

UNIVERSITY OF ST ANDREWS

INDEPENDENT INVESTIGATION

REPORT – SUMMARY

This report is provided to the University Court. It is confidential and must not be copied further.

This summary is provided for the use of Court members as an overview. It is not a substitute for the full report.

1. Introduction

- 1.1 The investigation concerns the actions and activities of the Rector, Stella Maris, in connection with her communication of 21 November 2023 (“the Statement”). The report is provided to the Senior Lay Member of the University Court and the Court’s Governance and Nominations Committee and its purpose is to provide them with information and advice. It relates to the Rector’s roles as a Court member and a charity trustee. It does not concern the response of the University executive.
- 1.2 The focus of the report is on two periods: (a) 16 October 2023 to 21 November 2023, and (b) 21 November 2023 to 15 December 2023. I have also considered activities after 15 December 2023.

2. The factual background

Ms Maris was elected as Rector on 13 October 2023, taking up her post on 1 November 2023.

Period (i) – prior to 21 November 2023 – key points

- Shortly after her election, Ms Maris began to consider issuing a statement on the situation in Israel and Gaza. She discussed this with the V-P(Communications), who warned her to be careful.
- Ms Maris prepared a first draft of the Statement, calling for a ceasefire in Gaza, around 6 November 2023. She consulted a large number of people, including senior University staff, Jewish Society representatives, and representatives of student groups supportive of the Palestinian cause.
- Senior University staff had serious concerns about the draft and repeatedly urged caution. Other people supported Ms Maris.
- After extensive discussions and exchanges of messages, Ms Maris prepared revised drafts on 20 and 21 November 2023, which introduced, among other things, the words ‘genocidal attacks’ and ‘apartheid’. The V-P(Governance) expressed serious concern. The Statement was issued on 21 November 2023. It included links to a variety of online resources.

Period (ii) – 21 November 2023 to 15 December 2023 – key points

- After the Statement was issued, there was extensive social media and other activity, including open letters, both supporting and criticising Ms Maris. There was widespread press coverage.

- Reactions within the student body were divided. Some students, especially some Jewish students, were very distressed and angry, with feelings of fear for their safety. Other students welcomed the Statement, feeling validated and heard.

3. The Statement

- 3.1 The Statement contains a disclaimer, explaining that it does not represent the views of the University.
- 3.2 The Statement clearly supports the Palestinian side in the conflict. It calls for a ceasefire. It includes references to 'genocidal attacks' and 'apartheid'.
- 3.3 Ms Maris acknowledges that some people may disagree with her. In some parts, the tone indicates a wish to bring unity and peace.
- 3.4 It includes links to multiple online resources. These support the pro-Palestinian position. Some are stridently anti-Israeli.

4. The legal and governance context

The role of the Rector

- 4.1 The Rector has the same obligations as other members of the governing body and is bound by its Code of Conduct.
- 4.2 As well as certain formal duties in relation to Court, the Rector has pastoral responsibilities to students and is expected to be available to all students and to represent their interests. The Rector should also be willing to champion a cause. These responsibilities are broadly expressed. It is relevant to consider them when assessing what is in the University's interest.

Responsibilities as a member of Court and a charity trustee

- 4.3 Court members must adhere to the Ethical Standards in Public Life. Taken together with relevant provisions in the Court Handbook, the essential duties are (a) to act in the interests of the University; and (b) not to act in a way likely to bring the University into disrepute. Court members also owe duties of respect.
- 4.4 As charity trustees, members of Court must act in the best interests of the charity and seek to ensure that the charity acts in a manner consistent with its purposes.
- 4.5 A member of Court in breach of obligations may be subject to dismissal.

Freedom of expression and related rights

- 4.6 Freedom of expression enjoys a high level of protection, by reference to Article 10 ECHR, but it is not unqualified. The Court is entitled to place some limits on the activities of its members, in order to protect the interests and reputation of the University, provided those are proportionate.
- 4.7 The Court should be aware of the potential application of the Equality Act 2010.
- 4.8 There is no absolute requirement that the Rector, or any Court member, must be impartial and non-partisan in the sense of political neutrality or not expressing controversial views. However, there are limits.

Can the Court restrict Court members' freedom of expression?

- 4.9 Yes, provided it does so in a proportionate way. If the content of expression by a Court member runs contrary to the University's best interests or is likely to damage its reputation, the Court may restrict that.

How may the Court restrict Court members' freedom of expression?

- 4.10 The Court may apply the rules relating to conduct generally, contained in part 1.10 of the Court Handbook. The sanction for a breach is dismissal, but it is conceivable that a member's conduct or behaviour might fall below the required standard, but not to a degree justifying dismissal.
- 4.11 Given the general starting point of a high level of protection for that freedom, the University should be very slow to conclude that there has been a breach other than in very clear and obvious circumstances.

What steps should the Court take in decision-making?

- 4.12 The Court must consider whether the conduct of the member is in breach of the member's obligations. Whether expressing an opinion or making some other kind of statement is in the best interests of the University, or is likely to bring the University into disrepute, will be questions of judgement in each case.
- 4.13 The Court must first identify and prioritise the relevant interests of the University and it must assess the likelihood of damage to the reputation of the University.
- 4.14 The Court must keep in mind the particular role that the Rector has, including in listening to and responding to students' concerns. That means that the Court considers whether it is in the interests of the University for the Rector to take certain actions. It does not mean that the Court can impose separate obligations on the Rector, e.g. by reference to the role description for Rector, that would not apply to another Court member. In assessing whether there is a breach, the Court looks at the Rector's obligations as a Court member.
- 4.15 If the Court is satisfied that a member of Court is in breach of his or her obligations as a result of speech or other expression, it then determines whether or not to impose a sanction, and it must at that stage ensure that any disposal is proportionate, having regard to that individual's rights under Article 10 ECHR.

How does the Court assess the interests of the University?

- 4.16 The Court determines what the interests of the University are and, where there are competing interests, determines which should be prioritised. The Court then decides whether an action is consistent with or contrary to the University's best interests overall. In making these assessments, the Court must have regard to the particular role of the Rector within the University.
- 4.17 There are competing interests. It is generally in the interests of the University for the Rector to be active and engaged in issues which matter to students. There is also an interest in having a Rector who is willing and able to give support to students who might otherwise feel that they do not have a voice. Willingness to champion a cause without fear or favour is listed in the role description for the Rector and some weight must be given to that.
- 4.18 At the same time, and generally, it is in the interests of the University for the Rector to have the trust and confidence of students as a whole and to be able to exercise pastoral and other responsibilities to students across the breadth of the University. It is also in the interests of the University that members of Court, including the Rector, avoid actions likely to cause distress and upset, or serious division and polarisation within the University.
- 4.19 The Court may consider that, in addition to these, there are other relevant interests. There is no fixed checklist.

4.20 The Court must also assess what might be likely to bring the University into disrepute.

5. Were the actions and activities of the Rector in relation to the Statement compatible with her obligations, by reference to the best interests of the University and the protection of the reputation of the University?

5.1 Ms Maris' reasons and justification for the Statement are as follows:

The terms used are accurate and justified

5.2 Ms Maris' view is that there is a genocide taking place, and that it is essential to speak about it and to use that term. I am aware of the arguments about the use of the term 'genocide' in this context but I express no view as to whether or not it is correct. It is sufficient to note that it is strongly contested. The criticism expressed in one open letter is that the term is inflammatory and unfounded.

Observations in relation to antisemitism

5.3 The main criticism of the Statement, as expressed in the open letter, is that its words will "bring division and hatred [and reinforce a] narrative that drives violent antisemitism around the world." Ms Maris strongly refutes that and finds the suggestion offensive.

5.4 In my view, there is certainly room for an argument that the Statement might encourage the expression of antisemitism by others, especially in a tense and divided environment. That was not Ms Maris' intention, but it is a conceivable outcome. A person in a leadership position must allow for the possibility that words will be taken and used to ill effect. In ignoring or discounting that possibility, Ms Maris showed very poor judgement.

Consistency and public statements

5.5 Ms Maris' view is that the University should speak out against war and injustice. She sees an inconsistency between the University's approach to Ukraine and the present conflict.

5.6 There may be principled and pragmatic points of distinction informing the University's approach in different cases. The distinction has to be justified.

5.7 It is simplistic and superficial to say that because the University made a statement in relation to Ukraine, it must do so in relation to Palestinians in Gaza.

5.8 If the University is prepared to make statements, expressed with appropriate care, on some international conflicts, a similar flexibility, to some degree, should be given to the Rector. What is in the University's interests is a matter of judgement.

Support for students

5.9 Ms Maris believes it is necessary to support Palestinian students and students with pro-Palestinian views. The Rector has a role in speaking up for students who feel worried and frustrated and, insofar as the Statement was intended to support and acknowledge them, it was justified. But in particularly sensitive circumstances, extra care must be taken with language.

Further considerations

5.10 Senior University staff provided consistent, clear advice, motivated both by a wish to protect the interests of the University and a concern for Ms Maris. Other people also had concerns. She was not bound to accept the advice, but in my view she showed poor judgement in rejecting it.

5.11 The Statement had a disclaimer to the effect that it did not reflect the official view of the University. Nonetheless, some people formed an adverse view of the University as a result of the Statement and were very critical. [REDACTED]

[REDACTED] It appears to me that there has been some reputational damage to the University but that it has been successfully mitigated.

Conclusion in relation to the Statement and the best interests of the University

5.10 These are matters for the Court. I am asked for my view. In summary, I consider:

- that the Statement was unwise and ill-judged in respect of some its content;
- that it caused distress and contributed to division within the University, and in those respects it was not in the interests of the University;
- that there are other relevant, competing, interests and, even if to a limited extent, the Statement furthered those interests;
- that some respect should be afforded to Ms Maris' own judgement;
- that the circumstances here are not sufficiently clear or obvious to show that there is, overall, a breach of the relevant obligations.

Conclusion in relation to the Statement: bringing the University into disrepute

5.11 In my view, there has been some reputational damage to the University, but it has been successfully mitigated.

5.12 Respect for freedom of speech means that universities may have to withstand some criticism, and the Rector has a role in speaking up for student interests.

5.13 The idea of 'censorship' also carries a risk of reputational damage.

5.14 In my view, having regard to these factors, and on balance, there is no breach of this duty.

The Statement: sanction considerations

5.15 In my view, if the Court is satisfied that there is a breach, dismissal would be a disproportionate response. The Statement was a single issue. It contained a disclaimer. Division in the University was not entirely due to the Statement. Dismissal would interfere with Ms Maris' rights to freedom of expression in an unjustified way. Again, any decision on sanction is a matter for the Court.

6. Were the actions and activities of the Rector in relation to the period following the Statement compatible with her obligations, by reference to the best interests of the University and the protection of the reputation of the University?

6.1 The reaction to the Statement came quickly, both very supportive and very critical. Ms Maris responded in different ways.

- 6.2 In three communications following the Statement, Ms Maris included an acknowledgement and an expression of regret for the distress caused, but these were qualified by justifications, and I do not take anything substantive from them.
- 6.3 Much activity took place on social media. In four respects, I consider that social media posts by Ms Maris were inappropriate, contrary to the interests of the University and contrary to her obligations as a member of Court:
- 6.3.1 Ms Maris posted a message encouraging people to join a campaign to support her, stating “let’s make it harder for [the University]”. As a member of the governing body, she ought not to have sought support for a campaign, in which she had an interest, directed against the University.
 - 6.3.2 It was an error of judgement to post content from a controversial Palestinian activist, apparently in response to a statement from the Jewish Society. Ms Maris ought to have known that this would exacerbate a difficult situation.
 - 6.3.3 It was inappropriate to post on Instagram a message including the words “I don’t hate Jewish people. Please stop being weird.” It was insulting and discourteous.
 - 6.3.4 In the exchanges following the Statement, Ms Maris failed to respond to those who criticised her. In relation to such people, her social media approach was combative and hostile. There was no willingness to defuse tension or to engage.
- 6.4 Further, as a member of Court, Ms Maris was obliged to treat members of the University with courtesy and members of the public with respect. Some of her social media posts did not meet that standard.
- 6.5 Ms Maris’ social media activities in this period were very ill-judged. It was abundantly clear that tensions in the University were running very high. She did not try to defuse the tension. Instead, she tried to increase the pressure. She appears to have closed her eyes to the upset and to have lost sight of the responsibilities which the Rector has to all students, and to the good of the University. She dismissed the negative reactions of others, seeing no causal connection between her activity and their distress.

Conclusion in relation to period following the Statement

- 6.6 The interests of the University are the same or similar to those relevant to the Statement. Whilst it is a matter for Court, it appears to me that, in this context, there is a high priority for avoiding causing distress and division.
- 6.7 Taking account of all factors, I consider that Ms Maris did not act in the interests of the University.
- 6.8 The social media posts are different in character to the Statement, which expressly recognised that some people might disagree. Those gestures towards understanding are almost entirely missing from the subsequent exchanges.
- 6.9 In contrast to the Statement, in respect of which Ms Maris has a reasonable basis to claim that it was intended to support at least some students, and that is a legitimate factor to weigh in the balance, I do not think that the same is true of most of her social media posts. Apart from some re-posting of other content, most of Ms Maris’ posts are about her.
- 6.10 I recognise that social media fora do not lend themselves to reasoned, respectful discussion, and that some messages aimed at Ms Maris were hostile,

offensive and worse. Ms Maris owed duties of courtesy and respect and some of her posts did not meet that standard.

- 6.11 The risk of reputational damage to the University does not arise in the same way in relation to the social media activity as it does to the Statement. I do not consider that this issue requires to be considered separately to the issues of best interests and the duty of respect.
- 6.12 I do not consider that it is reasonable to criticise Ms Maris for not holding meetings or surgeries after the Statement was issued.
- 6.13 In summary, my view is that the social media activities were contrary to the best interests of the University and that Ms Maris was in breach of her obligations as a member of Court and as a charity trustee. She was also, in my view, in breach of her duty to act with courtesy and respect.

Social media activity in the period following the Statement: sanction considerations

- 6.14 If the Court is satisfied that there is a breach, I suggest that dismissal would be a disproportionate response.
- 6.15 The social media messages were very ill-judged, especially in view of the existing tensions. However, looking at the messages themselves, they are not, in my view, of the most serious kind. They were not sustained over a long period and I am not aware of any recent repetition. The messages did not include overtly abusive language and, to an extent, there was, in general terms, provocation from others.
- 6.16 It is important for the Court not to seek to hold Ms Maris to an excessively high standard, relative to other Rectors.

7. Activities in the period after 15 December 2023: protests

- 7.1 I have assessed the facts relevant to the period up to 15 December 2023 and have given my views in relation to those. I make general observations in relation to activities since that date, specifically the protests which take place each Wednesday outside College Gate, organised by students involved in the Socialist Workers' Party. There is often chanting, including, routinely, the slogan "from the river to the sea, Palestine will be free." Ms Maris regularly attends these demonstrations.
- 7.2 I refer to these because I consider that, to the extent that the Court needs to work out how best to approach future steps, it should be aware of this information. It would be artificial to ignore the continuing protests relating to Gaza.
- 7.3 The Court may wish to keep in mind these points:
- Freedom of expression and freedom of assembly are protected rights and similar considerations apply as in the case of the Statement.
 - Attending protests may be within the scope of a Rector's proper activities, but visible association with a specific and controversial cause may create a risk that the Rector is not seen to be accessible to all students.
 - The chant "from the river to the sea" is controversial. Ms Maris does not accept that it conveys the message that Israel should not exist. Other people do object on the basis that it strongly connotes an offensive message which, in the eyes of some, is also antisemitic.

8. Further observations

- 8.1 My report deals with *actions and activities*, in the specified period, and their compatibility with the obligations to which the Rector is subject. My conclusions relate to those matters.
- 8.2 It is also apparent to me that it is important to understand attitudes and views, and that relationships have been damaged. With that in mind, I make further observations with a view to assisting the Court in informing any future process.
- 8.3 Ms Maris has firm political convictions in relation to Gaza. She is strongly convinced that her pro-Palestinian advocacy supports the interests of some students. She has support, from some within the University, and beyond, though I cannot quantify that.
- 8.4 The robustness of Ms Maris' approach seems to preclude any willingness to accept that there may be validity in an opposing point of view.
- 8.5 The intensity of Ms Maris' political convictions also appears to result in an inability or unwillingness to accept that other people may be distressed or upset as a result of her activism.
- 8.6 Ms Maris does have a concern for the welfare and feelings of students in St Andrews who are Palestinian or who support the Palestinian cause.
- 8.7 It is a concern that Ms Maris sees and responds to one group who are distressed, but dismisses, and even disparages, the distress of another group.
- 8.8 It is not possible to say at present whether students have been inhibited from seeking the Rector's assistance. However, the Rector has responsibilities to all students, including in sensitive situations. There is a risk that some students will not feel able to speak to the Rector. This is one aspect of polarisation and, whilst it is not helpful or fair to say that this is entirely a situation of Ms Maris' making, it is a live concern and must be addressed.
- 8.9 Ms Maris considers that she can offer support to all students, and has told me that she is willing to do so. She observes that those who are not comfortable with her can find support elsewhere. She also believes that her advocacy for Palestine does not preclude her carrying out work on other issues.
- 8.10 There is evidence of Ms Maris' care and concern for students in the past, in particular in work in which she was engaged as Rector's Assessor.
- 8.11 There appears to be a long way to go in rebuilding trust and confidence. It will be important to acknowledge what has happened. Ms Maris has told me that she would take the same decision again and will not apologise.
- 8.12 In general, the formal framework within which the Court operates gives a good structure within which the Rector and other Court members can work together.
- 8.13 The recent experiences for Ms Maris have been challenging and in some respects upsetting.
- 8.14 There will be significant work involved in finding the right approach.

MORAG ROSS, KC

UNIVERSITY OF ST ANDREWS

INDEPENDENT INVESTIGATION

REPORT

MORAG ROSS, KC

This report is provided to the University Court. It is confidential and must not be copied further.

OVERVIEW

1. Introduction		
		Page
Introductory comments	1.1 – 1.3	4
The procedural context and the purpose of the report	1.4 – 1.11	4
The wider context	1.12 – 1.15	5
Methodology	1.16 – 1.27	6
2. The factual background		
Introductory comments	2.1 – 2.3	8
Period (i) – prior to 21 November 2023	2.4 – 2.28	8
Period (ii) – 21 November 2023 to 15 December 2023	2.29 – 2.46	13
Period (iii) – 15 December 2023 to date	2.47 – 2.53	16
Reactions to the Statement: general observations	2.54 – 2.60	18
3. The Statement	3.1 – 3.15	19
4. The legal and governance context and the framework for addressing the questions		
Introductory comments	4.1 – 4.3	22
The role of the Rector	4.4 – 4.20	23
The responsibilities of members of Court	4.21 – 4.30	25
The responsibilities of charity trustees	4.31 – 4.37	27
Freedom of expression	4.38 – 4.47	29
Other legal issues: academic freedom	4.48 – 4.49	31
Other legal issues: Equality Act 2010	4.50 – 4.56	31
The legal context: drawing the issues together		
What are the relevant obligations?	4.57 – 4.58	34
Political views, controversial views and impartiality	4.59 – 4.64	34

Private or individual views and the role of the Rector	4.65 – 4.66	36
Can the Court restrict Court members' freedom of expression?	4.67 – 4.68	36
How may the Court restrict Court members' freedom of expression?	4.69 – 4.70	36
What steps should the Court take in decision-making?	4.71 – 4.74	37
How does the Court assess the interests of the University?	4.75 – 4.82	38
How does the Court assess what might be likely to bring the University into disrepute?	4.83 – 4.86	39
5. Were the actions and activities of the Rector in relation to the Statement compatible with her obligations, by reference to the best interests of the University and the protection of the reputation of the University?		
Introductory comments	5.1 – 5.3	39
Ms Maris' reasons and justification for the Statement		40
- Accuracy and justification	5.4 – 5.9	40
- Observations in relation to antisemitism	5.10 – 5.19	41
- Consistency and public statements	5.20 – 5.32	43
- Support for students	5.33 – 5.36	46
The advice given to Ms Maris before she issued the Statement	5.37 – 5.44	47
Could the University have refused to issue the Statement?	5.41 – 5.45	48
The impact of the Statement on students and staff	5.46 – 5.51	49
Analysis and conclusion in relation to the Statement: the interests of the University	5.52 – 5.61	50
Analysis and conclusion in relation to the Statement: bringing the University into disrepute	5.62 – 5.65	52
The Statement: sanction considerations	5.66 – 5.67	53
6. Were the actions and activities of the Rector in relation to the period following the Statement compatible with her obligations, by reference to the best interests of the University and the protection of the reputation of the University?		
Introductory comments	6.1 – 6.5	53
Apologies, non-apologies and expressions of regret	6.6 – 6.11	54
Responses on social media	6.12 – 6.21	55
Analysis and conclusion in relation to social media activity in the period following the Statement: the interests of the University and the duty of respect	6.22 – 6.28	57
Analysis and conclusion in relation to social media activity in the period following the Statement: bringing the University into disrepute	6.29	58

Social media activity in the period following the Statement: sanction considerations	6.30 – 6.33	59
Period following the Statement: further considerations	6.34	59
Meetings	6.35 – 6.36	60
Surgeries and other routine Rectorial activities	6.37	60
7. Activities in the period after 15 December 2023: protests	7.1 – 7.6	60
8. Further observations	8.1 – 8.23	61
Annex A: terms of reference		67
Annex B: summary – relevant Charity Commission guidance applicable in England and Wales		69

1. Introduction

- 1.1 The University of St Andrews University Court asked me to conduct an investigation into the actions and activities of the Rector, Stella Maris, in connection with a communication issued by her on 21 November 2023.
- 1.2 That communication took the form of a statement headed “Call for Immediate Ceasefire: Rector’s statement on the Israeli-Palestine Conflict”. It was sent to all students using the Rector’s official University email account. I refer to it in this report as “the Statement”.
- 1.3 In this report, references to ‘the Rector’ are to the holder of that office in the generality. Where I refer to the present Rector, Ms Maris, I do so by name.

