

Update on Academic freedom of expression denied by corporate lobbying

Dear supporters

I last wrote to you in June last year. Here is my final account.

Summary:

Following the day in court in June last year Glasgow University restored my access to essential online academic sources, and agreed to pay all costs to date. My principal opponents at the university have either left or retired. My right to use the title Emeritus Professor, etc. has been reconfirmed. I declined the request that published material about the case be removed from my website, on the ground that material damaging my reputation remains online and cannot be removed, so needs to be rebutted. I can now redistribute your contributions to another active worthy CrowdJustice case (or cases) with similar aims. Those who of you contributed £1000 or more will be receive *pro rata* refunds (your contribution, less the website fee).

Sense has finally prevailed - Thank-you !

Details:

Sir Crispin Agnew QC agreed to represent me. I had met him in 2014 when he represented the objectors at the appeal against refusal of planning permission for a coal bed methane project near Falkirk, and found him to be highly competent, approachable and congenial. Although my case has evidently been about the right to freedom of academic expression, with the environment and fracking as a subsidiary cause, Sir Crispin cleverly decided to raise an Initial Writ as a commercial action based on loss of income resulting from the termination of my rights of access. This approach was to force the university to respond rapidly - within two weeks as required by such actions - instead of continuing on its leisurely slow response.

There was a preliminary hearing at the Sheriff Court in Glasgow before Sheriff Reid on 16 June 2017, with my solicitor Ms Ziqyia Riaz and Sir Crispin representing me. I was not present. Ms Riaz explained the day's outcome to me by phone. Here is a summary.

The court appearance was preliminary, in that it was only to request interim restoration of my access before the main case was heard. Firstly, Sheriff Reid noted my legal team comprised two, but said that although the case looked simple in principle, it was actually rather complex, therefore he was

pleased that Sir Crispin was present. It quickly became clear that Sheriff Reid simply did not believe the lawyer for the Glasgow side, for instance that the date of my termination, occurring three days after I had published an academic paper about fracking, was merely coincidental. He appeared to accept all the arguments that Ziqyia and Sir Crispin put forward. In conclusion, at the end of the day he ordered Glasgow to restore my access within 24 hours, and strongly encouraged both sides to agree an out-of-court settlement.

I wanted the university to make an effort to have the defamatory press articles from 2014, instigated by Professor Younger, removed or corrected, but he said that the university, acting as a third party, would be ignored. I replied that I would ask Ms Riaz to write to the three newspapers, at Glasgow's expense.

Dr Duncan offered to reimburse all my costs to date, and agreed to furnish me with a draft letter, to be further edited by myself, confirming the reinstatement, etc. I declined his request to remove all the case material published on my website, because since the *status quo ante* (i.e. pre-2014) could never be restored, I needed rebuttal information to be in the public domain.

He told me that Professor Younger had taken early retirement the previous March on ill-health grounds. Documents disclosed by FOI and a Subject Access Request show that it was Professor Younger who had instigated the moves between 2014 and early 2016 to have me isolated and cut off from university access. There was even talk of steps being taken to have my title revoked. Mr David Newall, the previous Secretary of the Court, who took the formal decision on behalf of the Court to have me terminated (but without the matter ever having been discussed at Court), has since left. Professor Maggie Cusack of Geography & Earth Sciences, who supported the action, has also gone elsewhere. I find it sad that Paul Younger, a member of the Court in addition to being Professor of Energy Engineering, was believed by a gullible group of his senior colleagues, whereas no-one ever sought to ask my view.

I asked Dr Duncan to have a word with Dr Rob Westaway, former colleague of Younger and still at Glasgow, to ensure that he never repeats his unacceptable and unprofessional conduct of complaining directly to the board of editors of the journal in which I had published my discussion paper

I told Dr Duncan about my past and current research work, stressing that all I want to do is to be able to carry on pursuing sound scientific research, which often has a social application (including nuclear waste disposal, fracking, a quantitative scale for nuclear accidents, and a new method of 3D medical ultrasound imaging). I mentioned that according to ResearchGate (a sort of Facebook for academic researchers) the 'most-read' researcher at Glasgow each week (out of the 11,000 university members) is frequently myself. We parted on good terms.

Dr Duncan's letter, dated 5 January 2018, states:

"Dear Professor Smythe

I am writing to confirm that as an Emeritus Professor of Geophysics, College of Science & Engineering, University of Glasgow, you are entitled to continue to use that title without hindrance. For clarity, I would ask you to indicate that you are an Emeritus rather than a current Professor in any future publications or correspondence.

I also confirm that you may continue to use your University email address and that your library access privileges will remain in place on a permanent basis.

For my part, I regret the recent dispute between the University and yourself, which involved the termination of your library and email access (as specified above) between January 2016 and June 2017. I have no reason to doubt your integrity as a scientific researcher, and hope that you will continue to be as productive in your research as you have been since your retirement in 1998."

Ms Riaz failed to get *The Telegraph* or the *Daily Mail* to correct or remove their defamatory articles, but *The Times* did agree to put the word 'lied' in its article headline into quotes; a small victory there - but few people read such articles because they are behind a paywall. She also wrote to Dr James Verdon, now a lecturer at Bristol University, to ask him to remove the outrageous and defamatory comments made about me in his 'Frack-land' blog. This letter was copied to the Vice-Chancellor at Bristol. Verdon quickly complied with the request.

I have delayed releasing all this good news until we were absolutely certain that Glasgow would refund all my costs, and not perhaps narrow it down to legal costs only. We now have this promise in writing, with the reimbursement date being on or before 14 May. Only then will the Joint Minute, signed on 18 April, asking the court to cancel the action, be put into effect. For your amusement, its almost impenetrable legalese states:

"SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

...

RIAZ for the Pursuer and GARCIA-ALIS for the Defender concur in stating to the Court that this action has settled extrajudicially and they therefore crave the Court to assoilzie the Defender from the craves of the Initial Writ and to find no expenses due to or by either party."

The costs to be reimbursed by Glasgow amount to £12,459, of which £10K (+ VAT) are the legal costs, plus £459 due to me for costs incurred during the period when I had to pay for research material to which I would otherwise have had free access. Those of you who contributed £1000 or more will be offered a refund, minus the CrowdJustice admin fee, and I will be able to re-assign the remainder (perhaps £10-11K) to a similar ongoing campaign. If anyone has any suggestions about a suitable campaign then I shall gladly consider them.

It remains for me now to thank all of you, and my legal team Ms Riaz and Sir Crispin, for enabling this positive outcome. I plan to publicise this summary of the case shortly.

