about why the current standard of proof used in University disciplinary regulations ('beyond reasonable doubt') should be changed to proof on the balance of probabilities in student cases.

As we have heard, Cambridge University is the only UK university that still requires disciplinary matters to be proven 'beyond reasonable doubt'. The reason that no other university uses this archaic method is simple: 'beyond reasonable doubt' is a criminal standard of proof and the University is not a criminal court.

Cambridge loves to think of itself as a 'global leader', that, according to its mission statement, provides the pursuit of education at the 'highest international levels of excellence'. But in this case it's embarrassingly behind almost all other institutions in clinging to this ineffective method. We know that cases of sexual violence are the least likely to be convicted in a criminal court: so using these legal standards within the University only creates a lengthy process that is traumatic in itself, with the complainant treated as if they were in a criminal court – 'presenting evidence' for a panel to coldly consider.

Besides this, sexual violence most often happens in private places, with someone that you know, and this is almost impossible to prove 'beyond reasonable doubt'.

A more progressive disciplinary procedure is essential to prove that the University is not wedded to tradition at the expense of student welfare. This is not proposed on a whim, but by the people who have tried to access this system and who it has failed.

If 77% of respondents to a 2014 survey said they had experienced some kind of sexual harassment whilst at University, the figure for students using the current procedure is concerning to say the least: clearly there is something deeply wrong when a system that is meant to deal with cases of sexual violence across the University is so traumatic and lengthy that it is ultimately unfit for purpose. A more transparent, simplified system that students actually feel comfortable accessing increases the likelihood that survivors will be able to use it. Which is, after all, its entire function. A system is of no use if it is not accessible to the very people that need it most. This is, and must be, about centring the survivor.

It's also important to note that it is those who are already marginalized, whose bodies are already more disposable and whose voices are consistently taken less seriously, that are most affected by assault, and who will find the arduous process of having to prove themselves as if in a court of law most inaccessible. It's the women, students of colour, the disabled students, the queer, or mentally ill students, and those that are marginalized along other lines that suffer most when the University refuses to change its archaic procedures.

The actual effect of the current standard of proof is not that people are more rigorously tried, but that the needs of those who access these procedures are placed below the University's desire to preserve some kind of legal high-ground that almost all professional bodies have recognized is not fit for purpose.

Changing the standard of proof to that of a balance of probabilities is how the University can make *Breaking the Silence* meaningful, and actively demonstrate that it is not just a publicity exercise – in this increasingly marketized education system, universities work extremely hard to present themselves as 'progressive' on issues like race and gender without actually doing the work that is needed to put them into practice.

This reform will signal that the University is serious about ending all forms of sexual misconduct, showing that if a student came forward they would be believed, and supported, in the way that they deserve.

*Breaking the Silence* flags up a problem, yes: but admitting that there is a serious issue in this University, as many of us know all too well, is far from the end of the road. We need to be making concrete changes, now, to show survivors that we really do care about more than our public image. Providing in-house support services, making the disciplinary procedure accessible, and making meaningful steps to deal with intimate partner violence and misconduct between staff and students, are needed to take the issue of sexual assault seriously. Because many people cannot choose to engage in this simply as a debate, it's their real, lived experience.

It's not an abstract 'they' that so many of us are talking about, or simply a concept of legal justice. It's us. It's our friends, our lives, we're discussing here. Why would anyone go through the protracted, traumatic process of reporting assault falsely? And how can we possibly justify valuing this slight potential more than listening to the real experiences and desperate pleas of survivors? And if we're talking about 'irrevocable damage', is it not irrevocably damaging to feel unable to live freely in a space because you have been unable to use the disciplinary procedures to stop a perpetrator wandering around?

Above all, today we're asking the University to prove that it is not just making noise. We're asking the University to show that it does listen to its students and take them seriously when they overwhelmingly call for change. We're using our voices to raise those who need this the most: it's time to make *Breaking the Silence* into something that can make a tangible difference to the real lives of people that need it.

## REPORT OF DISCUSSION

**Tuesday, 15 May 2018**

A Discussion was held in the Senate-House. Deputy Vice-Chancellor Dame Carol Black was presiding, with the Registrar's deputy, the Senior Proctor, the Junior Pro-Proctor, and six other persons present.

The following Report was discussed:

***Report of the Council, dated 1 May 2018, pursuant to Special Ordinance A (i) 7(b) concerning an initiated Grace relating to the University and the Universities Superannuation Scheme (Reporter, 6504, 2017–18, p. 539).***

Dr M. J. RUTTER (Department of Physics and President of Cambridge UCU):

Deputy Vice-Chancellor,

*Council acknowledges that the retirement benefits offered by USS, and in particular those offered under a Defined Benefit scheme, are highly valued by USS members within the University.*

Thus reads the Report that we are discussing today, and it is pleasing that Council has arrived at this realization, no doubt assisted by the unprecedented number of signatures on the initiated Grace.