The procedural context and the purpose of the report

- 1.4 At the outset of my investigation, I agreed terms of reference with the University and these are contained in Annex A.
- 1.5 The final paragraph of the terms of reference is as follows:

The investigation will provide advice to the Senior Lay Member and Court’s Governance and Nominations Committee on the compatibility of the Rector’s actions and activities with the responsibilities and standards placed on her as a member of Court and as a Trustee of the University, in order for the Committee to make recommendations to Court on any actions deemed appropriate. The investigation should complete and report as soon as possible, recognising the urgency of the situation.

- 1.6 This report is provided to the Senior Lay Member of the University Court and to the Court’s Governance and Nomination Committee. Its purpose is to inform and advise them in relation to these matters.
- 1.7 This is not an employment dispute. Nor does it arise as a result of a formal complaint. Matters having come to the attention of the University Court, that body has determined that the Senior Lay Member should be provided with advice, to enable him to make recommendations to Court through the Governance and Nomination Committee in accordance with the process set out in part 1.10 of the Court Handbook. This makes provision for disqualification from membership of Court. There are no detailed provisions specifically relating to dismissal. It is a matter for the Senior Lay Member and the Governance and Nominations Committee, and is then subject to a resolution to be passed by a simple majority of members present at the relevant Court meeting.
- 1.8 I am concerned with (a) the Rector’s role as a member of Court, and (b) the Rector’s role as a charity trustee. These specific roles are, in some ways, distinct from the other very important role which the Rector has in relation to the welfare of students and the representation of their views. The ability of the Rector to fulfil those more general responsibilities may have a bearing on the specific duties which are the focus of this report.

- 1.9 I am not asked to consider the response of the University executive. This report is concerned with the actions and activities of the Rector. I must record that the strong view of Ms Maris is that the actions of the University in responding to the Statement should also be investigated. That is not the purpose of this report. However, in order to understand Ms Maris' actions in context it is important that I am able to look at the whole circumstances, including the approach taken by the University.
- 1.10 The terms of reference for this report do not have date-specific time parameters but, as a matter of fairness, and also in order to avoid a situation in which I am having to monitor and analyse events in real time, it is important to be clear about temporal scope. Following her election in October 2023, Ms Maris formally took up office on 1 November 2023, but she began to engage in discussions about making a statement on about 16 October 2023. That is the starting point. The Statement was issued on 21 November 2023. The period afterwards is also relevant, but that ended on 15 December 2023, that being the date of the meeting of the University Court at which it was decided that there should be an investigation. My focus is on Ms Maris' actions and activities during those periods. However, I do not think that it is possible to ignore subsequent and ongoing activities and I provide my views in relation to those.
- 1.11 I am independent of the University of St Andrews. I am not a graduate of the University and I have no other professional or immediate personal connection with the institution.

The wider context

- 1.12 The situation in Gaza is only the latest development in a long, complex and sometimes traumatic history, often marked by bitter and seemingly intractable hostilities. There has been, and there continues to be, immense suffering as a result of the present conflict. The immediate, and worst, consequences of that war are, of course, felt by those in the region who have lost family members or who in other ways experience deep pain. That is part of the context for this report, but it is not within the scope of my work to attempt to analyse or to comment on the current political, military or humanitarian situation in Gaza or Israel.
- 1.13 There are consequences in this country too, where the central dispute has, perhaps uniquely, a capacity to generate satellite disputes at speed and with ferocity. Discussion about war leads to debates about antisemitism and Islamophobia, which prompt complaints about institutional bias, among many other things.
- 1.14 The University is far from alone in having to address these questions at an institutional level. Organisations of different sizes and kinds have found themselves dealing with complaints, whether formal or not, in environments where there is division and hostility and having to work out, often in haste, what institutional response is appropriate. Issues of freedom of expression, and often also freedom of thought and freedom of assembly, have to be considered.

1.15 In this case, though, the nature of the role of the Rector adds to the complexity. The Rector is not an employee and is not subject to any other contractual obligations. It is an elected office. The Rector has responsibilities both to the University Court, and serves formally as its president, and to the student body as a whole.

Methodology

1.16 In carrying out my work, I have considered both written material and also information and views given to me in a series of meetings with relevant individuals. At the beginning of the exercise, the University provided me with a bundle of documents, which contained or identified most of the material essential to my investigation. In addition, I sought and obtained further material, in particular correspondence between the Rector and other people in the period prior to the Statement, as well as some records of discussions following the Statement. A great deal of this correspondence consisted of messages posted on Microsoft Teams. In some cases, the records are in the form of Instagram posts.

1.17 I am aware that not all social media communications are retained and stored and that there will be many social media comments on these issues which have not been brought to my attention. Whilst I have seen some of the relevant online commentary, I have not carried out an exhaustive trawl through social media for information.

1.18 In order to gain a deeper understanding of the circumstances and the issues arising I arranged a series of meetings. For the most part, these took place in St Andrews and in person. I have had four meetings with the Rector, two in person and two online; I met her at the beginning of the process and again at the end.

1.19 As well as speaking to the Rector, I also held meetings with:

[illegible]

1.20 At each meeting, I was accompanied by a professional note-taker. Those people, [REDACTED], are also independent of the University. They prepared transcripts of the meetings. After each meeting, I prepared a summary of the points covered in discussion and agreed its terms with the individual in each case. I shared and discussed these with Ms Maris.

1.21 The people with whom I spoke are all closely connected, in different capacities, with the University. I did not consider it necessary or appropriate to issue an open call for submissions. The scope of this investigation is relatively narrow; it is not an inquiry into wider issues. I considered, carefully, whether I should seek information from sources external to the University and I decided that that would not be necessary. I am satisfied that the information that I have from within the University is sufficient to allow me to address the specific matters before me, and, in any event, I am required to complete my report as soon as possible, recognising the urgency of the situation.

1.22 I have also carried out my own independent legal research, focusing in particular on

- University governance, especially in relation to the responsibilities of a Rector;
- Charity trustees' duties and responsibilities; and
- Freedom of expression.

1.23 I am grateful to [REDACTED] the Court Office for their thoughtfulness and efficiency in assisting me to make practical arrangements for meetings.

1.24 In concluding my work, I thought it important to give relevant persons, specifically Ms Maris, the Convener of the Governance and Nominations Committee and the Vice-Principal (Governance), the opportunity to read my draft findings and conclusions and to provide any necessary factual corrections, and I have done so. I have responded to a number of questions from the University seeking clarification. No changes made in that process affect the substance of the report.

1.25 I wish to record one matter relating to my meetings with student from the Jewish community. I wanted to hear directly from Jewish students about their perspectives, rather than relying solely on written statements and emails, and I took steps [REDACTED] to arrange a meeting. Three Jewish students attended. In advance of that meeting, they raised with me concerns about confidentiality and the risks which they considered they might face were they to be identified. We discussed these matters further when we met. They told me about other students who did not want to be named and did not want to come to the meeting with me. They expressed concerns that confidential information might be compromised were I to disclose their identities within this process. They also spoke about feeling unsafe.

1.26 I have given careful consideration to how best to respond to these concerns. I explained to the students that, in order for me to conduct a fair process, I needed to be clear about my sources of information, including in any discussions with the Rector. I have taken account of the information these students have given to me, and I have conveyed the gist of that to Ms Maris, without disclosing identities. I do not name those students in this report.

1.27 More generally, it is relevant to note that there is a palpable sense of fear and anxiety amongst some students which is worrying and which deserves to be taken seriously.

2. The factual background

2.1 Stella Maris studied at the University [REDACTED] and graduated in June 2023. She served as Rector's Assessor for two and a half years, during the period when Leyla Hussein was Rector. She gained a familiarity with aspects of the Rector's role and with the functioning of the University Court. Ms Hussein was, for the most part, not an active Rector and, as a result, Ms Maris carried an unusually heavy burden as Rector's Assessor.

2.2 Ms Maris was elected as Rector on 13 October 2023. She took up her post on 1 November 2023.

2.3 The relevant factual background falls into three parts: (i) the period prior to the issuing of the Statement on 21 November 2023; (ii) the period between 21 November and Special Meeting of the University Court on 15 December 2023, at which meeting the Court decided that there should be an investigation; and (iii) the period since 15 December 2023.

Period (i) – prior to 21 November 2023

2.4 On 9 October 2023, and in response to the events of 7 October 2023 in Israel and Gaza, a joint statement was issued by Barry Will, Students' Association President, Caitlin Ridgway, Director of Wellbeing and Equality, Students' Association, and Rebekah Widdowfield, Vice-Principal (People and Diversity). That communication was brief and made no political comment. It was clearly intended to address immediate welfare concerns.

2.5 In the days and weeks following 7 October 2023, Jewish students in St Andrews experienced a greatly increased sense of anxiety and there were separate incidents which affected some Jewish students. I have been told of one incident, on or about 11 October 2023, in the street, in which a female student wearing a Star of David necklace encountered a man who swore "F*** Israel" and ripped off her necklace. I understand that the University strongly encouraged the student to report this to the police but that did not happen. The student also declined to make any formal report to the University, with the result that, apart from offering support to the individuals involved, the University were unable to take any further action. [REDACTED]
[REDACTED]
[REDACTED]

2.6 These are indicative of heightened tensions, although it is important to note that in the first case there is no evidence that the perpetrator was a student and in the second they clearly were not.

- 2.7 I was also told about hostage posters, featuring individuals held captive in Gaza, that had been removed, although in at least some cases that may have been for unrelated reasons. The Jewish students whom I met told me that some hostage posters in indoor spaces had been defaced.
- 2.8 Ms Maris has also told me that, during this period, there were students with pro-Palestinian views, including Muslim students, who felt isolated, ignored and fearful. From their perspective, and that of Ms Maris, the University did not do enough to support them at this difficult time, though that is disputed. I have also heard about some students and members of University staff who have family in Gaza. For them, this has clearly been a time of deep anguish.
- 2.9 On 13 October 2023, a vigil took place, primarily for Jewish students, to commemorate lives lost on 7 October 2023 and to remember all affected.
- 2.10 Shortly after her election, Ms Maris began to consider the possibility of issuing a statement on the situation in Israel and Gaza. She first mentioned that in a Teams message sent to Mr Scott, the Vice-Principal (Communications), on 16 October 2023. In a series of messages on 16 and 17 October 2023, Ms Maris and Mr Scott discussed the issues involved in making a statement about Gaza. Mr Scott warned Ms Maris: “Don’t underestimate how raw and polarised feelings are out there.” Ms Maris commented on what she perceived to be “a lack of response to what Palestinians are going through” and said “I think a balanced approach is possible without angering both sides.”
- 2.11 On 19 October 2023, the Principal and the Students’ Association President sent a joint email to all staff and all students. That communication acknowledged the distress and hurt caused by the conflict and emphasised the need for the University to remain a safe and supportive environment for all. It also referred to the “troubling rises in antisemitism and Islamophobia across the UK” and underlined a commitment to uphold values of “unity, inclusivity, and respect for all cultures and beliefs”.
- 2.12 Between 31 October 2023 and 2 November 2023, Ms Maris shared with Mr Merrill, the Vice-Principal (Governance) and Mr Scott drafts of an introductory email which she intended to send to all students. It contained a brief and politically neutral reference to the Israel-Palestine conflict. Both Mr Merrill and Mr Scott warned her not to include that, with Mr Scott advising her to “steer clear of saying anything on Israel/Gaza until you think you can make a more substantive statement.”, and “Stay out of it until you think you can guarantee that you won’t be accused of favouring one argument over another. That may be weeks away.”
- 2.13 Ms Maris’ introductory email was issued on 2 November 2023. It did not contain any reference to Israel / Palestine.

2.14 On 6 November 2023, a second vigil was held, a vigil for Palestine. It was organised by various student societies, working with the University.¹

2.15 Shortly after the vigil on 6 November 2023, the first draft of the Statement was prepared. Thereafter there were multiple exchanges of emails, Teams messages and other communications. Ms Maris consulted a large number of people. Among others, she communicated with:

- The Vice-Principal (Governance), Alastair Merrill. In a series of meetings and messages between 31 October and 21 November, and in discussion, Mr Merrill repeatedly urged caution.
- The Vice-Principal (Communications), Niall Scott. There was an extended exchange of messages between the Ms Maris and Mr Scott throughout November. Mr Scott expressed robust criticism of the proposed draft.
- The Principal. The Principal offered criticism of an early draft and strongly counselled against the course of action the Ms Maris proposed to take.
- [REDACTED]
- [REDACTED] echoed the concerns raised by the Principal.
- Representatives of the University of St Andrews Jewish Society ("JSoc"). The Rector first contacted JSoc on 7 November 2023. She had been advised to do so by the Vice-Principal (Communications). The JSoc representatives did not want to support the statement but some discussions took place. Ms Maris sent the JSoc representatives a 'final draft' but this was in markedly different terms to the version issued. Ms Maris did not seek further engagement with the JSoc representatives.
- Students involved in groups and societies supportive of the Palestinian cause, including the Middle East and North African Association, the St Andrews Muslim Students' Association and the St Andrews University Amnesty Group. I understand that, broadly, these individuals and organisations were very much in favour of Ms Maris making a statement about Gaza.
- Members of University staff supportive of the pro-Palestinian position.
- [REDACTED]

2.16 I have seen what I understand to be a substantial proportion of the pre-Statement correspondence, and, to the best of my knowledge, all of the communications with senior University staff. I have also seen correspondence with representatives of the Jewish Society and with some other students, including the [REDACTED]. I have not seen all emails exchanged with all students who were consulted and it is not entirely clear precisely how many individual versions of the draft there were. Much of the information that I have about the views that other people had in the period before the Statement was issued comes from written exchanges at the time. In the course of my investigation, I also spoke to some of the people who had sight of at least some of the drafts.

¹ A report on this vigil from 'The Saint': <https://www.thesaint.scot/post/calls-for-ceasefire-made-at-vigil-for-palestine>

2.17 For the purposes of this report, it is unnecessary to trace the various ways in which the draft of the Statement changed over the period leading up to 21 November 2023 or to interrogate exactly what alterations were made in response to which comments. In general, though, Ms Maris responded to a number of criticisms which were made of the length and writing style of the initial draft. More substantially, however, senior people within the University who saw the draft expressed serious reservations about the wisdom of issuing a statement which lacked balance and which favoured one side in the conflict over the other. In her emails defending her position on the draft, Ms Maris made it clear, repeatedly, that she would not pull back from calling for a ceasefire. In a lengthy email sent to the Principal on 16 November 2023, Ms Maris stated, among other things:

“Failing to call for a ceasefire, in my opinion, would be ignoring our duty to the Palestinian members of our community. The side of humanity must represent all who are suffering. The disproportionate consideration given to those who may disagree with a cessation of violence, compared to those who are directly affected by it, does not align with my understanding of our institutional values. Continuing the siege in Gaza is a choice, and to suggest that the only resolution is further punitive measures against a community already suffering dehumanization and loss is something I find deeply troubling. I believe it is crucial to advocate for an end to violence, even if it might be perceived as naïve by some.”

2.18 She explained, also, that:

“My intention is to honour the numerous calls from Palestinian and Muslim members of our community who feel dehumanized and ignored.”

2.19 From the correspondence which I have seen, the person who engaged with Ms Maris most regularly and extensively in the period prior to the statement was the Vice-Principal (Communications). He did so in a series of Teams messages beginning on 16 October 2023. At that point, and from a message on that date, Ms Maris appeared to be contemplating an approach “focusing on the humanity and perhaps fundraising efforts and awareness”. As the correspondence continued, and Ms Maris shared various drafts, Mr Scott provided detailed and robust advice. He warned Ms Maris, in relation to an early draft, that her text contained several triggers which would lead to Jewish students claiming that she made them feel unsafe. Later, on 13 November 2023, Mr Scott provided this general advice:

“Our first job as leaders is to look after the people in our own community and support them in ways which encourage peace and respectful dialogue. We all hold personal views of this conflict and its rights and wrongs, but none of us has the luxury of being able to express these when we take on the responsibilities of leadership, because, in the current febrile environment, calling for a ceasefire is an overtly political act. The University has stayed away from the politics of this because it must do that to maintain a space where everyone feels they can speak up. You are a leader now, you have those same solemn responsibilities to consider not just what you say, but the effect of what you say. By putting out that message as Rector [...] you will be making a political statement, you will be seen to be taking a side. I think our priority here in St Andrews has to be to act in ways which unite our community as much as possible, actions and words which do no harm, to signpost to sources of support and information, and to remind everyone that if we truly value peace, we have to be prepared to make sacrifices ourselves. In our case,

that means not doing or saying things which can be presented in that way. I think you would have an amazing role to play, for example, in trying to broker a round table of our community leaders to see if we might reach a consensus on calling for a ceasefire. But to do that, you have to appear studiously neutral and compassionate to all views which don't accord with your own."

2.20 On 20 November 2023, in relation to a later draft, Mr Scott warned:

"I know from a meeting today with [REDACTED] that they have seen your draft, shared with them by [REDACTED] and are upset by it and believe it will add to feelings of fear and uncertainty in St Andrews. This is a time for quiet, calm, not taking positions, not making statements which cause unnecessary upset and concern. I'm afraid that calling for a ceasefire but not calling for the release of hostages, in a message which seems to deliberately avoid naming Hamas, will be seen as anti-Israel and anti-Jewish. I am pretty sure that is not what you intend."

2.21 Ms Maris' immediate response was in these terms:

"Balanced discourse isn't about it only being OK to express a view if it is one that aligns with one group of people. My perspective is not inherently harmful and I believe the pushback is an effort to weaponise potential offence without substance."

Until 20 November 2023, Ms Maris continued to engage and made some changes, but throughout she adhered to her essential position.

2.22 The Principal and the Vice-Principal (Governance) also offered clearly expressed criticism. Ms Maris shared a substantially revised version with Mr Merrill on the evening of 20 November 2023. Then, on 21 November 2023, Ms Maris sent a further revised email to Mr Merrill. For the first time, the words 'genocidal' and 'apartheid' were used. Shortly after receiving Ms Maris' email on 21 November 2023, he responded in these terms:

"Have just read your latest redraft, and I have to say I am very concerned at the new, strident and biased tone that you've inserted. Just a few examples - Phrases such as "genocidal" appear deliberately provocative and intended to cause controversy, and your reference to the release of the hostages will strike many (well, it strikes me at any rate) as dismissive and uncaring. You refer to 240 individuals "reportedly held captive" but treat the casualty figures in Gaza as fact. Whilst the "final draft" you shared with me yesterday was very long, it was considerably more balanced than this version and I am wondering what has prompted this shift of tone. I appreciate that this is your statement to the students, and we will release it for publishing, but I would encourage you one more time to reflect on how many will interpret this communication and its blatantly anti-Israeli tone."

2.23 In one of her responses, Ms Maris said that she would "edit the language around the hostages". Mr Merrill replied:

"Suggest you do so. We'll hold off releasing. Appreciate you are an independent voice, but, speaking frankly, this email doesn't read as an independent statement but as something that has been written for you by a lobby group for one particular faction."

2.24 I refer to these excerpts from the advice provided to illustrate the tone, indeed forcefulness, of the advice. In the event, the warnings given, especially in relation to the backlash that would follow, proved to be entirely accurate.

2.25 It was not only senior members of University staff who had concerns. I spoke to [REDACTED]. [REDACTED] was and remains very supportive of Ms Maris. [REDACTED] supported the call for a ceasefire and believed that Ms Maris ought to make a statement. [REDACTED] had mixed feelings about the drafts which [REDACTED] saw, which did not include the final draft, and was aware of the need to be sensitive to lots of different viewpoints. [REDACTED] had experience of being very careful about what was said at the vigil and how it was conducted because [REDACTED] and others were aware of the tensions. [REDACTED] agreed with the sentiment but had reservations about the execution. [REDACTED] told me that [REDACTED] was not surprised by the reaction and that [REDACTED] could see what was upsetting about the Statement to a lot of people.

2.26 [REDACTED] with whom I spoke also had concerns. [REDACTED] Students' Association had decided to take the stance that they were on the side of humanity. That was consistent with the University position. The Students' Association also communicated to students that they would be there for everyone and gave pointers to sources of support. [REDACTED] saw one version of the Statement in advance, which was different to that sent out. When [REDACTED] read it, [REDACTED] knew that there would be problems and that it would cause a divide in the student body. When the Statement went out and he saw the different language being used, [REDACTED] knew instantly that it would cause huge problems.

2.27 Ms Maris has explained to me that numerous people did support her, both in the decision to make a statement, and in relation to its tone and content. I understand that she took extensive soundings from supportive groups and that there was a survey within the St Andrews Muslim Students' Association. I do not have direct information about that, or about the number of people involved.

2.28 On 21 November 2023, the Rector issued the Statement using the 'All Students' email account. Within and appended to the Statement there are a number of links to external sites. I consider the terms of the Statement at part 3 below.

Period (ii) – 21 November 2023 to 15 December 2023

2.29 Following the issuing of the Statement, there was a great deal of interest both on social media and from the press.

2.30 On 23 November 2023, a group of "alumni, students and friends of the University of St Andrews" issued an open letter critical of the Rector's Statement. It called on Ms Maris to retract her remarks and to apologise, and referred to her abuse of position as Rector.

2.31 On 24 November 2023, the Principal and the other members of the senior leadership team, who were aware that they had to respond to the increasing media interest, issued a statement to explain the University's position. That statement acknowledged Ms Maris' free speech rights. It also expressed dismay

“that the Rector, on this occasion, put her right to freedom of expression ahead of her duty to represent all students, and to be concerned for their welfare”. Later on 24 November 2023, the Telegraph published an article “St Andrews University rector urged to apologise or quit after accusing Israel of ‘genocide’”.

2.32 On 25 November 2023, the Rector issued a LinkedIn post, responding to the Telegraph article, in which she resisted the criticisms made and maintained the stance taken in the Statement. Over the course of the day, articles appeared on the BBC website, the Herald website and in the Saint student newspaper.

2.33 Ms Maris’ LinkedIn message was lengthy. She explained her understanding that her references to ‘genocide’ and ‘apartheid’ were supported by international human rights organisations and were not an attack on Jewish people. She expressed regret for not referring to two publicly reported instances of antisemitism in St Andrews. She also included these two, separate, paragraphs:

“To the Jewish community who feel unsafe due to my words, I am deeply sorry. It was never my intention to cause fear or to celebrate such feelings. I am committed to seeing a future where human rights are equally respected across the region. Palestinians, like all people, deserve to be treated with dignity and respect, free from dehumanization and association with terrorism.

In summary, I maintain my stance and will not apologize for speaking up about these issues. The conflation of my statement with antisemitism is unfounded, and I will continue to advocate for peace and human rights for all.”

2.34 On 26 November 2023, an open letter supportive of the Rector was organised by a group of students and began to circulate. It gained a lot of signatures very quickly. On the same day, the Jewish Society issued a statement critical of the Rector. Ms Maris posted on her official Instagram account a story with a link to the students’ open letter. She also shared a post with a quote from Mohammed El Kurd, a Palestinian activist. Underneath, she posted:

“I will not entertain efforts to twist my words and sentiments. I am not anti-semitic. I am not going to be intimidated into silence.”

2.35 On the same day, there was a social media exchange between a University student and Ms Maris, which began with the student’s comment:

“Interesting that you can reply to comments on LinkedIn but every student, parent and concerned member of the public who has written to you is yet to hear a single response to any of their emails.”

Ms Maris responded in two posts:

“I refuse to engage with those who disrespect me and my message of peace. I will not entertain any further weaponisation of antisemitism against me because it has no basis. I have denounced antisemitism, made myself very clear in my initial statement and will not answer to people’s extrapolations or assumptions about what I did or didn’t mean. My words stand for themselves, it is not my job to educate the masses calling for my resignation, it is to represent the students of St Andrews, something I am, and intend to continue, doing.”

and

“You can let them know that they won’t receive a response from me so they might as well stop.”

- 2.36 The Scotsman published an article headed “St Andrews University ‘utterly dismayed’ over new rector’s Israel ‘genocide’ claim”. The Jewish Society posted on its Instagram account and Ms Maris responded as follows:

“My statement speaks for itself. I will not have antisemitism weaponised against me. I will not interact with this post after this message. The hate and abuse I have received has been truly shocking, but you will never intimidate me into not speaking truth to power.”

- 2.37 Members of staff at the University published an open letter with 124 signatures, expressing support for Ms Maris and criticising the open letter from alumni, students and others.

- 2.38 On 27 November 2023, the Principal and the Rector held a meeting and then issued a brief joint message in which, among other things, they stated that they had agreed to a process of mediation. That joint message included the following:

“The Rector wishes to acknowledge the distress which elements of her message have caused to some students, staff and alumni in the St Andrews community. She also wishes it to be known that she will advocate for the voices of Palestinian, Jewish, BAME and other groups of students affected directly, and indirectly, by the war in Gaza and Israel to be heard.”

- 2.39 On the same day, articles were published in the Times and the Jewish News. On her official Instagram account, Ms Maris posted a message, referring to the open letter organised by students in her support:

“6775 signatures on the open letter so far!! Thank you all so much.”

Ms Maris’ Instagram posts on that day included a response to a message on the Jewish Society account. The response read “I Don’t Hate Jewish People Please stop being weird.”

- 2.40 The Telegraph published a further article on 28 November 2023, with the headline “Jewish students at St Andrews accuse Rector of ‘fostering hate’ over Israel genocide claim”.

- 2.41 On 29 November 2023, there was a further article in the Times. Social media activity included a number of posts on the Rector’s Instagram referring to the numbers of signatures in the supportive open letters.

- 2.42 On 2 December 2023, Ms Maris put further posts on her Instagram account inviting support for the open letter. She wrote:

“You don’t need to be a student to sign but we need more student voices on there so please encourage others to sign. [...] These are the voices the university is refusing to acknowledge. Let’s make it harder for them.”

- 2.43 On 6 December 2023, the Principal and the President of the Students’ Association issued a joint statement underlining the need for tolerance, inclusivity and compassion.
- 2.44 During this period in late November and early December, in addition to the published open letters, there were communications sent directly to the University. These included letters from the British Committee for the Universities of Palestine, an organisation which campaigns for academic and cultural boycott of Israel, and the British Society for Middle Eastern Studies. I understand that the Principal received altogether 116 emails, approximately half in support of Ms Maris and half critical of her message. I have considered a sample of these. In the same period, Ms Maris also received a very high volume of communications. Some of these were expressed in very intemperate terms and some messages, although overall a small proportion, were abusive. Some messages directed to or referring to Ms Maris were very offensive, including some which expressed racist views. I have seen some, but not all, of these. Ms Maris continued to post messages on Instagram and elsewhere restating her position.
- 2.45 In the same period, the University had to deal with other external consequences. As described above, there was extensive interest in the national press and social media activity rapidly gathered momentum. As well as responding to more general complaints, the Principal had to consider potential financial consequences. She explained to me that a major project plan had been put in serious jeopardy because the prospective funder, [REDACTED], had been very concerned about information relating to the University and the Statement made by Ms Maris. The Court already has information about that issue. The Principal, in particular, but also others, had to work very hard to repair damage done and to rebuild that important relationship. I understand that the anticipated funding was secured, [REDACTED].
- 2.46 The University Court held a special meeting on 15 December 2023. The Rector presented a statement to the Court, both in writing and orally. She thereafter recused herself. The remaining members of Court discussed the issues and resolved, unanimously, that there should be an independent investigation, the scope of which is reflected in the terms of reference.

Period (iii) – 15 December 2023 to date

- 2.47 From 15 December 2023, there was relatively little discussion on social media, certainly much less than in the period following the Statement. Feelings continued to run high, however, at least amongst some students and staff.
- 2.48 There is now a reasonably well-established pattern of protests being held outside College Gate on Wednesdays at 12.00 noon. These are pro-Palestinian demonstrations, which sometimes involve marching or walking around the town.

I am told that they are organised by students involved in the Socialist Workers' Party. There is often chanting, including, routinely, the slogan "From the river to the sea, Palestine will be free." I am also told that, from time to time, demonstrators chant "Yemen, Yemen, make us proud. Turn another ship around." At the peak, numbers attending were around 40 to 50. More recently, the crowds have become smaller in size, usually fewer than 20. Ms Maris regularly attends these demonstrations.

- 2.49 On 6 March 2024, a 'Free Palestine' protest took place at the University Library. A number of students with banners and a megaphone marched to and entered the Library. Library staff closed the internal entry gates and some students climbed onto the barriers. I understand that this protest was organised by student members of the Socialist Workers' Party. It was, obviously, disruptive and no doubt that was the intention. Ms Maris was present at that protest in the Library. She explained to me that she was not involved in planning it and did not know that the protestors with whom she was marching were going to go into the Library. She did not think that it was a helpful thing to do and she thought that it was not appropriate to stand on barriers. She would not generally have an issue with students deciding to occupy the front of the Library, or to occupy the lobby of the Library, if the protests were peaceful. Ms Maris also told me that she told those protesting in the Library that she did not approve and that the actions were not helpful. She explained to me:

"[...] it's really important that [student protestors] prove to the University that students can engage in protest in a way that is peaceful, in a way that gets the message across, but doesn't descend into silliness or illegality."

- 2.50 One student told me that the protestors in the Library had handed leaflets to students who were Jewish, and whom they knew to be Jewish, saying words to the effect that the leaflets were especially for them. Ms Maris did not know whether that had happened or not, and also said that it would not make sense in the context of the pro-Palestinian campaign.

- 2.51 Matters relating to Israel and Gaza have also had the attention of the University of St Andrews Students' Association. On or around 6 February 2024, a motion was brought before the Students' Association but, I understand on the basis of legal advice received, it was not debated at that time. A new motion was brought by the Students' Representative Council on 19 March 2024. It is very long and the subject matter includes: Gaza, Israel and the West Bank; proceedings before the International Court of Justice and the International Criminal Court; criticism of the Israeli state; anti-Palestinian racism, antisemitism and Islamophobia in the UK; academic freedom; communications by the Rector and communications by the Principal. It makes various statements and calls for apologies of different kinds, mostly from the Principal. I understand that no-one spoke against the motion and that it was passed. Ms Maris also told me that she was not permitted to attend the debate in person held prior to the vote. Ms Maris told me that she had been told by [REDACTED] that some students had said that they would feel uncomfortable with her physical presence, that she was not permitted to attend, and that she could attend virtually. I have also been told that

priority was given to matriculated students, which Ms Maris is not. Ms Maris considers that she was specifically excluded.

2.52 It is necessary to refer briefly to some things which have not happened. I understand that attempts were made following the Statement to arrange a meeting between the Rector and members of the Jewish Society, with the support of a senior University staff member. There were communications about who would attend. Ms Maris said that she would want to be accompanied by another person, a member of the BAME student network. That was not acceptable to the members of the Jewish Society, who had concerns about disclosing confidential information to fellow students. The correspondence that I have seen shows that Ms Maris made further efforts to meet the Jewish Society suggesting using the assistance of the University's mediation services. However, the meeting did not take place. Ms Maris also told me that, at around the same time, the Principal had made her aware that there might be an investigation. It caused her concern that continuing to communicate with people who had emailed might not be appropriate if an investigation were underway.

2.53 The Rector has a range of responsibilities in relation to student welfare and representation. Where Rectors participate in University life, the main way in which they make themselves available to those seeking their assistance is to hold surgeries. I understand that Ms Maris did not hold any surgeries in the period prior to 15 December 2023, and indeed has not organised any since. Given the discord experienced in the few weeks after the Statement, it would have been very surprising had it been possible for Ms Maris to organise any surgeries at that time, or for other routine activities to take place in connection with the Rector's usual functions.

Reactions to the Statement: general observations

2.54 Finally, it is necessary to record some general observations about reactions to the Statement, both immediately afterwards and beyond. These points summarise information given to me by several different people.

2.55 For some people in the University, the Statement was very welcome and there was an enthusiastic and positive response. Support came from individuals with pro-Palestinian views and from some organisations. For people in that position, the Statement meant that they felt validated and heard. Some staff members, individually and in groups, also expressed support for Ms Maris.

2.56 For others, the Statement was the cause of serious distress and anger. Within the community of Jewish students in St Andrews, it resulted in anxiety and fear, as well as a sense [REDACTED] that Ms Maris had betrayed their trust because the version of the Statement which was published was materially different to the draft which had been shared. In her interviews with me, Ms Maris told me, repeatedly, that some Jewish students support her. I have not spoken to any Jewish students who are in that position but in my discussion with [REDACTED] explained that the issue had divided the Jewish student community. [REDACTED] is aware that not all Jewish students agree with the position of

the Jewish Society and that some Jewish students are sympathetic to Ms Maris' views but feel unable to speak.

2.57 The Jewish students who spoke to me told me that, following the Statement, they and others have felt alone and scared. They expected that there would be an increase in antisemitism in St Andrews as result of the Statement and they told me of examples of experiences which they attributed to it and to its impact on the student body. They felt unsafe. I have heard from them about several specific examples. In respect of some of those, I have been given further information, including the outcome of follow-up enquiries. These incidents are few in number, and did not involve physical violence, but that should not be taken to suggest that the experiences are unimportant. To the best of my knowledge, no incident has led to a formal complaint against a student which has been upheld. It is important, too, to understand that some Jewish students feel more subtle effects, such as people avoiding them, or being fearful about speaking Hebrew outdoors. In addition, I have read accounts from other Jewish students which are consistent with these. They refer to feelings of fear and concerns for safety.

2.58 I have been told of one student who did not want to attend graduation in November 2023 because of the presence of the Rector. It has also been suggested to me that the experience of Ms Maris' Statement may result in Jewish people not wanting to apply to come to the University.

2.59 I have sought to understand the nature and extent of the reaction to the Statement but very much of the information is anecdotal, on both sides. It is very difficult, properly and accurately, to measure the impact of the Statement on confidence, welfare and safety overall. I have referred to the various open letters on both sides, and there has been much other email traffic. Some may be tempted to count numbers of signatures and emails for use as a test of the response but I do not think such a method would command any confidence. How, to whom and by whom open letters are circulated and signed are contested.

2.60 Several people have told me that most students at the University are not very interested in this topic and, even if the issue generated a lot of discussion in November and early December, they do not now care very much about what Ms Maris has said and done. Even if that is generally so, it is important to acknowledge that that is not the case for at least a small group of people. There is still a serious level of concern, at least amongst some students, and some of it deeply held, about the situation in Gaza itself.

3. The Statement

3.1 The Statement begins with a disclaimer.

Please note that the views and opinions expressed in this email are solely those of the Rector, independent of the University of St. Andrews. As the Rector, elected by and representing the student body, I am entitled to communicate my personal perspectives

and understanding regarding the Israeli-Palestine conflict directly to the students who elected me.

Please note that the information contained in this email is accurate as of 21st November 2023, based on my research and the latest available data. However, the situation in the Israel-Palestine conflict is constantly evolving. Therefore, I urge you to seek the most recent information and exercise due diligence before taking any action based on this email's contents. It is important to stay informed through reliable sources as circumstances may have changed since the time of writing.

This message is not issued by the University, nor does it reflect the official policy or position of the University of St. Andrews. It should be read as an independent expression of the views held by me, in my capacity as an elected representative of the students. Any concerns or issues with the content of this message should be addressed directly to rector@st-andrews.ac.uk.

- 3.2 In my discussions with Ms Maris, I sought to explore whether she saw any distinction between holding and expressing 'personal' views on the one hand and expressing the views of the Rector on the other. Ms Maris does not see a distinction. In one discussion, she told me that her approach is that she can express personal views in her capacity as Rector. However, in a separate discussion, Ms Maris also told me that there are views which it would not be appropriate to articulate as Rector. She told me, expressly, that it would be inappropriate, indeed offensive, to use the Rector's position to give voice to anti-Zionist views.
- 3.3 The final paragraph quoted above states that "this message is not issued by the University". That is true in the sense that it does not represent any official position of the University, a point also made very clear in that paragraph. But it was issued using the Rector's University email address. It came from her in her official capacity as Rector of the University. The wording used suggests that Ms Maris sees her role as being independent of the University almost to the exclusion of having any formal role or responsibility within its structure. The lack of clarity inherent in the disclaimer is perhaps unfortunate, but it reflects, to some degree, the complex nature of the role.
- 3.4 There is an inherent tension in defining the nature of the Rector's independence, which I discuss below. Whilst in some respects the role is an independent one, the extent to which it is integrated in the governance structure of the University means that it is not wholly independent.
- 3.5 However, it is made plain that the Statement does not reflect the University's official policy. That is certainly true and it is very important that that is stated.
- 3.6 The main part of the Statement begins with a description of the two vigils which took place. The text relating to the second vigil includes the phrase, introduced shortly before publication:

"following weeks of genocidal attacks by the Israeli government against Gaza"

3.7 There is then statistical information about the numbers of casualties and displaced people in Gaza. This paragraph includes, at the end, a reference to fatalities in Israel and to the number of Israeli hostages.

3.8 Thereafter, these statements appear:

“We must continue to recognize and condemn acts that are internationally regarded as humanitarian and war crimes. These include practices such as apartheid, siege, illegal occupation and collective punishment, which have been observed in the treatment of Palestinians. It is also crucial to acknowledge and denounce the actions by Hamas that qualify as war crimes, notably the taking of hostages and deliberately targeting civilians, which I have and continue to do. These actions by any party contribute to the cycle of violence and suffering and are contrary to international law and humanitarian standards. I wholeheartedly believe that the complexity and nuances of the situation are no barriers to calling out actions that harm human life and dignity. At the same time, it's essential to acknowledge the reasons behind these actions, understanding that they are rooted in decades of oppression and systematic mistreatment. This historical context is crucial for a comprehensive understanding of the current dynamics and the resultant suffering. By recognizing this, we can better appreciate the deep-seated grievances and frustrations that have contributed to the current state of affairs.

3.9 Ms Maris then calls for a ceasefire, concluding by “[unequivocally condemning] any form of bigotry, including but not limited to anti-Semitism and Islamophobia.”

3.10 A section headed ‘final thoughts’ contains extended references to Ms Maris’ own thoughts, which include anticipating that there will be disagreement.

“As we navigate these discussions, I recognize that some may disagree with the manner in which I have presented things here. While it's challenging to encapsulate the full nuance and the varying perspectives I've encountered in recent days without some contradiction, I want to be explicitly clear: my words are not intended to justify violence or dismiss the pain of any community. My aim is to highlight the potential for unity, solidarity, compassion, and action, ensuring that this does not come at the expense of anyone's safety or sense of belonging.

I must be honest about my stance, allowing myself to be guided by my commitment to preserving life and my firm stance against violence. Therefore, I take full responsibility for the sentiments expressed in this message, recognising my role as an independent voice and advocate for all students. While I acknowledge that some may not agree with my perspective, it is imperative to state unequivocally that peace is my guiding philosophy.

Further links and resources can be found here, these organisations are known for providing information, assistance, and advocacy related to the issues in the region. Amnesty St Andrews' Guide to Action for Gaza can also be found here, with more information on concrete actions we can all take to advance this call for a ceasefire.

In these times of grief and reflection, let us engage in informed and compassionate dialogue. Our goal should be to cultivate a narrative that fosters reconciliation and understanding, while also continuing to speak truth to power.

In the spirit of peace and humanity.”

3.11 The Statement is long and rather overwrought. It includes passages in which Ms Maris is at pains to underline that she takes responsibility and that she believes in peace. She acknowledges that some may disagree with her.

3.12 The Statement emphasises that people must come together and that all forms of bigotry and hatred are to be condemned and that peace is the goal. These communicate a sense of balance and recognise hurt on all sides. However, there is a clear tension between those expressions and the weight given to forceful criticism of the Israeli position, including the use of the terms ‘genocidal’ and ‘apartheid’. It is the emphasis on the latter elements that have caused the adverse reactions. In other words, the Statement is not neutral. It clearly takes the Palestinian side.

3.13 As well as issuing the Statement, Ms Maris included a list of links to organisations “providing information, assistance and advocacy”. I have followed these links and have considered some of the information on the websites in question, so far as I could. I have not read the entirety of every website to which a link is given. This was not an easy process. The link in the Statement is to a document with further links to 21 different websites. These are badly organised; the links do not match up with the websites described.

3.14 In the days that followed the Statement, the link to the Electronic Intifada website proved to be particularly controversial. I understand that Ms Maris removed this when complaints were made, although, she explained to me that this was because it was taking up attention. These resources, I am told, contain information which many people consider to be antisemitic, although I understand that Ms Maris does not accept that characterisation. My own researches have been limited but it is clear that the Electronic Intifada website is stridently anti-Israeli. It is provocative to a degree that some readers would find offensive, and some of its content appears to be in the conspiracy theory zone. On no view could it be said to offer balance. Ms Maris told me that she thought that the website offered a really good perspective and that she had not seen any red flags. That may reflect either inadequate scrutiny or simply the fact that she was already in sympathy with the content.