It is also pleasing to read in Council's Grace such a clear public statement of acceptance of the level of risk in the September 2017 USS valuation. I hope that this assists in moving the Trustee back to an acceptance of that valuation, which would greatly assist both sides in this dispute.

Pensions are a highly important and valued part of the pay and reward package offered by this University. They form an important part of the University's ability to recruit and retain staff. The changes to the USS proposed in January were not simply highly damaging in themselves, but the University's response on 24 January 2018, stating that

*the University understands that many members of USS will be concerned about these proposed changes and it is committed to communicating regularly with affected staff,<sup>1</sup>*

failed to suggest that the University was at all opposed to the proposed change, or that it really understood the consequences for its staff.

The University's letter to staff immediately before the strike was not in the least conciliatory, and the first public hint that the University had any concern about the impact of the proposed changes came on 21 February when the Vice-Chancellor wrote that the University was exploring 'options that could help reduce the impact of the changes proposed'. Only after industrial action had started did this position move to calling for an immediate resumption of talks between Universities UK and the University and College Union (UCU). After a few more weeks, there was even public criticism of UUK's position: 'we should remove the inflationary cap included in the recently rejected agreement' wrote the Vice-Chancellor in reference to the ACAS agreement of 12 March.

Cambridge too often relies on the power of its name to attract staff, and seems to believe that it is fair and sustainable for it to be an academically-leading University in an expensive city without offering a pay and reward package which is similarly leading. It is not.

The Grace as proposed by Council has a paragraph, (v)(b), proposing a Report, by the end of the next academical year, on

*alternative means of maintaining, in the longer term, the total remuneration and retirement package of the University's USS members, in the event that the benefits that can be delivered through such negotiations are materially less than those currently available to those members.*

This is neither good, nor good enough.

It is not good because a hint of an alternative retirement package suggests a Cambridge withdrawal from the USS, or, more probably, a local top-up scheme to run in addition to the USS. We already have a two-tier system of pensions in UK Universities, and a move to something yet more disparate would not be welcome. We hope that this suggestion is proposed in the spirit not of being a desired outcome, but a potential least bad outcome should the national outcome be very poor. Perhaps, optimistically, one might consider that many UUK institutions would be at least as unhappy with this outcome as I would be, and that this threat might assist the negotiations.

But there is also a timing issue. We assume that some new pensions arrangements will be in place by April 2019, or a small number of months thereafter. It would seem unlikely that the Trustee or the Regulator would accept any other timescale. To have a Report by the end of September 2019, which will then need to be considered by Council, discussed in this House, and Graced before it can have any effect, may leave a long period of poor pension provision. This would be very damaging for staff retention, morale, and trust. The University took too long to respond appropriately to the January Joint Negotiating Committee (JNC) decision, and next time it needs to be fleetier of foot.

In twelve months' time we do not wish to hear staff being told that their pensions situation is similar to that of Alice's proposed employment in Carroll's *Through the Looking Glass*: 'the rule is, jam to-morrow and jam yesterday – but never jam to-day.'

Alice was reduced to saying 'I don't understand you, it's dreadfully confusing!' The words 'dreadfully confusing' I hear too often in respect of the USS. And those of us who were paying into a final salary scheme a few years ago, and were surprised to discover what 'final salary' meant, are already familiar with Humpty Dumpty: 'when I use a word it means just what I choose it to mean.'

I therefore echo paragraphs (v)(a) and (vi), asking that the University press firmly, strongly, and publicly, for a stable, guaranteed, trusted, pension scheme for its staff, with no hiatus. Staff in the post-92 universities enjoy this, and further moves here towards a Looking Glass scheme cannot be the fair settlement sought by paragraph (vi) of Council's Grace.

Like the January JNC decision, the 12 March ACAS agreement contained jaws that bite, and clauses that catch. Carroll's *Jabberwocky* teaches us to beware of such creatures, and how to meet them. The UCU will be prepared should this beast return. Will Council stand with us next time?

<sup>1</sup> <https://www.staff.admin.cam.ac.uk/general-news/proposals-for-uss-benefit-reform>

Mr D. J. GOODE (Faculty of Divinity and Wolfson College): Deputy Vice-Chancellor, I am speaking today in a personal capacity, as a member of the Regent House.

I'm afraid the first part of my remarks is going to be quite dry and technical, but please bear with me for I believe there is an important principle at stake.