3.15 The remaining links are varied in character but they all have in common a position which is critical of the Israeli government, and in some vehemently so. The list includes a number of organisations based in Israel as well as Jewish organisations based in the United States. I understand Ms Maris to have chosen these sources to show the breadth of views which support her argument. On no view could the list be said to show both sides of the dispute, and that was not the intention.

4. The legal and governance context and the framework for addressing the questions

4.1 In considering whether or not the Rector’s actions and activities were compatible with her obligations, it is necessary to examine four important and interrelated aspects:

- the role of the Rector
- the responsibilities of members of Court

- the responsibilities of charity trustees
- freedom of expression.

4.2 In addition, it is necessary to address two further legal issues:

- academic freedom
- rights under the Equality Act 2010

4.3 Thereafter, it is necessary to consider how these relate to the present case and to set out the framework for addressing the questions the Court needs to answer.

The role of the Rector

4.4 The position of Rector is unique to the ancient Scottish universities, subject to some minor qualifications. It is unnecessary to set out a detailed history. My papers include a helpful overview document: “The University Rector – Introduction to the role of University Rector in Scotland”, which is based on work carried out by Donald Wintersgill. Whilst that is a useful resource, especially in setting out the values attached to the position and expectations of how the work of a Rector will be conducted, it pre-dates the Higher Education Governance (Scotland) Act 2016.

4.5 A Rector has specific statutory responsibilities, but these are essentially limited to serving as President of the University Court: section 4 of the Universities (Scotland) Act 1858 and section 5 of the Universities (Scotland) Act 1889.

4.6 Sections 1 and 10 of the 2016 Act make provision respectively for the appointment of a senior lay member and the composition of the governing body. The position of the Rector as President of the governing body is expressly preserved: section 2 of the 2016 Act.

4.7 The Rector comes within the composition of the governing body. That is in terms of section 2 and Part I(a) of Schedule I to the Universities (Scotland) Act 1966 and section 10(1)(f)(i) of the 2016 Act. All members of the governing body are subject to the provisions in section 13 of the 2016 Act for resignation or removal from the governing body. Section 13(1) makes it clear that rules which the governing body may make made in relation to procedures for resignation or removal cover all members of the governing body.

4.8 These formal statutory responsibilities of the Rector are supplemented in these ways.

4.9 In terms of the Scottish Code of Good Higher Education Governance 2023, at paragraph 77:

“A distinction needs to be drawn in the four Ancient universities [...] between the role of the Chair and the specific role of the Rector in ‘presiding’ at governing body (Court) meetings. The exact interpretation of the Rector’s role with respect to the governing body is a matter for agreement by the governing body of the individual institution concerned. Each governing body must set that agreement out clearly in a protocol, the

content of which should be published and made clear to candidates for the posts of Rector and Senior Lay Member and reflected in the job descriptions for these posts.”

4.10 In the University, that protocol is set out in the Court Members’ Handbook at paragraph 2.6:

“The Rector has the role of President of the Court, but in line with good practice in the public sector the Senior Lay Member chairs those items of business concerned with policy, resources, accountability and performance review.”

4.11 That arrangement is also reflected in the role description for the Rector, which was agreed by the University in May 2023, at paragraph 2.

4.12 That ‘Role of the Rector’ document is also helpful in setting out the responsibilities of the Rector, at paragraph 4, and in Annex A.

4.13 The following points are of particular importance:

- the Rector has a pastoral role with the student population: paragraph 4.1
- it is important for the Rector to be able to engage directly with students both individually and collectively: paragraph 4.2
- it is important for the Rector to be seen as representing and being accessible to the whole student body: paragraph 4.3.

4.14 Annex A contains a summary of the role description and the following ‘key responsibilities’ listed included in paragraph 4 are of particular relevance:

- developing an understanding of the University community in the round
- being available and accessible to students as an informal point of contact to understand their priorities and concerns.
- holding regular student ‘surgeries’ both in person and online (these are normally scheduled and organised by the Rector’s Assessor).

4.15 Further, at paragraph 5, the list of ‘values, skills and experience relevant to the role’ are as follows:

- commitment to the University as a whole, and its values and ethos as a community with the interests of students at its heart;
- available to attend the University regularly;
- independence informed by an external perspective; and an appreciation of the distinction between governance and management responsibilities;
- ability to ensure a fair hearing for all voices in Court whilst remaining impartial and non-partisan;
- familiarity with the views of the student body, and ability to intervene with authority on their behalf if necessary, outside the proceedings of the Court;
- willingness to champion a cause without fear or favour;
- commitment to the resolution of issues within the university through open, honest, respectful and timely use of the normal decision-making procedures;
- experience in the conduct of the affairs of a large institution, and its relations with the wider world;
- committed to teamwork with Senior Lay Member and Principal in conducting Court meetings in a well-informed, fair and decisive manner.

- 4.16 Taken together, these are the essential parameters and expectations of the role. In the context of the present case, it is necessary to ask in what sense the Rector is independent of the University.
- 4.17 The Rector cannot be a student or a member of staff of the University, and the role is unpaid. In those senses, and at that basic level, the Rector is independent. However, the Rector is elected by students, who are themselves members of the University. There is, therefore, an immediate and strong connection with the University.
- 4.18 Under statute, the Rector is a full member of the Court, taking responsibility for decision-making alongside all other members of the governing body, and with particular chairing responsibilities. For the three-year term of office, the Rector is embedded within the institution and is obliged to perform the duties of that office, and is subject to the Code of Conduct for Court members. The Rector is also a charity trustee. In these senses, the Rector is not independent of the University.
- 4.19 It may be that, from time to time and depending on the issue, the Rector's responsibility for representing the student body, or, indeed, his or her own views about matters affecting students, will mean that he or she does not agree with other members of the Court. That is part of the normal functioning of a governing body. Being 'independent' does not mean that the Rector has a special privilege in respect of his or her relationship with the Court. As other members are bound by the Code of Conduct, so is the Rector, and in particular by the requirement that members of the Court:

"Must, where a consensus decision proves impossible and a vote is called, vote objectively and dispassionately. If a member votes against a motion which is carried by a majority of those present, they must either subsequently support the decision or exceptionally, if the matter is deemed to be a serious question of conscience or principle, resign from Court membership."

That expression of collective responsibility is important.

- 4.20 The list of 'values' in the role description includes the "willingness to champion a cause without fear or favour". In the context of that document, that may be intended to refer to a cause on behalf of students, rather than a wider political cause, but it is expressed broadly. It is certainly apt to describe a person capable of robust, independent thought, and it can be readily understood that it is important for students to be able to trust that their Rector will act fairly and will not be intimidated.

The responsibilities of members of Court

- 4.21 As a member of Court, the Rector is subject to the same expectations as other members. At part 2.1 of the Court Handbook, in the concluding paragraph, it is stated:

“By whatever route a person becomes a member of Court they are a member on an equal basis with all the others and is [sic] in no way the representative or delegate of any part of the University or of any particular interest.”

4.22 Whilst acting as a member of Court, the Rector, in a general sense, represents student interests, but is not mandated to take a particular line on any issue. Nor should the Rector represent the interest of any particular lobby or campaign.

4.23 The Court Handbook provides detailed information about the role and responsibilities of members of Court. These are set out in part 2.3 of the Handbook. It is explained there that the primary roles and responsibilities of Court are focused on three major issues: strategy; taking the major decisions affecting the University; and governance.

4.24 Of the points listed under ‘strategic direction’, the one of particular relevance in this case is:

“to promote and safeguard the reputation and values of the University”

4.25 There are three points listed under ‘key decisions’ and the first two are significant:

“to exercise general control over the University’s affairs, purposes and functions”

and

“to take the final decisions on specific matters of fundamental concern to the University”

4.26 For the most part, the governance issues listed in the Court Handbook do not have a direct bearing in this case, with the exception of these obligations:

“to ensure that the proceedings of the Court are conducted in accordance with best practice in higher education corporate governance and with the principles of public life drawn upon by the Committee on Standards in Public Life”

and

“to ensure that the University acts ethically, responsibly and with respect for society at large and for the environment”

4.27 The provisions in part 1.10 of the Handbook are also relevant. They set out the procedure in relation to disqualification and dismissal and they conform to the provisions in section 13 of the 2016 Act relating to removal from the governing body. The sanction is dismissal from Court and there are listed *prima facie* reasons for disqualification or dismissal. These reflect the grounds for removal referred to in section 13(2)(a), which includes, at section 13(2)(a)(ii), misconduct. These are not given as examples and I take this list to be exhaustive. It is in these terms, with numbering added:

“1. Disqualification as a charity trustee by virtue of the exceptions specified in the Charities and Trustee Investment (Scotland) Act 2005 [...]

2. Undischarged bankruptcy.
3. Conviction for a serious criminal or relevant civil offence.
4. Current remunerated employment (including honorary employment) by, or membership of the governing body of, a Higher Education Institution.
5. Without good reason, continuous (i.e. six months or longer) or persistent absence from meetings of Court or its committees. Serious or persistent non-compliance with the Court's Code of Conduct for its members.
6. Activities or actions likely to bring the University into disrepute."

4.28 The first of these I consider under 'charity trusteeship' at paragraphs 4.31 to 4.38 below. The second, third and fourth points are automatic reasons for disqualification and do not apply in this case. The fifth point refers to two distinct things and, it appears to me, these should be expressed separately. The second thing, non-compliance with the Code of Conduct, is relevant in this case. The sixth point, actions or activities likely to bring the University into disrepute, is also relevant.

4.29 I have referred above to the provisions in the Code of Conduct which refer to collective responsibility. That is the principal part of the Code of Conduct which is relevant here. The Code also incorporates the Key Principles of Ethical Standards in Public Life. Of the nine listed principles, those of special significance in this case are:

"Duty – Holders of public office have a duty to uphold and act in accordance with the law and public trust placed in them as members. Individuals have a duty to act in the interests of the public body of which they are a member and in accordance with the core functions and duties of that body."

"Leadership – Holders of public office should promote and support these principles by leadership and example."

"Respect – Holders of public office must respect fellow members and employees of the public body and the role each play, treating them with courtesy at all times. Similarly, holders of public office must respect members of the public when performing duties as a member of their public body."

4.30 The disqualification provisions in part 1.10 of the Court Handbook apply to all Court members, as is made plain in section 13 of the 2016 Act. There is no separate provision for the removal of a Rector, and it is an elected office. A Rector disqualified under part 1.10 would be unable to discharge his or her statutory function of presiding over the Court, or to participate in any other Court business.

The responsibilities of charity trustees

4.31 The University is a charity and all members of the Court are charity trustees. They are subject to the responsibilities set out in the Charities and Trustee

Investment (Scotland) Act 2005. The general duties of charity trustees are introduced in section 66(1) in this way:

A charity trustee must, in exercising functions in that capacity, act in the best interests of the charity and must, in particular –

- (a) seek, in good faith, to ensure that the charity acts in a manner which is consistent with its purposes,
- (b) act with the care and diligence that it is reasonable to expect of a person who is managing the affairs of another person, and
- (c) in circumstances capable of giving rise to a conflict of interest between the charity and any person responsible for the appointment of the charity trustee –
 - (i) put the interests of the charity before those of the other person, or
 - (ii) where any other duty prevents the charity trustee from doing so, disclose the conflicting interest to the charity and refrain from participating in any deliberation or decision of the other charity trustees with respect to the matter in question.

4.32 There is very limited guidance from reported cases in Scotland as to how the best interests test works in practice. The Office of the Scottish Charity Regulator (“OSCR”) issued Guidance and Good Practice for Charity Trustees. The current version is dated June 2016.² It contains fairly high level guidance at pages 22 to 26, but that is focused on managing conflicts of interest. An example given of a possible conflict of interest where another person is responsible for the appointment of the charity trustee is that of a trustee appointed by a local authority where a decision is required affecting both the charity and the local authority.

4.33 On one view, there is an analogy insofar as the Rector is ‘appointed’ by the student body, through an election process. Should circumstances arise in which what the Rector understands to be the interests of the student body do not coincide with those of the University, the interests of the University must prevail. In reality, such a conflict is unlikely to arise. Section 66(1)(c) does not add anything substantial to the more general duty to act in the charity’s best interests.

4.34 Acting in the best interests of the charity includes seeking to ensure that the charity acts in a manner consistent with its charitable purposes. The University’s charitable purposes, as recorded by OSCR, are:

- the advancement of education;
- the advancement of the arts, culture, heritage or science;
- any other purpose that may reasonably be regarded as analogous to any of the preceding purposes.

These purposes, and especially the third, are expressed, unsurprisingly, in broad terms, and provide the overall direction. The more detailed duties contained in the Court Handbook support the achievement of these purposes.

4.35 There is further information available on the OSCR website relating to charities and campaigning on political issues. It is not especially illuminating. It is stated that:

² https://www.oscr.org.uk/media/3621/v10_guidance-and-good-practice-for-charity-trustees.pdf

“Under Scottish charity law, your charity can campaign if:

- it is advancing your charitable purposes
- your governing document does not prevent the activity
- you are not advancing a political party and,
- you can show you are acting in the charity’s best interests.”

4.36 Whereas guidance in Scotland is limited, in England and Wales the Charity Commission provides more detailed information. Charity administration and governance are within devolved competence and there are separate regulators. Nevertheless, interpretation of general principles and an understanding of the meaning of ‘best interests’ in Scotland is at least informed by the approach taken in England and Wales. Prior to the 2005 Act, regulation of charities in Scotland happened, for the most part, at common law. The development of the legislation relied, in part, on the experience of the mature statutory system in the neighbouring jurisdiction. Against that background, I consider the Charity Commission guidance to be relevant. It is found in various documents and I provide a summary in Annex B.

General obligations and charity trusteeship obligations

4.37 There is a very substantial overlap between the general obligations to which a member of Court is subject and those of a charity trustee. Essentially, the common obligation is to act in the best interests of the University. There is a clear consistency between the ‘duty’ principle of ethical standards in public life, which refers to acting in the interests of the public body and in accordance with the core functions and duties of that body, and the obligation under section 66(1) of the 2005 Act to act in the best interests of the charity and to seek to ensure that it acts consistently with its purposes. The obligation not to act in a way likely to bring the University into disrepute may be seen as a subset of acting in the best interests of the University, and therefore within the scope of a charity trustee’s obligations.

Freedom of expression

4.38 There is a very high level of protection for freedom of expression in the United Kingdom, principally but not exclusively by reference to the Human Rights Act 1998 and Article 10 of the European Convention on Human Rights. That is so for very good reasons. Political expression, in particular, is central to a democratic system. The law affords protection to the expression even of ideas that, in the classic phrase, ‘offend, shock and disturb’, and there is only limited scope for interfering with them.

4.39 The Equality and Human Rights Commission published a guide on freedom of expression for higher education providers and students’ unions in Scotland. This useful publication, issued in 2019, gives a good overview on issues which commonly arise in the higher education context affecting institutions and students’ unions. Unsurprisingly, it makes no reference to the position of Rector.

To the best of my knowledge, this is not a matter which has ever come before a court.

4.40 The EHRC guide does set out, in part 3.3, a brief explanation relating to the interaction of charity law and freedom of expression. Insofar as this concerns political activity and political neutrality, it reflects the OSCR guidance referred to above.

4.41 All of those with whom I have spoken within the University recognise the value of freedom of expression, especially in the higher education context and all that I have heard is consistent with affording the highest respect to that principle. No-one seeks to censor or place arbitrary limits on anyone else.

4.42 Freedom of expression, though, is not unqualified. Article 10(2) ECHR provides:

“The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.”

4.43 There is a recognition that there are duties and responsibilities associated with freedom of speech. The significance of that term is not particularly well-developed in jurisprudence in this country, but, in this case, the relevance of that principle is clear. Those exercising the freedom should do so responsibly.

4.44 In the present context, the following points are relevant.

4.45 First, for employees and for some office holders, freedom of speech is qualified. In some specific occupations there are explicit statutory restrictions. For example, police officers may not take any active part in politics.³ The European Court of Human Rights has affirmed that restrictions on the rights of some local authority officials to express political opinions pursue a legitimate aim.⁴ More generally, employers can restrict what employees say in the workplace, and in some circumstances what they say outside the workplace, provided such restrictions are proportionate. There may be specific provisions in a contract of employment, or a general contractual obligation such as not bringing the employer into disrepute.

4.46 Clubs, societies and political parties can also place limits on what their members can say. There is a general right to freedom of expression, which extends to speech which shocks, offends and disturbs, but an organisation can decide to suspend or expel a member who shocks, offends or disturbs others. That essentially gives an individual a choice, in the event that they conflict, between full freedom of speech and membership of an organisation.

³ Police Service of Scotland Regulations 2013, Schedule 1, paragraph 1.

⁴ *Ahmed v United Kingdom* (2000) 29 EHRR 1

4.47 Of course, the Rector is not an employee, nor is she a member of a club, but there are analogies which can be drawn. The relationship between the Rector and the University is very unusual, not least because the Rector is elected by the student body rather than appointed, and, insofar as limits on freedom of speech in that context have been tested, I am unable to identify direct parallels in any reported cases. However, it is uncontroversial that the Rector is bound by the Court code of conduct. The University Court, is entitled to place some restrictions on the activities of its members, provided those are proportionate.

Other legal issues

Academic freedom

4.48 There is a specific statutory protection for academic freedom. This is in section 26 of the Further and Higher Education (Scotland) Act 2005. The University is obliged to uphold the academic freedom of all relevant persons. ‘Academic freedom’ is given a broad definition under section 26(4), including the freedom to present controversial or unpopular points of view. It is unnecessary to consider that any further, because of the definition of ‘relevant persons’ in section 26(3). These are “persons engaged in teaching, or the provision of learning, at the body, or research at the body”.

4.49 The Rector is not engaged in any of those things. She has a general entitlement to freedom of expression, but she does not enjoy the additional and distinct statutory protection for academic freedom.

Equality Act 2010

4.50 It is beyond the scope of this report to provide advice on the application of the Equality Act 2010 but it is important to draw the attention of the University to one particular matter. As is well-known, the University must adhere to its obligations under the 2010 Act and must not discriminate against a person because of a protected characteristic. Were the University to consider applying any sanction to the Rector in relation to actions or activities connected with the Statement, it would have to have regard to these obligations.

4.51 The issue of particular relevance relates to the protected characteristic of religion or belief in terms of section 10 of the 2010 Act. Belief encompasses “any religious or philosophical belief”. What counts as a philosophical belief has been tested on numerous occasions, usually in the Employment Tribunal. In February 2024, an Employment Tribunal in *Miller v University of Bristol*⁵ held that anti-Zionism was a protected philosophical belief. In that case the definition of the belief was agreed to be:

⁵ <https://www.judiciary.uk/wp-content/uploads/2024/02/Miller-judgment-1400780.2022-JDT.pdf>

“(1) political Zionism (which the claimant defines as an ideology which holds that a state for Jewish people ought to be established and maintained in the territory that formerly comprised the British Mandate of Palestine) is inherently racist, imperialistic and colonial, and;

“(2) political Zionism ought therefore to be opposed”

4.52 The claimant was professor of political sociology. He was subject to certain complaints. These were investigated and, ultimately, he was dismissed. His claim for unfair dismissal was based on direct discrimination because of his anti-Zionist beliefs. The judgment of the Employment Tribunal is lengthy and complex and merits careful analysis. For present purposes, the essential points are these. The Tribunal found that Professor Miller’s anti-Zionist beliefs were genuinely held, played a significant role in his life, based on his understanding and research into Zionism and informed by his academic expertise, and were coherent and cogent. It was important that the claimant did not inherently deny the right to Jewish self-determination. Rather, he opposed the realisation of that right in a manner that displaced or disenfranchised non-Jewish populations in the region. It was not contended that his beliefs were antisemitic. The Tribunal was satisfied that the two central aims relied on by the University were legitimate namely the protection of its rights and interests (this was accepted by the claimant) and the protection of the rights of others to hold religious beliefs and to associate with the University “undaunted by harassment, intimidation or hostility.”

4.53 The judgment of the Tribunal gives a detailed factual account of what was, on any view, a very difficult and stressful situation. This excerpt gives a sense of what was involved, and of the impact of the claimant’s activities.

“279. Although there was some distortion by third parties of what the claimant said in February 2021 and also inaccuracy about what was said by others to be its impact, there can be little doubt that the comments themselves caused significant reputational harm to the University. The comments impacted on staff, alumni, prospective students as well as the University’s reputation in the wider world. Some alumni withdrew donations and others threatened to do so. It was reported that the “pawns” comment generated significant concern for student wellbeing and safety due to the idea of someone speaking out against a specific group and what that meant for safety (see the interview with the Executive Director Development and Alumni Relations). Evidence at the investigative stage from the Director of Home Recruitment and Conversion indicates that the claimant’s statements had given rise to comment from future students and their parents and current student ambassadors. Among other things, concerns were raised about what was said to be a lack of inclusivity at the University. However, we are also careful to note that the Director explained that it had been a record year for applications and she could not say whether there had been a detrimental impact on recruitment. The University also had no data on demographics or religion, so was unable to identify the impact on specific communities.

“280. What were described as sweeping allegations against the Jsoc were a cause for concern to academics and students alike. A Professor who had previously been identified as supportive of the claimant said in her interview to Professor Banting:

There is also a duty of care to staff. The whole matter has caused me personally a considerable amount of unease and distress and if I were still in full-time employment I would feel threatened both by Miller’s statements and by the support he receives from some colleagues...If I can feel silenced and isolated in relation to these issues how much more so must that be the case for students?

“281. The same Professor said she considered that there was a threat to the mental health and potentially the physical safety of Jewish Students, that the matter had caused her a “considerable amount of unease and distress and if [she] were still in full time employment [she] would feel threatened”.

“282. Therefore, contrary to the submissions of the claimant, there was evidence at the investigative stage that the Article 9 and 10 rights of students at the University had or might be adversely impacted. Professor Norman also gave considered evidence to the effect that any student in Jsoc or considering joining Jsoc would be intimidated. She went on to say that if you were a non-Zionist in Bristol Jsoc wanting to go for Friday night dinners then you might question being a member. This evidence was given after having read the investigative interviews conducted by Professor Banting.

“283. The Pro Vice Chancellor of Student Experience responsible for the continuing development and leadership of student engagement, inclusion and wellbeing within the University, explained that she had received a number of emails which had been difficult and unpleasant to read and that she had been discussed on social media in a negative manner.

“284. In the wider political world, the overwhelming response to the claimant’s comments was one of cross-party condemnation. For example, Caroline Lucas MP wrote and expressed concern about the claimant’s decision to single out Jewish student organisations and label them as complicit in a campaign “to silence critics of Zionism or the State of Israel on British campuses”.

“285. We regard it as highly significant that the claimant chose to air his grievances with students and student associations publicly. Although he had political, ideological and philosophical differences with individual students and student groups as well some potential for a justified sense of grievance, due to the fact that two internal reports had effectively cleared him of the anti-Semitism of which he was being accused, it was nonetheless extraordinary and ill-judged to express himself in the way he did.”

4.54 The Tribunal concluded that Professor Miller’s dismissal was due to the manifestation of his beliefs. This constituted direct discrimination and, under employment law, his dismissal was unfair. The decision taken by the University to dismiss him was, the Tribunal held, disproportionate. A less severe disciplinary sanction could have been imposed. It found:

“314. The University, as an academic institution, ought to be prepared to face and to weather criticism and reputational damage which flows from the exercise by its academics of their rights to speak and think freely and lawfully on areas within or connected to their research and expertise. Overall, dismissing the claimant has not materially protected the University’s reputation. We conclude that a less intrusive means than dismissal could have been used by the University without unacceptably compromising the achievement of its objectives. Adopting the balancing exercise set out in Bank Mellat, when balancing the severity and chilling effects of dismissal against the importance of the legitimate aims identified by the University, we conclude that it was not necessary to dismiss the claimant. However, for the reasons set out above we also conclude that it would have been proportionate to issue some disciplinary sanction against the claimant short of dismissal.”

4.55 There are, of course, points of distinction. Ms Maris is not an employee and academic freedom does not arise. The Tribunal relied heavily on academic freedom in its analysis. In contrast to an academic, a Rector has pastoral responsibilities to students across the University. There are, nevertheless,

important parallels and any proportionality assessment would have to take into account the analysis of the Tribunal in *Miller*.

4.56 There is a further point. In the course of two of the interviews I held with Ms Maris we discussed anti-Zionism and anti-Zionist beliefs, albeit briefly. In a written submission to me, Ms Maris told me that the *Miller* case parallels her situation. I did not explore with Ms Maris in detail the precise parameters of her philosophical beliefs. On the basis of the explanation given to me, it is not obvious that Ms Maris' situation is truly in parallel with *Miller*. In any event, Ms Maris made it clear that her Statement and subsequent actions were not a manifestation of that belief. Ms Maris told me, expressly, that she did not send out her Statement because of anti-Zionist beliefs. She went further, stating that she did not consider it would be appropriate to speak about anti-Zionist views and that it would be offensive for her to use her platform for that purpose. It is not clear to me what foundation, if any, there would be for establishing a belief for the purposes of section 10 of the 2010 Act. As a matter of generality, though, it is important that the University recognises the potential application of that legislation. In any event, actions taken by the University must be proportionate.

The legal and governance context: drawing the issues together

What are the relevant obligations?

4.57 There are no formal, explicit restrictions in any of the relevant documents that restrict speech or other expression by a Court member. However, Court members are subject to two central obligations: (a) acting in the best interests of the University, and (b) not acting in a way likely to bring the University into disrepute. These are expressed in a generic way, in parallel with numerous other contracts and codes. In principle, it would be possible to breach either or both of these obligations by expressing an opinion.

4.58 There is, in addition, the obligation of respect, one of the Key Principles of Ethical Standards in Public Life, referred to at paragraph 4.29 above. Court members must respect fellow members and employees of the public body, i.e. the University, and the role each play, treating them with courtesy at all times. I understand "members of the public body" to refer to all students and staff of the University. This is not limited to the members of the governing body. Similarly, Court members, including the Rector, must respect members of the public when performing duties holding that office.

Political views, controversial views and impartiality

4.59 There is no absolute requirement that the Rector, or any Court member, must be impartial and non-partisan in the sense of being either politically neutral or not holding or expressing controversial views. But there are qualifications.

4.60 First, as noted at paragraph 4.15 above, the 'Role of the Rector' document records the expectation that a Rector will demonstrate:

“ability to ensure a fair hearing for all voices in Court whilst remaining impartial and non-partisan”

4.61 That is specific to the Rector; it is not a general obligation to which all Court members are subject. It also refers to proceedings in Court, no doubt having in mind the Rector’s particular responsibilities as President, and reflects basic principles of governance in meetings. It does not follow that the Rector must be impartial and non-partisan at all times and in all places. If, as a result of partisan views on an issue, the Rector is *not* able to ensure a fair hearing for all voices in Court on that issue, then that is a problem.

4.62 Second, some views are more controversial than others. Expressing a mildly or moderately controversial view may be within the tolerance level of the University. If it goes beyond that, to the extent that a Court member expressing a strongly controversial opinion causes damage to the institution, that is something that can be restricted. On this point, the guidance from the Charity Commission in England and Wales is worth highlighting:

“There may be some occasions however where expressing strongly controversial or partisan views on a particular issue without due regard to the charity’s position may compromise the charity’s integrity, purposes or activities. This may mean that in some circumstances you’re not suitable to act as a trustee, even if those views are expressed in a personal capacity.”

4.63 That is in the context of a potential conflict between personal views and trustee responsibilities and is drawn from guidance aimed at protecting charities from abuse for extremist purposes, but, in my view, the general principle applies. I do not consider that this adds anything extra to the test relating to the best interests of the charity, but it is a useful measure in assessing whether the expression of strongly controversial views is acting in the University’s interests.

4.64 The third point is connected. A Court member must adhere to collective responsibility, in terms of the Code of Conduct. If a member cannot support a majority decision of the Court, and if it is a serious question of conscience or principle, the member must resign. If expressing a controversial view conflicts with a decision of the Court, on a serious matter, the member could not continue to serve on the Court. That is consistent with the Charity Commission guidance mentioned above. In this case, the University’s position in relation to Israel and Gaza was not decided by the Court. That was a matter for the Principal. I understand that decisions about whether and when to communicate about issues of public concern, and the content of such communications, are for the executive, not the Court, although ultimately the Principal is accountable to the Court. I discuss this point at paragraphs 5.21 to 5.32 below. In general terms, if the Court decides, on a vote, that the University must take a certain position in respect of a particular issue, a member who votes against that must support the decision or resign. The Code of Conduct recognises that that will be exceptional.

Private or individual views and the role of the Rector

4.65 In general, the Court cannot restrict what a Court member can say either as a private individual or in another capacity. There are some qualifications. In extreme cases, public expression of a private opinion which is highly offensive may make a person unsuitable to act as a Court member or trustee. Separately, members of Court who are also employees of the University may be subject to other restrictions. However, a Rector who has a public profile elsewhere, perhaps as a politician or a journalist, may very well express strong political views in that capacity, but it will be well understood that in doing so he or she is not speaking as University Rector. There is a distinction between expressing a view as Rector and expressing a view as an individual. That has practical significance. When speaking as Rector, he or she will have access to the University's email system, using the Rector's email address. Otherwise, he or she must use another medium.

4.66 It may be argued that the Rector is independent of the University and that, as a result, no limits at all can be placed on his or her freedom of expression. I do not agree with that analysis. That would, in effect, put the Rector in the same position as a member of the public. That is not the case. The Rector is elected to serve as President of the University's governing body.

Can the Court restrict Court members' freedom of expression?

4.67 Yes, provided it does so in a proportionate way. All members of the Court, including the Rector, have the right to freedom of expression. However, it is within the power of the Court to place some limits on the exercise of that right. It is quite proper, indeed normal, for an institution such as a university to require members of its governing body to act in the best interests of the institution – and that accords with the statutory obligations on charity trustees – and not to act in a way likely to bring the institution into disrepute. Protecting the interests and reputation of the University is, in my view, a legitimate aim. If the content of expression by a Court member runs contrary to the University's best interests or is likely to damage its reputation, the Court may restrict that.

4.68 The Rector is elected. A person putting himself or herself forward for election must be taken to recognise that, if elected, he or she will be subject to the regulation of the Court. The University's Rectorial Election Handbook for 2023, makes it very plain that the Rector has obligations as a charity trustee, and includes a specific reference to the general duty of a charity trustee to act in the interests of the University. Candidates must sign a charity trustee declaration which, amongst other things, acknowledges that obligation.

How may the Court restrict Court members' freedom of expression?

4.69 The means by which the Court may restrict or limit expression by a Court member are contained in part 1.10 of the Court Handbook. These apply to conduct generally. Section 13(2)(a)(ii) of the 2016 Act makes it clear that rules

may provide for misconduct being a ground for removal, whether or not the misconduct is in the capacity as member of the governing body. There is no separate, express provision for regulating behaviour of Court members, or for any specific sanction at a lower level than dismissal. In my view, it does not follow that the Court is powerless to do anything short of dismissal in the event of misconduct by a Court member. It is quite conceivable that a member's conduct or behaviour might fall below the required standard, but not to a degree justifying dismissal. These might be addressed in a relatively informal way. I am aware from my discussions with the Vice-Principal (Governance) that there have been some instances in the past, albeit very rare, where he has had to provide words of advice to a member where concerns have been raised about that person's conduct. More formally, it would be possible, in my view, for the Court to determine that a form of censure at a level lower than dismissal may be used where that is commensurate with the seriousness of the breach. There must be room for the governing body to regulate the conduct of its members in a proportionate way.

- 4.70 Through regulating behaviour and conduct, the Court may restrict freedom of expression, but given the general starting point of a high level of protection for that freedom, the University should be very slow to conclude that there has been a breach other than in very clear and obvious circumstances.

What steps should the Court take in decision-making?

- 4.71 The Court must consider whether the behaviour or conduct of the member is in breach of the member's obligations. Whether expressing an opinion or making some other kind of statement is in the best interests of the University, or is likely to bring the University into disrepute, will be questions of judgement in each case, depending on the facts and circumstances.
- 4.72 In order to do that, the Court must first identify and prioritise the relevant interests of the University and it must assess the likelihood of damage to the reputation of the University. I set out relevant considerations in paragraphs 4.75 to 4.82 below.
- 4.73 In carrying out these exercises, the Court must keep in mind the particular role that the Rector has, including in listening to and responding to students' concerns. That means that the Court considers whether it is in the interests of the University for the Rector to take certain actions. It does not mean that the Court can impose separate obligations on the Rector, by reference, for example, to the role description for Rector, that would not apply to another Court member. In assessing whether or not there is a breach, the Court is looking at the Rector's obligations as a Court member.
- 4.74 If the Court is satisfied that a member of Court is in breach of his or her obligations as a result of speech or other expression, it is then at the stage of determining whether or not to impose a sanction, and it must at that stage ensure that any disposal is proportionate, having regard to that individual's rights under Article 10 ECHR.

How does the Court assess the interests of the University?

- 4.75 It is convenient at this stage to bring together a number of points relating to the assessment of the interests, or the best interests, of the University.
- 4.76 The obligation on Court members to act in the University's interests is drawn from the 'duty' principle in the Ethical Standards in Public Life, incorporated in the Code of Conduct, and it coincides with the obligation to which they are subject as charity trustees, which refers to 'best interests'. The phrase 'best interests' reflects the reality that, sometimes, there may be conflicting or competing interests and it will be necessary to work out where the priorities are in any given set of circumstances.
- 4.77 It is for the Court to determine what the interests of the University are and, where there are competing interests, to determine which should be prioritised. It is then for the Court to decide whether an action is consistent with or contrary to the University's best interests overall. In making these assessments, the Court must have regard to the particular role of the Rector within the University.
- 4.78 These are not legal matters as such. These are matters for the Court, and, whilst I can offer my thoughts in identifying where the interests of the University might lie, prioritising and determining these must be for the Court.
- 4.79 It is clear to me that there are competing interests. It is, in general terms, in the interests of the University for the Rector to be active and to be engaged in issues which matter to students. There is also an interest, in particular, in having a Rector who is willing and able to give support to students who might otherwise feel that they do not have a voice. Willingness to champion a cause without fear or favour is listed in the role description for the Rector and some weight must be given to that.
- 4.80 At the same time, and again in general terms, it is in the interests of the University for the Rector to have the trust and confidence of students as a whole and to be able to exercise pastoral and other responsibilities to students across the breadth of the University. These reflect the expectations clearly set out in paragraphs 4 and 5 of the 'Role of the Rector' document, to which I refer in paragraphs 4.11 to 4.15. It is also in the interests of the University that members of Court, including the Rector, avoid actions likely to cause distress and upset, or serious division and polarisation within the University.
- 4.81 The Court may consider that, in addition to these, there are other relevant interests. There is no fixed checklist.
- 4.82 In some circumstances, it will be possible to pursue all of these interests simultaneously, but in other circumstances these interests may conflict. For example, if a Rector champions a cause, it may, inevitably, result in division and loss of confidence by some students. Working out which takes priority may be difficult, but it must be done.

How does the Court assess what might be likely to bring the University into disrepute?

4.83 As with the analysis of the interests of the University, this is essentially an assessment of the value of the University's reputation and the extent to which it may be susceptible to damage as a result of negative information, and these are matters for the Court.

4.84 Where it can be demonstrated that, as a matter of fact, reasonable people have formed an adverse view of the University as a result of something which has been said, then that may allow the conclusion to be drawn that a member of Court has not acted in the best interests of the University or has brought the University into disrepute. Just because an opinion or a statement is controversial does not mean that it offends against the principle.

4.85 Examples of expressions which would obviously have a detrimental effect to reputation would include falsely alleging that a senior member of staff is corrupt. That would be a clear example of breach. Very offensive or abusive speech would almost certainly be treated in the same way. (These would also be contrary to the interests of the University.) It is difficult to set fixed boundaries as to what sort of conduct will cross the line.

4.86 The actions in question have taken place in the past and steps were swiftly taken to mitigate the potential effects. It is necessary to take those into account

5. Were the actions and activities of the Rector in relation to the Statement compatible with her obligations, by reference to the best interests of the University and the protection of the reputation of the University?

5.1 I consider Ms Maris' actions and activities in two parts. In this part, I address the Statement itself, and in part 6, below, I address the actions and activities in the period following the Statement.

5.2 I have set out observations relating to the Statement in part 3. The Statement is clearly pro-Palestinian. I recognise that Ms Maris made some efforts to acknowledge that others might see things differently. She included, at the end, references to informed and compassionate dialogue and the need to foster reconciliation and understanding. I believe that these views were sincere and that Ms Maris was well-intentioned. In her text, she gave a nod towards the "complexity and nuances of the situation" but did not meaningfully engage with them.

5.3 It is necessary to have regard to the following:

- Ms Maris' reasons and justification for the Statement, namely that:
 - o the terms used are accurate and justified

- the Statement is not antisemitic
- the University spoke out in relation to Ukraine and should do so here
- the Statement gives support to pro-Palestinian students who are also suffering
- the advice given to Ms Maris before she issued the Statement
- the impact of the Statement on students and staff
- the impact of the Statement on the reputation of the University

Ms Maris' reasons and justification for the Statement

Accuracy and justification

5.4 In the course of my discussions with Ms Maris, she explained to me at some length the reasons for issuing the Statement and why she considered it to be justified. It is impossible to convey this information in full, but it is necessary to set out the important points.

5.5 First, Ms Maris was and remains convinced that the Statement is true and accurate, including in referring to genocidal attacks and apartheid. She considers that that view is very well supported by a range of authoritative people and organisations, and made particular reference to the ruling of the International Court of Justice. She emphasised that her Statement contained numerous references and links to information supporting that view. She believes that there is a genocide taking place and that because that is so serious it is essential to speak about it and to use that term. She also maintains that it was clear in November 2023 that the actions of Israel were genocidal.

5.6 I do not express a view as to whether, as a matter of fact or interpretation, specific allegations made in the Statement were justified, in particular in relation to actions and practices described as 'genocidal' or 'apartheid'. Much has been said and written elsewhere on these matters, by some with great expertise and by many with none. I am aware of the arguments relating to the accuracy of these terms, whether by reference to the situation as it was in November 2023 or at present. Ms Maris made repeated reference in our interviews to the ruling of the ICJ on 26 January 2024. I am aware that on that date the ICJ made a preliminary ruling and that it decided that at least some of the rights claimed in respect of which protection was sought were plausible. I am also aware that the characterisation of the actions of the Israeli government and military in Gaza as genocide is strongly rejected by others. I am aware that there is extensive discourse in the academic, legal and political worlds on, among other things, the application of the 1948 Genocide Convention, as well as the use of other more general terms, such as 'war crimes' or 'crimes against humanity'. For the purpose of this exercise, I do not consider that it is necessary for me to express my own view. Indeed, I consider that it would be positively unhelpful for me to do so. It is sufficient that I note that the terms 'genocide' and 'apartheid' are contested, as they apply in relation to the situation in Gaza.

5.7 I asked Ms Maris whether she understood that some people do not agree that those terms are true and accurate. She understands that some people disagree

with her, but her view is that they are wrong. When I asked her whether she accepted that her statement was controversial, she told me that some people might see it as controversial but that she did not. Ms Maris explained to me that she did not see the term 'genocidal' as being pleasant but that it was not necessarily controversial because it was supported by numerous human rights organisations. She considered that she had sound evidence and the criticism made of her was emotion-based. She had not heard arguments which countered the information available to her. She thought that it was important to use the right word, which she considered to be 'genocide', and that she should not be prevented from using it because some people might find it offensive.

5.8 Ms Maris' position is, in essence, that she is right in saying that Israel's actions were and are genocidal, that that is well-founded, and that it must be said. A contrary view, as expressed in the open letter critical of Ms Maris, is that the "inflammatory and unfounded accusations of 'genocide', 'apartheid' and 'occupation' concerning the Jewish State will further embolden attacks and hatred against the Jewish students whom [the Rector] was elected to care for." The conflict here is not so much about the accuracy of the term 'genocide'. Rather, it is between Ms Maris' insistence that she is right and the existence of a different view. Looked at in that way, even though she speaks of engaging in discourse, it seems that Ms Maris has real difficulty in countenancing that another person may have a respectable contrary view in relation to that term. That difficulty makes it hard to perceive the potential consequences of using it.

5.9 Ms Maris also maintains that, as at 21 November 2023, her call for a ceasefire was justified. At that time, there were increasing numbers of people calling for a ceasefire, although it was a politically controversial matter. In a House of Commons vote on a ceasefire motion on 15 November 2023, there was a significant rebellion within the UK Parliamentary Labour Party. The issue was very much live at that time. The open letter critical of Ms Maris took issue with the ceasefire call. Certainly, as at the date of the Statement, it is, in my view, accurate to describe the act of calling for a ceasefire as controversial.

Observations in relation to antisemitism

5.10 Secondly, Ms Maris stresses her view that the Statement was not antisemitic. In the Statement itself, Ms Maris expressly stated that she condemns "any form of bigotry, including but not limited to anti-Semitism and Islamophobia." In her subsequent representations to the Court, Ms Maris stated:

"It is crucial to distinguish between criticism of the policies and actions of a government and antisemitism. The email criticised specific actions of the Israeli government, in line with international human rights perspectives, and did not target or malign Jewish people or Judaism as a religion."