Statute A VIII (c) (as amended)<sup>1</sup> is clear that:

*All Graces submitted require the authorization of the Council; the Council may withhold that authorization in circumstances prescribed by Special Ordinance*

Special Ordinance A (i) 5 allows a Grace to be initiated by members of the Regent House, and says:

*Any fifty members of the Regent House may initiate a Grace for submission to the Regent House, and any twenty-five members may initiate a proposal for the amendment of a Grace already submitted to the Regent House but not yet approved.*

Special Ordinance A (i) 7(a) sets out the Council's two possible courses of action in the event of it receiving an initiated Grace:

*Subject to the exercise by the Vice-Chancellor of the powers conferred by Section 6 or by Ordinances made under that Section, the Council shall consider any Grace or amendment initiated under Section 5, and either (i) shall authorize the submission of the Grace or amendment to the Regent House or (ii) shall publish a Report giving reasons for its decision to withhold authorization and recommending the Regent House to approve that decision. If such approval is not given, the Council shall, not later than the end of the term next following, submit the Grace or amendment to the Regent House.*

Section 6 referred to above allows the Vice-Chancellor to rule a Grace inadmissible in certain circumstances:

*In respect of Graces and amendments of Graces initiated under Section 5, the Vice-Chancellor shall have power to rule inadmissible any Grace or amendment which directly concerns a particular person, and shall have such further powers as may be specified by Ordinance.*

The initiated Grace does not concern a particular person, so the Vice-Chancellor does not have the power to rule it inadmissible.

As we saw above, the Council may choose not to authorize a Grace, but in that case it must publish a Report giving its reasons, and ask the Regent House to approve that decision. In the case of this initiated Grace, that was not done. Rather, in this case the Council has effectively submitted to the Regent House an amended version of a Grace initiated by members of the Regent House.

Amendments to Graces are possible, of course. Chapter I of Ordinances sets out the mechanism for amending a Grace. I will spare you the entire paragraph for it is quite long, but the pertinent part is the opening clause, which sets out clearly who may amend a Grace:

*A written proposal for the amendment of a Grace which has been submitted to the Regent House may be initiated by members of the Regent House in accordance with Special Ordinance A (i) 5...*

The Regent House has the power to amend a Grace; the Council does not.

I therefore contend that, in refusing to authorize a Grace initiated *de jure* by members of the Regent House and submitting instead to the Regent House on 2 May 2018 its *de facto* amended version of that Grace, the Council has exceeded its powers.

It might be that in this instance the Council has done the right thing the wrong way, for our *Statutes and Ordinances* are presently unable to accommodate the Council's desire to amend an initiated Grace to which it is otherwise broadly sympathetic. But as a matter of principle the Council must not be allowed to receive a Grace initiated by members of the Regent House, refuse to authorize its submission, amend the bits it doesn't like, and then use its power to submit the amended Grace for the approval of the Regent House.

There is danger here in setting a precedent. If the Regent House allows the Council to exceed its powers today for a (more or less) honourable reason, what is to stop the Council doing so in the future for less honourable reasons?

This concerns me, which is why I should like the Vice-Chancellor to take this as a representation under Statute A IX 1(a) that there has been a breach of compliance with the *Statutes and Ordinances* by the Council in its Report to the Regent House of 1 May 2018 and subsequent submission of a Grace on 2 May 2018.

<sup>1</sup> See the Registry's Notice dated 27 April 2018 (*Reporter*, 6504, 2017–18, p. 535).

**COLLEGE NOTICES****Vacancies**

*Newnham College:* One-year Postdoctoral Affiliation from 1 October 2018 (up to 25 at any one time, with a balance sought between the arts and the sciences); applications welcome from women in any field who already hold an established and salaried postdoctoral research position or personal fellowship; tenure: at least two years from October 2018 with possibility of renewal; benefits: SCR membership, dining rights, possibility of undergraduate teaching and/or graduate mentoring; closing date: 11 June 2018 at 11.59 p.m.; further details: <http://www.newn.cam.ac.uk/vacancy/postdoctoral-affiliates/>

*St John's College:* Undergraduate Admissions Outreach Officer; fixed term: two years; closing date: 13 June 2018 at 12 noon; further details: <https://www.joh.cam.ac.uk/undergraduate-admissions-outreach-officer>

**EXTERNAL NOTICES****Oxford Notices**

*Nuffield Department of Orthopaedics, Rheumatology, and Musculoskeletal Sciences:* Climax Professorship of Clinical Therapeutics; closing date: 18 June 2018; further details: <https://www.ox.ac.uk/about/jobs/academic/>

*Christ Church:* The twelfth annual Andrew Chamblin Memorial Concert will be given by Laurence Cummings, FRCO, at 8 p.m. on Thursday, 7 June 2018 in Christ Church Cathedral, Oxford, and will be an hour-long programme of organ and harpsichord works by Bach, de Grigny, Couperin, and Handel; admission is free with everyone welcome; there are no tickets required and no reserved seating; further information is available at: <http://www.chch.ox.ac.uk/events/alumni/andrew-chamblin-1991-memorial-concert>

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