5.11 I have seen in correspondence sent to the University the allegation that the Statement is antisemitic both in tone and content. I am aware that that view is held by some people who are critical of Ms Maris' Statement, but that there are also people who are very strongly critical of the Statement and who do not contend that it is in itself antisemitic. I note, in particular, that the open letter

critical of Ms Maris did not assert that the Statement was itself antisemitic. Rather, the complaint was expressed in this way:

“Sadly, your words were not unifying, but divisive; not clarifying, but misleading; not hopeful, but damaging – and unfortunately will only bring division and hatred, whilst reinforcing a certain narrative that drives violent antisemitism across the world.”

- 5.12 Having a concern that something, such as the Statement, might promote antisemitism is not the same things as saying that it is in itself antisemitic.
- 5.13 My approach to this investigation has been on the basis that it is important for me to understand the competing and conflicting views as to whether the Statement is itself antisemitic but that it is not necessary, and would not be helpful, to make a formal finding. That is something that I have kept under careful review. That remains my view. I have in mind the following points.
- 5.14 First, the terms of reference for this investigation do not expressly require me to do that, and I am aware that the Court requires, reasonably, that the investigation should be tight and specifically focused on the Rector’s responsibilities as a Court member and charity trustee. This is not a wide-ranging inquiry.
- 5.15 Secondly, I am aware that the University has not adopted the International Holocaust Remembrance Alliance definition of antisemitism. This investigation takes place within the context of the University’s own procedures and any consideration that I give to the issue must take that fact into account. I am also aware of the University’s statement on antisemitism, updated to 6 December 2023.⁶ Among other things, this draws attention to the difficulties that can arise when endorsing one particular definition or another. It also draws attention both to the IHRA definition and the definition in the Jerusalem Declaration. It is not for me to determine University policy and, in all the circumstances, it is not open to me to choose a definition. Subjecting the Statement, whether on the words on the page or on the tone, to a test by reference to one or more definitions would be more likely to distract than assist.
- 5.16 The third point is related. In the circumstances, especially in the light of conflicting views on the best definition of antisemitism, the risk not just of distraction but also of perpetuating disputes would be high. In other words, even if it were possible to make a finding within this procedure, and I have serious reservations about that, I seriously doubt that that would contribute to clarity or conclusiveness in the outcome. That would be counterproductive. It would also risk distracting attention from what I consider to be the more substantial objection, that being that the Statement, although not itself antisemitic, risked generating antisemitic sentiment.
- 5.17 For present purposes it is sufficient to note the following. Ms Maris is absolutely adamant that the Statement is not antisemitic and she has support from other people in that respect, and that there are others who consider that it

⁶ <https://www.st-andrews.ac.uk/hr/edi/rerb/antisemitism/>

is, at least to some extent, antisemitic. Further, there is nothing on the face of this Statement that expresses hatred towards Jews.

5.18 Finally, and for completeness, it is unnecessary to consider the way in which written communications might be criminal. For one thing, this is a peculiarly difficult time in Scotland to be able to provide any meaningful advice about offences involving stirring up hatred against a group of persons based on the group being defined by reference to religion. The Hate Crime and Public Order (Scotland) Act 2021 came into force on 1 April 2024 and the controversy surrounding its implementation is well-known. Although the new law remains as yet untested, in a formal setting, it seems to me to be extremely unlikely for the Statement to risk infringing it, if it were retrospective.

5.19 I turn to the assertion that her Statement might promote antisemitism. Ms Maris strongly refutes this; indeed, she regards that suggestion as offensive. It seems to me that there is certainly room for an argument that, although not itself antisemitic, this Statement might, directly or indirectly, encourage the expression of antisemitism by others. That was not Ms Maris' intention but it is conceivable that that might be the result, even if to a limited extent. Ms Maris takes a robustly literal approach to language; from her perspective, if the text does not say x, then it cannot be taken to mean x. But people interpret and misinterpret and construe and misconstrue language all the time. When releasing a statement in an environment in which there are already tensions and divisions, at the local level and certainly informed by events and experiences at the national level, a responsible person must take into account the possibility that his or her words will be taken and used to ill effect. That is especially so where that responsible person holds a leadership position. It does not follow that the responsible person must say nothing, but it means that special care must be taken in choice of language. The national situation is also relevant. By 21 November 2023, there was already a good general level of awareness that there had been a significant increase in antisemitic attacks after 7 October 2023 across the country.⁷ In this case, I do not suggest that the Statement was bound to contribute to an increase in antisemitic activity in St Andrews, but it was reasonable to think that it might. Insofar as she ignored or discounted that possibility, Ms Maris showed very poor judgement.

Consistency and public statements

5.20 Thirdly, Ms Maris takes the view that it is very important for the University as an institution to speak out where there is war and injustice and, specifically, that the University should condemn the actions of the Israeli government and military in Gaza and that, at an early stage, it should have called for a ceasefire. Ms Maris told me of her strongly held views about what she characterised as the University's failures in this regard, and that those views are shared by a substantial number of students and staff. She drew attention to what she sees as inconsistencies between the approach taken by the University in relation to other international conflicts, with special emphasis on the war in Ukraine, and in

⁷ An example of press coverage: <https://www.theguardian.com/news/2023/nov/03/record-number-hate-incidents-british-jews-reported-hamas-attacks>

other areas of social justice. The Principal issued statements in 2022 responding to the Russian invasion of Ukraine and, according to Ms Maris, she should have done so in this case.

5.21 The person with primary responsibility for representing the University is the Principal, who, where appropriate, will work closely with the Vice-Principal (Communications) and other relevant senior officers. That is an executive function, though ultimately the Principal answers to the Court. The Rector does not speak for the University.

5.22 In general, universities are often under pressure to make statements, and on a wide range of issues. Some people consider that it is very important that universities offer views, or support, or criticism, on national and international matters. However, political events, whether domestic or international, will almost invariably involve at least a difference of view, if not outright conflict and in extreme cases actual war. In assessing the value of an institutional verbal response, some basic questions are as follows.

- Who is the statement for? Primarily, communications are to student and staff, but such letters will be made public. The University may consider that the focus should be on responding to their concerns, rather than, for example, lobbying government.
- Is there a connection with the University itself and will an intervention address local concerns? If students or staff within the institution are directly affected, a communication is likely to be meaningful.
- Will it make a difference to the dispute or conflict itself?

5.23 It appears to me that universities have a choice. One option is to take the position that they are essentially places for debate and discussion and that they provide a forum in which ideas, including controversial ideas, can be argued and tested, within a respectful framework in which principles of free speech and academic freedom apply. Whilst university administrations should enable those discussions to take place, it is not for the institution itself to be making principled public statements. Public comment should be restricted to politically neutral expressions of concern for welfare or other uncontroversial but important issues.

5.24 The second option is more complex and involves a case-by-case approach. In most conflict situations the institution will not take a side and will limit itself to neutral statements of the kind described above, but in some circumstances which are so serious and in which one side is so unambiguously right it is necessary for a statement to be made which, at least to some extent, supports that side. That is a more nuanced position and it gives universities the ability to be flexible, to respond to expectations and to align themselves with other organisations with which they are in sympathy. In extreme cases where there is severe suffering, that may be thought to be the only appropriate response.

5.25 The difficulty, though, with the second approach is that there will be different views as to when the nature of a conflict is such that supporting one side can be

justified. Who decides? I understand that, in the University, this is an executive rather than a Court decision, although the Court will be briefed. That is straightforward as a matter of governance, but, as is happening at present, it opens the University up to pressure both from within the staff and student body and from outside. It is understandable that, within the University, there will be those who insist on what they would see as equal treatment. Separately, whether an intervention is appropriate may change over time. A situation may escalate, or something that seemed clear at an early point may become more messy as time passes.

5.26 In the discussions that I have had, there have been multiple references to the response made by the University to the invasion of Ukraine in 2022. The Principal made two major statements. The first emphasised staff and student welfare and explained the impact on institutional links, research collaborations and investments. As well as these expressions of concern, it referred to “the appalling actions of the Russian government” and included the statement that:

“this University and its students and staff will continue to make our voices heard in loud condemnation of the invasion of Ukraine, to support efforts to bring a just and speedy conclusion to the war, and to provide meaningful practical support to those affected by it.”⁸

The Principal took care to distinguish between the Russian government and the Russian people, emphasising that Russian colleagues and friends should know that they are welcome and safe in St Andrews.

5.27 Those who take a pro-Palestinian view now complain that there is an inconsistency between condemnation of the invasion of Ukraine and a refusal to condemn the actions of the Israeli government and military in Gaza. The explanation given to me on the part of the University leadership is that the situations are different, both politically and in terms of the experience and views of students and staff in St Andrews. Whereas the support for Ukraine was overwhelming, the views of people in St Andrews in relation to Israel and Palestine are much more polarised. The position of the UK government is also different in each case, and the University has a different set of institutional relationships in Ukraine.

5.28 There is a clear difference in treatment. It may be possible to justify differential treatment, on the basis that the Russian invasion of Ukraine was politically very straightforward, whereas the intricacies and history of Israeli-Palestinian relations make the situation in Gaza much more complex. The demand for a statement condemning Israel, by reference to the position on Ukraine, takes for granted that if a comparison is made, it is Israel that is equated with Russia as the aggressor. A contrary point of view is that, Hamas having carried out an unprovoked attack, resulting in conflict, it should be equated with Russia. The response to one conflict does not transfer to another. Separately, the staff and student support for Ukraine was near-universal. Further, and importantly, the University is well aware that, in relation to Israel and Gaza, any intervention that supports only one side, or which even appears to favour one

⁸ <https://news.st-andrews.ac.uk/archive/principals-update-on-the-war-in-ukraine/>

side over the other, will be inflammatory. There are both principled and pragmatic points of distinction, and they may be legitimate, but the distinction has to be justified.

5.29 To a great extent, the difficulties in this case have arisen and have been sustained by a belief that the University must ‘say something’. Not making a statement, or making a politically neutral contribution is seen as a failure or as being complicit with the opposing point of view. That is too simplistic. If the University condemns one side in one war, it does not follow that it must condemn one side in another war. Nor does it follow that the University must have something to say in relation to every conflict. The default position should be that universities are neutral and do not espouse any particular political philosophy. Individual members of staff, including senior members of staff, will have their own views on a wide range of issues, but, as an institution, a university must act with very great care in commenting on international conflicts, especially where it seeks to support one side, or where there might be a perception that that is what it is doing.

5.30 This is especially important in the charity context. The University’s charitable purposes are broadly defined, but they are not endlessly flexible. If there is to be political activity, it must be in the best interests of the charity and consistent with the charitable purposes. It is not obvious that commentary on international conflicts – whether expressed by the University as an institution or by the Rector – will necessarily meet those requirements. If the commentary is partisan and provocative, the risk that it will not is high.

5.31 If the University takes a flexible approach and is prepared to make statements, expressed with appropriate care, on some international conflicts, and the charity trustees are satisfied that in doing so the University is not putting them in breach of their charity law obligations, a similar kind of flexibility should be afforded to the Rector, at least to some degree. It cannot be the case that the Rector cannot make any political comment, and no-one has suggested that to me. That leads inevitably to the conclusion that what is in the University’s best interests is a matter of judgement in each case.

5.32 On one level, the complaint that “the University spoke up for Ukraine and it should speak up for the Palestinians in Gaza” has some force. People are suffering horribly and in full international view. But the argument that the University is bound to do that is simplistic and superficial. The Principal and the Students’ Association President issued a joint statement which did not take sides. They exercised judgement. Ms Maris’ Statement did take a side. She exercised her judgement in a different way.

Support for students

5.33 Fourthly, Ms Maris perceives there to be an imbalance in the treatment of students with different views in relation to Israel and Palestine. Her particular concern in that context is that, in her view, the University has not done enough to acknowledge the suffering of the Palestinian people or to support pro-Palestinian students, whereas Jewish students have been given support.

5.34 Some students have family and other connections in the Middle East, including some with family and friends in Gaza. They obviously experience a direct impact. There are also some students who have family and friends who are directly affected by the Hamas attacks on 7 October 2023. The Principal told me about work that the University is doing to support Palestinian students and staff, including those in very difficult personal circumstances and with family in Gaza. Some of that work takes place behind the scenes and in private. Ms Maris does not believe that the University is doing enough but, in fairness to her, she may be unaware of individual cases because they are private.

5.35 Ms Maris' concern extends to those students who do not have immediate personal connections but who have pro-Palestinian political views. She maintains that, on the ground, pro-Palestinian students do not feel supported by the University. Instead they feel ignored and marginalised. I have also been made aware of concerns about Islamophobia. According to Ms Maris, the University has selective vision and hearing in relation to pro-Palestinian students in the University. In that context, Ms Maris considers that she was justified in issuing the Statement which gave that group, as well as those experiencing a direct impact, support, comfort and a sense of validation.

5.36 I make no comment on the level of support provided by the University either to Palestinian students or to those students with pro-Palestinian views, or indeed to other people affected, including Jewish students. I am aware of some of the work that has been done, both practically and in discussions, and I am also aware of the criticisms of the University made by Ms Maris and others. I accept that some students with pro-Palestinian views do feel worried, frustrated and ignored. Insofar as the Statement was intended to give them support and to acknowledge their needs, I consider it was justified, although that must be seen in the overall context. The Rector does have a role in speaking up for students who feel frustrated, and it is in the interests of the University that the views of such students are heard. But in the particularly sensitive circumstances, it is essential to take extra care with language.

The advice given to Ms Maris before she issued the Statement

5.37 I have summarised the advice given to Ms Maris before 21 November 2023 in paragraphs 2.10 to 2.24. It is to her credit that, in drafting her Statement, Ms Maris sought input from a number of people, including those with real expertise and experience in communications. The advice given to her by senior University staff could not have been clearer. It was robust to the point of bluntness. Ms Maris saw some of it as rude. Whilst she took on board some of the criticisms made of the length and style, her fundamental view remained unchanged and she disregarded almost all of the substantive advice. That is very unfortunate. There was a real opportunity to work together. In my view the efforts made, in particular by the Vice-Principals (Governance) and (Communications), were motivated not only by a wish to protect the interests of the University but also by a sincere concern for Ms Maris, knowing what the consequences were likely to be.

5.38 The number of people who saw and commented on drafts seemed to grow and grow. Ms Maris told me that the Statement is her own work and that she wrote it all, in multiple drafts, with another person making “significant edits”. It is clear from what Ms Maris has told me that it was influenced by several supporters, including as a result of a survey organised by the St Andrews Muslim Students Association. It is not a bad thing to ask for a second opinion but if the author of a letter seeks sixth and seventh opinions, or even more, then the risk is that the whole exercise becomes unwieldy and unfocused, especially where the advice is conflicting.

5.39 It was not only senior University officers who foresaw the problems that even the earlier drafts of the Statement would cause. [REDACTED], who was not involved in writing it, had a sense of trepidation and was concerned about inflaming tensions. [REDACTED] thought a statement was generally a good idea but had concerns about its execution. [REDACTED] spoke of others who felt frustrated that Ms Maris had taken the step without considering the nuances of what the outcome might be. I also had information from [REDACTED] about the concerns that there were prior to the Statement. [REDACTED] knew that it would cause problems but [REDACTED] was cautious in sharing that view with Ms Maris. [REDACTED] knew that some people would love it and some people would hate it. That is exactly what happened.

5.40 It is very regrettable that what started out as a collaborative exercise in which Ms Maris sought advice from across a spectrum unravelled and itself became polarised. I do not suggest that Ms Maris was bound to accept the advice given to her by University staff. It was a matter for her judgement. In my view, her judgement was poor.

Could the University have refused to issue the Statement?

5.41 This is a distinct governance point. Was there any power to prevent Ms Maris issuing the Statement on 21 November 2023? I have discussed this with the Principal and the Vice-Principal (Governance).

5.42 The practical reality is that, before an email is sent to all students, it requires to be approved by either the Vice-Principal (Governance) or the Vice-Principal (Communications). It is important to note that approval does not depend on content generally but on two specific criteria: (a) that the text meets accessibility standards, and (b) that it would not give rise to a data protection problem. There is no process for screening communications for other purposes.

5.43 Mr Merrill had given this question very careful thought at the time and had concluded that there was no governance reason and no other legitimate basis for refusing access to the all-student email list. He has subsequently reflected on this and his view remains the same. Unlike the Vice-Principal (Governance), the Principal did not have an immediate involvement on the day the Statement was sent, but this is also a question which she has since considered very carefully. Her view is consistent with that of Mr Merrill. They were not in a position, as

members of the executive, to stop the issuing of the Statement. In my view, they were both correct.

- 5.44 Ms Maris was given clear and consistent advice about the Statement. Further, it was made clear to her that one consequence might be that the University would have to distance itself from her. In an email to Ms Maris on 15 November 2023, the Principal wrote:

“It is inevitable that some outlets would interpret your view as being the University’s official stance, and we would then be required to distance ourselves from that and from you as our Rector. I hope you will agree with me that that would be a horrible start to your Rectorship, and it is one that I would profoundly wish to avoid. As you know, I hold you in very high esteem, but were the University required to make clear the difference between our posture on this matter and yours, it would have to do so.”

- 5.45 The warnings were stark, but at no point was Ms Maris told that she could not issue the Statement. It was, ultimately, and properly, left to her judgement. The nature of the action which she proposed to take was not such as would have allowed a senior University officer to say, in advance, that it would definitely and unarguably result in a breach of a formal obligation.

The impact of the Statement on students and staff

- 5.46 The reaction to the Statement was swift and powerful and it was entirely consistent with the warnings given beforehand. Ms Maris had been warned that the Statement would be divisive and polarising. There is an argument, and this is Ms Maris’ view, that the University community was already divided and that the Statement did not create something new. Others – notably the Vice-Principals with whom I spoke – believed that the University community had been holding together, albeit in a fragile way, and that it was the Statement which did the damage, in that it opened the door and allowed bad things to come in. Ultimately, I do not think that it matters greatly. If the University community was already divided then picking one side and robustly advocating for it, in the knowledge that that would exacerbate tensions, would result in a problem. Causing divisions where previously there were none may be worse, but, ultimately, the real problem is polarisation, whether created or exacerbated.

- 5.47 I have referred to the impact of the Statement in paragraphs 2.54 to 2.60. As anticipated, some people loved it and some people hated it. The three open letters – one very critical of Ms Maris, and two which supported her, from students and staff – illustrate the divide. It is not productive to count up numbers in an effort to declare a winner.

- 5.48 Polarisation is not the full picture. As well as vociferous and unqualified criticism and support, I am aware that some people were supportive of the ideas conveyed in the Statement but troubled by the way in which they were expressed and dismayed by the outcome.

- 5.49 It is necessary to address Ms Maris’ view of the impact of the Statement, especially on students. In our interviews, she emphasised to me that many

students welcomed it. I do not doubt that, although, as explained, it is impossible properly to quantify the full extent of support. I am more concerned, though, with the view taken by Ms Maris in relation to those students who experienced distress.

5.50 I have referred to an account of a student who felt unable to attend graduation because of Ms Maris' presence and because of the Statement. When we discussed this, Ms Maris told me that her position was and remains that that was that person's choice. More generally, and in a similar way, she takes the view that other people have chosen to react negatively because they have misconstrued her words. Indeed, she goes further than that in claiming that some have deliberately misconstrued her words and have acted in bad faith. I refer in part 7 below to the extent to which Ms Maris acknowledges the effect of the Statement in the context of expressions of regret. For the most part, Ms Maris appears to minimise or dismiss outright the negative impact of her Statement. That is a matter of concern.

5.51 On the basis of the information made available to me, I am satisfied that some students, and specifically some members of the Jewish student community, experienced genuine distress and hurt as a result of the Statement. I am not able to quantify numbers with any precision, especially when I have been told that there are people who are reluctant to identify themselves. I have heard accounts from three people, who have also referred to the experiences of several other people, I have read written accounts from eight people and I am aware, indirectly, of some others. I am also aware that the overall numbers of Jewish students, and those involved in the University Jewish Society, are very small, relative to the student body as a whole. I do not consider that these concerns can be dismissed as those of only a tiny number. I understand that these perspectives are not shared by all Jewish students, but that does not detract from the experience of those referred to.

Analysis and conclusion in relation to the Statement: the interests of the University

5.52 In paragraphs 4.61 to 4.72 above, I set out both the steps that the Court should take in decision-making and the way in which it should assess the interests of the University. I emphasise that these are decisions for the Court. I am asked to provide my view, and I do so, but the decision is for the University.

5.53 First, it is clear that there are competing interests. In paragraphs 4.79 and 4.80 above, I refer to what I think are relevant interests. These cannot be easily reconciled.

5.54 My view is that issuing the Statement showed poor judgement. Ms Maris knew or ought to have known that it would cause distress to some people within the University and that it would exacerbate tensions. It was a mistake, especially as the first substantive communication to the student body as Rector, to issue a Statement about an obviously contentious topic which so clearly favoured one side over the other and which used terms which Ms Maris knew or ought to have known were contested and would provoke anger and distress amongst some.

Ms Maris does not accept that she is responsible for the interpretation that some people have given to her words and stresses that her position is supported by others. Whilst that may be so, it is not a sufficient explanation. In an already fragile and volatile situation, there is a heightened responsibility to choose words with care. The Statement was ill-judged. The poor judgement is underscored by the decision being contrary to very clear advice.

- 5.55 At the same time, I recognise that Ms Maris' intentions were to give representation and support to students whom she understood to feel ignored and marginalised. That is a legitimate thing for the Rector to do, and there is evidence to suggest that, in that, she was successful, at least to some extent. Some saw it as brave and necessary. For some it brought reassurance and inspiration. She also sought to make a public contribution on an important topic of an international conflict and profound human suffering. Whilst I doubt that this was a contribution that resulted, or could have resulted, in any meaningful outcome beyond St Andrews, and I consider the claim that it added to critical academic discourse is overblown, I recognise that, for some, even a contribution that is a drop in the ocean is worthwhile.
- 5.56 The Court should afford some respect to the Rector's own judgement about the necessity for and the suitability of any action. The Rector has a high level of discretion in how he or she carries out Rectorial duties, and is not subject to direction by anyone else. Decisions about which issues to engage with are a matter for the Rector. So too is the manner of that engagement, subject to the limits presently under consideration. Ms Maris sincerely considered that she was acting in the best interests of some students and staff in the University, and for a cause which is of great importance to some students and to wider society. Insofar as she had regard to the potential negative impact of the Statement, my understanding of her position is that she considered that the benefits outweighed the harms and that, therefore, her actions were not contrary to the interests of the University. She exercised her judgement and discretion in a particular way.
- 5.57 The Court should also have regard to the extent to which the Statement either generated or contributed to a more divided and fractious environment. In my view, this is more a question of contribution or exacerbation rather than starting something new. I consider that there is a clear basis to conclude that the Statement did contribute to division within the student body. It certainly did not bring people together. In my view, that was not in the interests of the University.
- 5.58 However, I consider that, whilst the Statement was unwise and ill-judged in respect of some of its content that does not necessarily lead to the conclusion that Ms Maris must be in breach of her obligations as member of Court or a charity trustee. These are, I emphasise, questions of balance, having regard to the competing interests that exist. Ms Maris exercised her judgement and discretion in a particular way, based on her perception of the risks and benefits, which included the positive interests of engaging in issues that matter to students and supporting some of them.

5.59 I have referred in paragraph 4.69 above to the high level of protection that there is for freedom of expression, and have noted that the Court should be slow to find a breach other than in very clear and obvious circumstances.

5.60 In summary, I consider:

- that the Statement was unwise and ill-judged in respect of some its content;
- that it caused distress and contributed to division within the University, and in those respects it was not in the interests of the University;
- that there are other relevant, competing, interests and, even if to a limited extent, the Statement furthered those interests;
- that some respect should be afforded to Ms Maris' own judgement;
- that the circumstances here are not sufficiently clear or obvious to show that there is, overall, a breach of the relevant obligations.

5.61 I stress that this is a question of balance, and that the decision is ultimately for the Court.

Analysis and conclusion in relation to the Statement: bringing the University into disrepute

5.62 I have referred to the media coverage in November and December 2023. In the period since, there has been very little reporting on this issue, so far as I am aware. Separately, the Principal has had to deal with serious concerns raised in relation to project funding for the University.

5.63 I appreciate that there is room for confusion about the title 'Rector', especially outside the United Kingdom, and that some unfamiliar with the arrangements in the ancient Scottish universities may apprehend that the Rector holds real executive authority. In itself, that risk should not inhibit the Rector from speaking. In fairness to Ms Maris, she set out in a lengthy disclaimer her separate identity from the University and made it plain she was not communicating on the University's behalf.

5.64 I accept that there has been some reputational damage to the University. It appears to me that that has been successfully mitigated. The Employment Tribunal in *Miller v University of Bristol* noted, in the context of academic freedom that:

"The University, as an academic institution, ought to be prepared to face and to weather criticism and reputational damage which flows from the exercise by its academics of their rights to speak and think freely and lawfully on areas within or connected to their research and expertise."

There is some force in that point. Ms Maris is not an academic, but the analysis translates to the role of Rector. In Scotland, the Rector has a special role in speaking up for student interests and it is not unknown for students to elect controversial and outspoken Rectors. Sometimes they will say things that are uncomfortable for the University. This is certainly in that category. I do not

believe that it reaches the point of being intolerable such that it brings the University into disrepute.

5.65 It should also be borne in mind that operating a governance regime in which a Rector is inhibited from speaking, through threat of censure, would also be damaging to the reputation of the University. The idea that a university might ‘censor’ a person elected to an office with responsibilities for speaking up for students is one that would almost certainly result in criticism and that potential reputational damage should be considered. Of course, the Rector is bound by the obligations that apply to all Court members and, where there is either actual and serious, long-term reputational damage, or a clear risk of that, it will be appropriate to conclude that there is a breach. I do not consider, on balance, that in this case the impact of the Statement reached that threshold.

The Statement: sanction considerations

5.66 If, and only if, the Court considers that Ms Maris’ actions were, on balance, contrary to the University’s interests and to the extent that there is a breach of her obligations as a member of Court, it is necessary to consider the appropriate response. Insofar as there is a breach of those obligations, in my view dismissal would be a disproportionate response. It is, as explained above, necessary to have regard to Ms Maris’ rights to freedom of expression when considering this.

5.67 I consider it would be necessary to take account of the following factors. The Statement was a single event, albeit it was drawn out in its preparation. (I consider subsequent activities below.) It did contain both a disclaimer and some qualifications acknowledging the fact that some would disagree. It increased division within the University, but it would be unfair to attribute that division in its entirety to Ms Maris and the Statement. The situation was fluid, and Ms Maris was certainly not the only person active in expressing herself.

6. Were the actions and activities of the Rector in relation to the period following the Statement compatible with her obligations, by reference to the best interests of the University and the protection of the reputation of the University?

6.1 A summary is set out in paragraphs 2.29 to 2.45 covering the things that happened after the Statement was issued. It is necessary to consider Ms Maris’ own response to the situation that developed.

6.2 In the first place, it is very important to acknowledge that some of the reactions to the Statement directed at Ms Maris were very hostile, abusive and, in some instances, racist. That is deplorable. There is no excuse for abuse, on social media or in any other forum. That is an important part of the context. When subject to attack, it is not always easy to maintain a calm and measured demeanour.

6.3 However, not all criticism can be characterised in that way. Many messages which were critical of Ms Maris were expressed in a reasonable and moderate way and it is also very important that dialogue in which there is disagreement is conducted with appropriate courtesy.

6.4 Separately, I have heard from Ms Maris herself about the impact which she experienced following the statement issued by the Principal and the senior team on 24 November 2023. She told me that she found that upsetting and isolating.

6.5 Other factors, including demands made by journalists from national media, very extensive activity on social media and a high level of 'noise' from many directions, contributed to a high level of stress. Taking all of these things together, as well as recognising the difficulties facing a relatively inexperienced person who had only very recently been elected as Rector, it is clear to see that this was an exceptionally challenging situation.

Apologies, non-apologies and expressions of regret

6.6 One of the difficulties in assessing how Ms Maris reacted is that she has made a range of responses. In the short period that followed, and on several occasions, there were expressions of regret. I have referred in paragraphs 2.32 and 2.33 to Ms Maris' LinkedIn message of 25 November 2023. The LinkedIn message included both of these phrases:

"To the Jewish community who feel unsafe due to my words, I am deeply sorry."

and

"In summary, I maintain my stance and will not apologize for speaking up about these issues."

This statement had elements of an apology but also of justification and non-apology.

6.7 The joint statement issued by the Principal and the Rector on 27 November 2023 communicated that:

"The Rector wishes to acknowledge the distress which elements of her message have caused to some students, staff and alumni in the St Andrews community. She also wishes it to be known that she will advocate for the voices of Palestinian, Jewish, BAME and other groups of students affected directly, and indirectly, by the war in Gaza to be heard."

6.8 In her written statement to the Court prior to the meeting on 15 December 2023, Ms Maris included this:

"While I acknowledge and regret any distress caused by the language used, it is imperative to recognize that the intention was not to propagate anti-Semitism but to engage in a critical academic discourse based on established legal and humanitarian perspectives. The University, as a bastion of learning and free thought, should uphold the values of academic freedom and encourage its community to engage with complex

global issues based on a foundation of informed understanding and respect for diverse viewpoints.”

6.9 In these public statements, there is a theme of expressing regret combined with a justification. Where an expression of regret is qualified in this way, it loses its value. I also have difficulty in reconciling the acknowledgement and regret for distress with what Ms Maris has told me in the course of our discussions about her views on the distress experienced by some Jewish students. She told me that she thought that some people’s reactions were not in good faith. When I asked her what she meant, she explained:

“I think that it's framed as a worry about physical risk and harm, when actually it's about not wanting to feel uncomfortable. That's what I think it is. The way that it's been presented as, "Oh, I'm concerned that your statement, that in no way advocated for violence against Jewish people, is going to increase, is going to lead to an increase in violence against Jewish people." I don't think that there was a reasonable expectation of that, I really don't. I don't see any causal link.”

6.10 In essence, Ms Maris’ response to other people being upset by what she has said is that they should not be and that there is no reason for them to be upset. She acknowledges that they are or may be distressed, but sees no causal connection. Insofar as there is a critical reaction to her, Ms Maris in some cases construes that as a complaint that she is antisemitic, which she finds offensive.

6.11 Against that background, I am unable to take anything substantive from the written expressions of regret made in November and December. My understanding of Ms Maris’ position from her discussions with me is that she would make the same decision again and that she sees no need to apologise.

Responses on social media

6.12 At around the same time, Ms Maris also put a number of posts on Instagram. There are four respects in which I consider these were inappropriate to the extent of being contrary to Ms Maris’ relevant obligations.

6.13 First, Ms Maris’s Instagram messages included some which encouraged people to sign the open letter in her support. On 2 December 2023, she posted a message referring to a message supporting her and stating: “These are the voices the university is refusing to acknowledge. Let’s make it harder for them.” This was followed by a watermelon emoji (signifying support for the Palestinian cause) and a fist emoji.

6.14 Very simply, encouraging people online to do something which ‘makes it harder’ for the University is plainly not acting in the University’s interests. The Statement itself in no way criticised the University. It was aimed in a quite different direction. By contrast, this Instagram message directs its force against the University itself. The Rector is the president of the governing body of the University and, as such, she ought not to have been seeking to drum up support for a campaign directed against the institution itself in which campaign she has a personal interest. The open letter made a brief reference to Gaza and the

Palestinian people but was otherwise entirely focused on Ms Maris herself. It was in Ms Maris' own interest to encourage support for the open letter; it was contrary to the interest of the University.

- 6.15 Secondly, it was in my view an error of judgement to post content from a Palestinian activist, Mohamed El-Kurd, on her Instagram page, apparently in response to a statement from the Jewish Society. By that stage, it was or ought to have been very clear to Ms Maris that her Statement had already caused distress to the Jewish Society and its members. She had already encountered criticism of her use of a link to the Electronic Intifada website, and had removed that link. Having issued the Statement, and having become aware of the extent of the reaction and of the atmosphere of tension, posting further controversial content suggests a deliberately provocative act. Internet research shows that Mohamed El-Kurd is a controversial figure, with claims that he expresses antisemitic views. Whether or not that can be fully substantiated, and I have read arguments in both directions, inclusion of material from him was distressing for those in the Jewish Society who read it, and Ms Maris must have known that that would be the case. This was very unwise. It exacerbated a difficult situation and was contrary to the University's interests.
- 6.16 Thirdly, I have heard a number of references to a particular post on Instagram. [REDACTED] to whom I spoke found that distressing and insulting. This was the post mentioned at paragraph 2.39 above which included the words "I don't hate Jewish people. Please stop being weird."
- 6.17 I mention this post in particular, it being something that I discussed with Ms Maris both at the beginning and end of my investigation. During our first interview, Ms Maris described that as "not the most professional thing". In the course of our second interview, Ms Maris said that she did think that people were being weird because they called her antisemitic. She thought that that was offensive and weird and that she was entitled to characterise them as such. To the best of my knowledge, [REDACTED] did not call Ms Maris antisemitic.
- 6.18 Whilst there are worse terms of abuse than being called 'weird' it is understandable that those who read it, and considered that it was aimed at them, reacted badly. It misrepresented them and was insulting. Ms Maris maintains that it was not directed at Jewish students. That is no excuse. She must have known that they would read it, and in any event she ought to have been civil to members of the public
- 6.19 The fourth aspect is that in the social media exchanges, there was a failure by Ms Maris to engage with those people who criticised her. Those who specifically asked her to respond were met with a flat refusal. This combative, hostile approach to social media communication was in no way conducive to respectful discussion. For example, a post on the Jewish Society Instagram page on 26 November 2023 complained that the published Statement was significantly different to the version that had been shared with them, and that they had been misled. As a matter of fact, it was true that the versions were significantly different, though Ms Maris' view is that, by 21 November 2023, the Jewish

Society had disengaged with her process. There might have been an opportunity to address the issue, but Ms Maris' response, on the same day, was:

"My statement speaks for itself. I will not have antisemitism weaponised against me. I will not interact with this post after this message. The hate and abuse I have received has been truly shocking, but you will never intimidate me into not speaking truth to power."

6.20 I have considered in part 5 above questions about antisemitism and references to genocide and there is no need to repeat these points. I have heard representations to the effect that the content of some of Ms Maris' posts is, separately, antisemitic, at least by implication. For example, it has been suggested that the phrase "speaking truth to power", which Ms Maris uses often, carries a sense of antisemitism, relying on a trope that Jewish people have power, especially when directed at Jewish students. My understanding is that Ms Maris conceives the 'power' to be the University. In my view, it is unnecessary to address this further. The tone of posts such as the one at issue is objectionable for other reasons.

6.21 I need deal only briefly with the impact of the social media activity. To a large extent, the exchanges of messages speak for themselves. It is plain that some people, including students at the University, took strong exception to Ms Maris' posts. The posts themselves clearly convey an insistence on and intensification of the previous message. On no view could these be said to show a willingness to defuse tension or to engage. It is unsurprising, in all the circumstances, that these were seen as inflammatory.

Analysis and conclusion in relation to social media activity in the period following the Statement: the interests of the University and the duty of respect

6.22 In assessing the extent to which the social media activity in this period was contrary to the University's interests, similar considerations apply as they do to the Statement itself. Again, it is for the Court to decide which are the most important interests in this context, and then to decide whether the activity was in the interests of the University.

6.23 It appears to me that the same or similar interests are relevant. These are summarised in paragraphs 4.79 and 4.80. Whilst it is a matter for Court, it appears to me that, in this context, there is a high priority for avoiding causing distress and division.

6.24 The social media messages posted by Ms Maris during this period, are a very long way indeed from the critical academic discourse in which she claimed that she sought to engage. These messages are combative, blending defensiveness with a very robust reiteration of what had gone before. Indeed, they are different in character to the Statement, which expressly recognised that some people might disagree with the manner of presentation. Those gestures towards understanding, expressed earnestly, are almost entirely missing from the subsequent exchanges.

- 6.25 I recognise, of course, that social media fora do not readily lend themselves to reasoned, respectful discussion and that there were messages aimed at Ms Maris from far and wide which were hostile, offensive and worse. The better course, though, would have been to desist from this activity, or at least to ensure that messages were framed politely. Respect is one of the principles of ethical standards in public life; fellow members of the University must be treated with courtesy at all times and, when performing duties as a member of the public body, a public office holder must respect members of the public. Ms Maris posted on social media as Rector. She was obliged to do so with courtesy and respect. Some of her posts did not meet that standard. The most neutral description is that they show Ms Maris standing by her Statement. They are almost entirely defiant in tone and there is no sense of acknowledgement that there might be another point of view, or that some people, and in particular some Jewish students, might be upset by her approach.
- 6.26 It was very unfortunate that Ms Maris used her official social media account in the way that she did, especially in promoting criticism of the University and in taking a discourteous and disrespectful tone towards others. This activity was very ill-judged and it ought not to have happened. What is especially concerning is that, in that period, it was abundantly clear to anyone in the University with an interest in the matter that tensions were running very high. Ms Maris' response was that of an activist trying to increase pressure rather than a responsible leadership figure trying to defuse tension and bring about some kind of calm. In her determination to further one particular cause she appears to have closed her eyes to the upset and to have lost sight of the responsibilities which the Rector has to all students, and to the good of the University.
- 6.27 In contrast to the Statement, in respect of which Ms Maris has a reasonable basis to claim that it was intended to support at least some students, and that is a legitimate factor to weigh in the balance, I do not think that the same is true of most of her social media posts. Apart from some re-posting of other content, most of Ms Maris' posts are about her.
- 6.28 Taking these factors together, I consider that Ms Maris did not act in the best interests of the University, and, in relation to some of her communications, did not treat other people with courtesy and respect. She is entitled, of course, to freedom of speech, which encompasses social media activity, but the University is also entitled to take the position that this activity is contrary to its interests and to regulate such speech. Decisions in relation to the interests of the University and breach of obligations are matters for the Court. I am asked to give my view, which is that these activities were in breach of Ms Maris' obligations as a member of Court and as a charity trustee.

Analysis and conclusion in relation to social media activity in the period following the Statement: bringing the University into disrepute

- 6.29 In my view, the risk of reputational damage to the University does not arise in quite the same way in relation to the social media activity as it does to the Statement. There may have been some risk of such damage, but Ms Maris'

online posts could in no way be thought to represent the University. In any event, for most of the relevant period, the response documents from the University were accessible, including the joint statement from the Principal and the Rector issued on 27 November 2023, which almost certainly provided effective mitigation of the risk. I do not consider that this issue requires to be considered separately to the issues of best interests and the duty of respect.

Social media activity in the period following the Statement: sanction considerations

6.30 The same approach is required as that set out in relation to the Statement. If the Court considers that Ms Maris' actions were in breach of her obligations as a member of Court, it is necessary to consider the appropriate response. In my view, dismissal would be a disproportionate response. It is, as also explained above, necessary to have regard to Ms Maris' rights to freedom of expression when considering this.

6.31 I consider it would be necessary to take account of the following factors. I have already outlined the ways in which I consider the social media messages to be very ill-judged, especially in view of the existing tensions. It is important to maintain perspective. When looking at the messages themselves, they are not, in my view, of the most serious kind. They were not sustained over a long period and I am not aware of any recent repetition. The messages did not include overtly abusive language and, to an extent, there was, in general terms, provocation from others.

6.32 I have made observations in paragraph 6.27 about the seriousness of any breach. These considerations are relevant in assessing the proportionality of any breach of obligations found by the Court. In my view, whilst criticism can properly be made of some social media posts made by Ms Maris, I do not consider that dismissal would be a proportionate response. Dismissal would constitute a very substantial interference in respect of Ms Maris' freedom of expression and, standing the nature of the breach, that would not, in my view, be justified. The Court may wish to consider what alternative approach may be available.

6.33 In dealing with this matter, it will also be important for the Court not to seek to hold Ms Maris to an excessively high standard, relative to other Rectors. Rectors come from a wide range of backgrounds and the level and substance of the contribution they make will vary. It may be difficult to compare conduct, since each individual Rector will determine his or her own approach and priorities.

Period following the Statement: further considerations

6.34 In relation to the period following the Statement and up to 15 December 2023, I have focused on Ms Maris' social media activity. I note at paragraphs 2.52 and 2.53 above that some things did not happen, specifically meetings and surgeries. It is necessary only to comment briefly in respect of each of these.

Meetings

- 6.35 In general terms, attempting to overcome disagreements through meetings and discussion is almost always better than not making that effort, and it was unfortunate that it was not possible to find a way for the Rector and the Jewish Society to meet in the period after the Statement. However, I do not think that it is fair to attribute all responsibility for that to Ms Maris. It was not unreasonable for Ms Maris to have a person accompany her to such a meeting, although I question the wisdom of asking a student to do that. I am also aware from the correspondence that Ms Maris did seek to explore the use of formal mediation services within the University.
- 6.36 Given the tension that existed at that time in November, as evidenced in the Instagram messages on 26 November 2023, it may be that such a meeting would not have been productive. However, it strikes me that this was a missed opportunity and it is a pity that more was not done to allow some dialogue to take place. At the same time, Ms Maris' point about caution in holding meetings whilst an investigation is in contemplation is a perfectly reasonable one and she should not be criticised for that.

Surgeries and other routine Rectorial activities

- 6.37 It is very unfortunate that Ms Maris has not held any surgeries as Rector. An active, engaged Rector can make a very positive difference to student welfare. I understand that that is something Ms Maris takes seriously and it is regrettable that she has not made progress with this. However, it is also clear that, to an extent, routine business is on hold pending the conclusion of this investigation. The process for appointing a Rector's Assessor has been paused. In these circumstances, I do not consider that it is reasonable to criticise Ms Maris for the lack of such activity in the period following the Statement.

7. Activities in the period after 15 December 2023: protests

- 7.1 In the introduction to this report, at paragraph 1.10, I explained the time frame. In addressing the period after the Statement, my focus has been on the few weeks between 21 November 2023 and 15 December 2023, when the Court meeting took place. I have assessed the relevant factual considerations and have given my views in relation to those matters.
- 7.2 I am also aware that in the period since then Ms Maris has been involved in the regular pro-Palestinian protests which take place on Wednesdays outside College Gate. I make only general observations in relation to these. The reason for referring to these is to provide the Court with information about continuing activities. It appears to me that, to the extent that the Court needs to work out how best to approach future steps, it should be aware of this information. It would be artificial to ignore the fact that there are continuing protests relating to Gaza.

- 7.3 As with freedom of expression, freedom of assembly is a protected right and similar considerations apply. Ms Maris' view is that she is continuing to give support to pro-Palestinian students and is campaigning for an important cause.
- 7.4 I was concerned to hear about the incident in the University Library. I understand that, although she was present, Ms Maris was not involved in planning the 'occupation' and did not know that it was going to happen. She told those organising the protest that she did not approve. I make no further comment in relation to that specific incident. In general terms, activity involving disruption to study and in a University workplace clearly would be contrary to the interests of the University and is not something in which the Rector, or indeed any student, should be engaged in any circumstances.
- 7.5 Although attending protests may be within the scope of a Rector's proper activities, there is an important qualification. When a Rector is visibly associated with one very specific and controversial cause, and especially if there is no significant involvement in any other activity, there is a risk that that person will be seen as being interested in only one part of student life and only accessible to students who share the Rector's political outlook. Routine attendance at demonstrations and participation in singing politically provocative chants are likely to make it more difficult for students who are opposed to that view, or even just cautious about it, to speak to the Rector about other things. It is not possible to say, on the basis of information presently available, whether as a matter of fact, participation in the protests has had that effect, or indeed any other impact.
- 7.6 There is one specific aspect of the protests concerns the language used, and this is something I discussed with Ms Maris. I am aware that Ms Maris sees no difficulty in the chant "from the river to the sea", but it is a fact that other people do have a serious problem with that message, because it is understood to convey the opinion that Israel should not exist. She told me that, in her view, that phrase does not automatically have that meaning, and that she would be happy to explain that to anyone. When I asked about the upset caused to other people who do construe it as carrying that meaning, Ms Maris told me that she was "offended by their upset." Her complaint is that in being upset and in hearing the phrase "from the river to the sea" as meaning "Israel has no right to exist", those people fail to recognise that it "references people with human rights and dignity." That response fails to engage with the basic objection that the phrase, taken as it is from the Hamas charter, strongly connotes an offensive message, which, in the eyes of many, is also antisemitic. Ms Maris may intend to convey that Palestinian people should enjoy freedom, but she is bound to recognise that the chant is, at the very minimum, controversial.

8. Further observations

- 8.1 In considering Ms Maris' actions and activities, I have sought to understand Ms Maris' own views and attitudes in relation to the issues. These are relevant in assessing intention, awareness and opinion. It is impossible properly to understand actions and activities without considering all of these. In the course of this investigation, I have been struck by a consistency in Ms Maris' overall

approach. I have mentioned some of these points in my report already, but I consider that it may be helpful to draw them together, with these observations. This is in order to give the Court full view of the way in which Ms Maris made decisions in the relevant periods, and an understanding of her perspective. It may also assist in informing the Court in relation to such further decisions as may be needed.

- 8.2 I emphasise that my assessment and conclusions, given above, are in relation to *actions and activities*, in the specified period, and their compatibility with the obligations to which the Rector is subject. I have addressed the issues set out in the terms of reference. That is in respect of the Statement issued on 21 November 2023 and Ms Maris' activities in the period following, up to 15 December 2023. This is advice and, of course, decisions in respect of all matters are for the Court. It has, however, become apparent to me in the course of this exercise that, at different levels, relationships have been damaged. Assessments relating to formal obligations are necessary, but, on their own, they may not be sufficient to allow planning for the future, if such planning is necessary. The further observations which I make below are intended to assist in informing that process, if that process is necessary.
- 8.3 Ms Maris has very firmly held political convictions in relation to the situation in Gaza and the politics of that region more generally. She is also strongly convinced that her pro-Palestinian advocacy supports the interests of students within the University, both those who are Palestinian and those with pro-Palestinian views, as well as Palestinian people generally. These are consistent throughout her approach. She has support, both from some students within the University, as well as some University staff and a wide range of people beyond, though I cannot quantify that. It is evident particularly from the correspondence which supports her and from social media posts.
- 8.4 The robustness of Ms Maris' approach seems to preclude any willingness to accept that there may be validity in an opposing point of view. She does not accept that her Statement was controversial. Ms Maris appears to have difficulty in accepting the description of the situation in the University as 'polarised'. In her view, the poles are on different planets. This appears to suggest that she rejects the idea that there is actually a debate with opposing and respectable points of view. Rather, her approach seems to be that this is a simple right and wrong situation.
- 8.5 The intensity of Ms Maris' political convictions also appears to result in an inability or unwillingness to accept that other people may be distressed or upset as a result of her activism. I have referred already to three examples. She considered the reactions of some people to be in bad faith, seeking to reframe their worry about physical risk and harm as "not wanting to feel uncomfortable" (paragraph 6.9). In relation to a student not feeling able to attend graduation, she responded that that was a matter of choice (paragraph 5.50). Insofar as people are upset by the chant "from the river to the sea", she finds that upset offensive (paragraph 6.35). I find it extraordinary that she dismisses the upset experienced by other people in this way. She complains that the University has prioritised the offence taken by those who disagree with her. Drawing Ms Maris'

attention to other people's anxiety seems to result only in attack and repeated self-justification. These reactions indicate a lack of empathy and self-awareness. I do not know whether, in this context, Ms Maris simply cannot understand other people's feelings, or whether she is so convinced of the rightness of her position that she thinks that the feelings of those who disagree with her do not matter.

- 8.6 At the same time, I appreciate that Ms Maris does have a concern for the welfare and feelings of students in St Andrews who are Palestinian or who support the Palestinian cause. She explained to me, for example, that, where people are very distressed by the situation in Gaza and feel powerless and frustrated, and where this has an impact on their mental health, attending protests is beneficial. To the extent that it upsets other people, that is, on Ms Maris' view, not her problem. It is, in my view, a matter of concern, that Ms Maris sees and responds to one group who are distressed, but dismisses, and even disparages, the distress of another group. A Rector who seeks to work with a wide variety of students in a range of challenging circumstances must have some maturity and sensitivity. That does not preclude championing a cause, even one which is controversial, but finding the right balance involves skill and care, especially when dealing with individual students' needs.
- 8.7 I find it very difficult indeed to understand how Ms Maris has come to a point where, in relation to one particular issue, she has identified herself so strongly with one side that she seems unable to see the hurt experienced by those who disagree with her. In my lengthy discussions with her, I could not detect any real suggestion of an acceptance that there might be validity in a view inconsistent with her own. Beyond an acknowledgement in relation to one Instagram post that it "might not have been the most professional thing", subsequently qualified by insisting the same post was justified, I heard nothing to indicate any acceptance that she might be wrong and someone else might be right. More than that, I heard no acknowledgement that relationships and trust have been damaged. I recognise, of course, that in the midst of an investigation, these might not be at the forefront of discussion, but I think it necessary to draw attention to this.
- 8.8 At present, given the current hiatus in routine Rectorial activity as a result of this investigation, it is not possible to say whether, as a matter of fact, students have been inhibited from seeking the Rector's assistance or whether there is a real problem with accessibility. I am aware that there are some Jewish students who have lost trust and confidence in Ms Maris. I do not know how many students take that view. Of course, I am also aware that some students are very grateful to Ms Maris, in whom they see someone standing up for them and taking their concerns seriously. But the short point is that the Rector has responsibilities to all students. These cover pastoral responsibilities, including in situations which are sensitive and where a high level of confidence is needed.
- 8.9 Issuing the Statement was the first substantial act Ms Maris took as Rector and she is now very clearly associated with the ensuing controversy. Having taken an overt and partisan position, and having maintained a visible association with a particular cause, for example by attending protests, there is a risk that some students will feel inhibited from speaking to the Rector on any matter. It is not

helpful, nor really fair, to say that this is entirely a situation of Ms Maris' own making. This is one aspect of the impact of polarisation, which I consider to be real. It is, though, in my view, a live concern and one that will need to be addressed. With these issues in mind, I sought to explore with Ms Maris whether, and if so to what extent, she thought that her ability to deal with her other duties as Rector might be compromised as a result of the Statement and subsequent activities.

- 8.10 Ms Maris has made it clear to me that she understands her responsibilities to all students. She responded to the suggestion that some Jewish students may consider that she does not support them by saying that she is more than willing to support all students, but that they have not asked her. She went on to say that she would not support anyone who wanted her to “deny a genocide” but that that was not necessary to support them and their safety. Ms Maris acknowledged that she had “some responsibility as a student representative, but I can't help them if they're unwilling to meet with me because of their own feelings about myself and who I am.” She believes that she can offer support to all students, although she also observed that those who are not comfortable with her can find support elsewhere.
- 8.11 Ms Maris has explained to me that her advocacy for Palestine does not mean that she cannot advocate for anything else. She has told me that she wants to work across a wide range of issues, including racial equality. She does not consider that the Palestinian cause should be any more defining of her term than anything else.
- 8.12 I also note that Ms Maris has been held in high regard in the past and that there is still a level of respect for her, including amongst those whom she now regards as opposed to her. Almost all of the people with whom I spoke recognised that, at one level, Ms Maris cares about students. She has, I am told, a record of promoting student welfare, and she clearly had a heavy workload when she served as Rector's Assessor. Two examples support that. Mr Scott told me that Ms Maris had supported students who had experienced racist abuse by local youths and was involved in working out a pragmatic, consensual solution to the problem through discussion with the local headteacher. [REDACTED] told me of a discussion he had had with Ms Maris about the practical difficulties experienced by [REDACTED]. That may not have had any specific effect, but I am told that she had a genuine concern for the issue. Ms Maris' care for students comes through very strongly in her election manifesto.
- 8.13 Several people expressed real frustration that the experience in November 2023 was a wasted opportunity. Ms Maris, as the new Rector, had a chance to make a very positive mark. She had begun with an idea that it might be possible to bring people together and to try to find a way through the disagreements. Instead, amongst some, the Statement compounded the sense of distress and distrust. I do not know whether there is either a willingness or an ability to regain that idea. There is certainly a long way to go in rebuilding trust and confidence.

- 8.14 It would be very unfair to lay all of the responsibility for the present situation at Ms Maris' door. As I observed at the outset, the University is not unique in having to contend with these particular political issues and their satellite disputes. The issues are, in their nature, intensely difficult. Other people's actions and behaviour are, of course, relevant. My remit, though, has been to consider Ms Maris' actions and activities, and I have done so. One important part in moving forward is the acknowledgement of what has happened. When I asked Ms Maris whether, knowing what she knows now, she would have taken the same actions, she affirmed that she absolutely would. She has no regrets and has told me that she will not apologise.
- 8.15 I find it difficult to see how progress can be made in bringing together the student body if there is no attempt to acknowledge what has happened or to consider the need for a change in attitude or conduct. There must be an openness to new conversations and the building of bridges. Ms Maris has emphasised to me that she welcomes debate and argument. Those are important skills but in an environment where relationships have been damaged and where there is much to be done to build trust and confidence, debating and arguing will be of little use.
- 8.16 Much has been said in the course of this investigation about freedom of expression. As I have explained, that must be taken into account. The right to protest and a right to freedom of expression are hugely important but they cannot provide a complete answer. There are also duties and responsibilities, as Article 10 ECHR recognises.
- 8.17 I have read the Court Handbook and the Role of the Rector document with particular care. In my view, these set out a good structure within which the Rector and the other members of Court can work together. Collective responsibility and cooperation are important. It would be most unfortunate, not just immediately, but also in the longer term, for a pattern to be established in which the Rector acts quite separately from the governing body of the University. The special responsibilities which the Rector has are important, but they are best met within the proper framework which exists in terms of statute and the Court's rules.
- 8.18 I am conscious that the experiences since she took office, including in the last three months in this investigation, have been challenging for Ms Maris on a personal level. In particular, I recognise that being told that other people feel unsafe or uncomfortable in her presence is itself very upsetting. I have had to consider other people's distressed and angry reactions in the course of this work, but I understand that everyone has feelings. [REDACTED]
[REDACTED]
[REDACTED]
- 8.19 Even where there is an acknowledgement that a change in approach will be needed, it would plainly be unreasonable to expect Ms Maris to achieve that on her own.

8.20 The actions of the University are expressly outwith the scope of my investigation. Nevertheless, I observe that finding a way forward will require all involved to examine the approaches they take.

8.21 [REDACTED]. I do not know whether there is benefit in pursuing that option. As a general principle, I observe that mediation only succeeds where there is a serious commitment to the process.

8.22 The Court is not the only relevant institution within the University. I have referred to the Students' Association and the motion recently before the Student Representative Council. There are clearly very strong feelings on this subject, and there may be room to discuss how these are best articulated, and not to the exclusion of those who disagree. Of course, constitutional proprieties need to be observed, but there may be opportunities for constructive engagement.

8.23 I do not underestimate the work that may be needed and I wish all involved well.

MORAG ROSS, K.C.

15 April 2024

ANNEX A

Rector Investigation Terms of Reference

The Rector of the University of St Andrews is a position on the University Court that is elected by the entire student body. This is an historic position, frequently held by politicians, activists, and other public figures. It has no academic function. Under statute, the Rector presides over the University Court, which in practice is a ceremonial role, opening and closing Court meetings before passing over to the Senior Lay Member who chairs all aspects of the meetings concerned with policy, strategy, and finance. The Rector is, however, a full member of Court and as such a Charity Trustee.

By tradition, the Rector's role is predominantly a pastoral one, being available to all students, supporting their welfare and ensuring that student views are reflected to Court – there are also two formal student representatives on Court, the President and Director of Education from the Students' Association, who are elected sabbatical officers, as well as the position of Rector's Assessor, which is held by a matriculated student. The Rector has no formal connection with the Students' Association although has traditionally worked with it to support surgeries and other events. The position of Rector carries no stipend or remuneration.

The current Rector, Ms Stella Maris, a recently graduated former student and a former Rector's Assessor, was elected Rector in October 2023 and took up her new role on 1 November 2023. On 21 November, she issued a [statement](#) in relation to the war in Israel and Gaza, the content of which attracted complaints and expressions of concern from students, staff, alumni, and a wide range of external bodies, as well as messages of support from these communities.

In the light of this, and subsequent developments including statements from the Rector on social media, the University Court has decided to commission an independent external investigation into whether Ms Maris' actions and activities were compatible with the responsibilities and standards placed on her as a member of Court and as a Trustee of the University. These include the Statement of Primary Responsibilities set out in the [University Court Handbook](#), the Ethical Standards in Public Life, the fiduciary obligations placed on charity trustees and the role description of the position of Rector.

The investigation will consider all relevant material, including but not restricted to, statements, social media posts, correspondence, and papers considered by Court and

its committees. The Investigator will have discretion to seek additional information as they consider necessary.

The investigation will provide advice to the Senior Lay Member and Court's Governance and Nominations Committee on the compatibility of the Rector's actions and activities with the responsibilities and standards placed on her as a member of Court and as a Trustee of the University, in order for the Committee to make recommendations to Court on any actions deemed appropriate. The investigation should complete and report as soon as possible, recognising the urgency of the situation.

ANNEX B

SUMMARY – RELEVANT CHARITY COMMISSION GUIDANCE APPLICABLE IN ENGLAND AND WALES

1. First, as a statement of general principle, the meaning given to “best interests” can be found in “Charities and litigation: a guide for trustees”, issued in August 2016.⁹

‘In the best interests of the charity’ means what the trustees reasonably believe will best enable the charity to carry out its purposes for the public benefit.

2. More specific information is given in ‘Campaigning and political activity guidance for charities’, issued in November 2022.¹⁰ This is a detailed document. Relevant excerpts are, at paragraph 2.1:

Political activity: political activity, as defined in this guidance, must only be undertaken by a charity in the context of supporting the delivery of its charitable purposes. The commission uses this term to refer to activity by a charity which is aimed at securing, or opposing, any change in the law or in the policy or decisions of central government, local authorities or other public bodies, whether in this country or abroad. It includes activity to preserve an existing piece of legislation, where a charity opposes it being repealed or amended. This differs from activity aimed at ensuring that an existing law is observed, which falls under (1), Campaigning.

Political activity might include some or all of:

- raising public support for such a change
- seeking to influence political parties or independent candidates, decision-makers, politicians or public servants on the charity’s position in various ways in support of the desired change; and responding to consultations carried out by political parties

It is essential to note that charities cannot give their support to a political party ([section 4.1 provides guidance on working with parties, politicians and independent candidates](#)).

Clearly, there is not always a clear demarcation between campaigning and political activity, and a charity might well undertake a phase of activity which has various elements. This guidance is focused on the factors that trustees will need to consider in deciding what it is right for them to do. It also makes clear that supporting a political party is not an acceptable form of political activity for a charity.

3. At paragraph 3.1:

Engagement in campaigning is a means by which many charities work to further their purposes, and many charities also engage in political activity in support of those purposes.

⁹ <https://www.gov.uk/government/publications/charities-and-litigation-a-guide-for-trustees-cc38/charities-and-litigation-a-guide-for-trustees>

¹⁰ <https://www.gov.uk/government/publications/speaking-out-guidance-on-campaigning-and-political-activity-by-charities-cc9/speaking-out-guidance-on-campaigning-and-political-activity-by-charities>

So long as a charity is engaging in campaigning or political activity solely in order to further or support its charitable purposes, and there is a reasonable likelihood of it being effective, it may carry out campaigning and political activity, as set out in this guidance. The activities it undertakes must be a legitimate and reasonable way for the trustees to further those purposes, and must never be party political.

A charity can make public comment on social, economic and political issues if these relate to its purpose, or the way in which the charity is able to carry out its work.

These principles lie behind all of this guidance. Whilst there is no limit on the extent to which charities can engage in campaigning in furtherance of their charitable purposes, political activity can only be a means of supporting or contributing to the achievement of those purposes, although it may be a significant contribution. Hence, political activity cannot be the only way in which a charity pursues its charitable purposes.

There may be some charities which cannot campaign because of restrictions in their governing document.

4. At paragraph 5.1:

Evaluating and managing risks: trustees are responsible for identifying and reviewing the major risks to which a charity is exposed, and for putting in place systems to mitigate these risks. Some types of campaigning and political activity, particularly those that have a high public profile, have the potential both to enhance and to damage the charity's reputation, and also to compromise its independence. This means that charities need to identify and manage the possible risks involved; it does not mean that they have to avoid all risks.

As part of its assessment of the overall risks and benefits of the activity, a charity should consider:

- the risk that the activity may not be effective, or that the charity will be drawn into activities that are outside its purposes
- the costs and benefits of engaging in a particular campaign
- ways of approaching the campaign
- the risks attached to the campaign, and how these might best be managed; these include public perceptions of the charity's independence, for example if a charity is supporting or opposing a policy that is also advocated by a political party
- the strategy for delivering the campaign
- how best to evaluate the campaign's success and impact

Trustees must not allow the charity to be used as a vehicle for the expression of the political views of any individual trustee or staff member (in this context the commission means personal or party political views).

5. In a separate document, aimed at protecting charities from abuse for extremist purposes, guidance is provided in relation to trustees who hold controversial views.¹¹ At paragraph 10.15:

As a trustee, you have a legal duty to act with reasonable care and skill in the administration of the charity and to act in its best interests. You should also consider, with

¹¹ <https://www.gov.uk/government/publications/protecting-charities-from-abuse-for-extremist-purposes/chapter-5-protecting-charities-from-abuse-for-extremist-purposes#charity-events-and-speakers>

regards to your seniority and public connection to the charity, how your conduct in a personal capacity may affect your ability to act as an independent trustee of a charity, or the charity's reputation itself.

Many people involved with charities have strong and often controversial or partisan views. In many instances, this is not in itself problematic. There may be some occasions however where expressing strongly controversial or partisan views on a particular issue without due regard to the charity's position may compromise the charity's integrity, purposes or activities. This may mean that in some circumstances you're not suitable to act as a trustee, even if those views are expressed in a personal capacity. This is because those views may be such that they conflict with you exercising your objective judgment in the interests of the charity and therefore your ability to make proper decisions; those views may create risks to the charity's operations and/or reputation; and, so may undermine the charity's ability to deliver services to its beneficiaries. In order to assist you identify and manage such risks, please refer to our guidance [Conflicts of interest: a guide for charity trustees \(CC29\)](#).

If you cannot carry out your role and comply with your legal duties, you should resign. If you remain in post but know you're unable to comply with your trustee duties, this would be misconduct and/or mismanagement in the administration of the charity.