



**St. Edmund's College  
in the University of Cambridge**

**EXTERNAL INVESTIGATION INTO THE  
APPOINTMENT OF THE TOBY JACKMAN  
NEWTON TRUST RESEARCH FELLOW**

**Independent Report to the Governing Body**

**Sir Patrick Elias, External Investigator**

**30 April 2019**

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## *Introduction*

1. Dr. Noah Carl was elected to the Toby Jackman Newton Trust Research Fellowship at St. Edmund's College in the University of Cambridge (the "College"). It has subsequently been alleged by the Combination Room (i.e. the College's student body) that the nature and subject matter of his research, his methodology, as well as his close association with persons with allegedly racist views, make him unfit to remain in that post. The Combination Room has also complained that in view of these matters, the Master and Fellows who were responsible for his appointment ought never to have appointed him and were in dereliction of their duty in doing so. In substance their complaint is that either the relevant Fellows knew of the matters which ought to have rendered Dr. Carl unsuitable but recommended his appointment nonetheless, or they did not know about them when they ought to have done. If the former is correct, it puts into question what the students have described as the "ethical framework and integrity and moral framework of several members of the Fellowship;" if the latter, it involves a different allegation, namely that the relevant Fellows were incompetent and failed to conduct proper due diligence before recommending Dr. Carl's appointment. These charges are levelled in particular at the Fellows of the Interview Panel and the Nominations Committee which recommended Dr. Carl's appointment to the Governing Body. It is not suggested that the members of the Governing Body, who simply adopted the recommendation of the Nominations Committee, were by virtue of that decision acting in an improper or incompetent manner.
2. The College has set up two investigations in response to the widespread attack on Dr. Carl's appointment. The first is an internal investigation panel chaired by an Emeritus Professor, Professor Herrtage, whose task, putting the issue broadly, is to consider whether there is substance in the allegations now made against Dr. Carl, with possible implications for his continuing as a Fellow of the College. That raises a complex series of difficult and controversial issues including academic freedom and its limits, research ethics and intellectual honesty. If the complaint is upheld, it necessarily implies that any panel or committee which recommended Dr. Carl for the post, with full knowledge of the matters now put in issue, acted improperly.
3. The second investigation focuses on the complaints about potential procedural deficiencies and/or lack of due diligence. The resolution of these complaints will also ultimately have to be determined internally. The reason is that the complaints are being treated as formal grievances falling under Chapter VI (Grievance Procedures) of the College's Statute E (Academic Staff Statute), read alongside Ordinance 24. The provisions of Statute E require complaints against members of the College's academic staff to be dealt with internally. The final resolution of the grievance is not, therefore, a matter which can be delegated to a third party. However, given the seniority and number of the individuals who were involved in aspects of the recruitment procedure, it was thought appropriate to have an independent report to assist the Governing Body in its determination of this grievance. I have agreed to provide that report.
4. I have, as requested, looked into the way in which the recruitment of Dr. Carl was handled at each stage of the recruitment process. I have also considered whether Dr. Carl himself may have misled the College by being less than frank in his application, thereby concealing potentially relevant information from the College which, had it been revealed, might have influenced his appointment.

5. Some of the criticisms of Dr. Carl's appointment made by the Combination Room have also been echoed by one of the College's senior Fellows, in two confidential letters sent to the Master. I am respecting that confidentiality by using the letters 'AB' instead of the individual's name wherever I have referred to his letters in my report. I would read these letters to be more in the nature of concerns rather than complaints. AB recognizes the importance of academic freedom and the general principle that one should not be subject to guilt by association. His concerns include: the fact that Dr. Carl has links with suspect individuals who do have a racist agenda; that his methodology is suspect and involves confusing correlation with causation; and that, on the face of it at least, Dr. Carl has failed to disclose all material matters to the College in his CV. It is only the last of these which bears upon my investigation, and it does not involve any criticisms of any College Fellow or Officer. AB has identified certain matters which he believes may give rise to an inference that Dr. Carl has deliberately concealed potentially material information from the College. I will address these concerns below.
6. There is also an open letter which has been signed by some 1400 academics and students, organized by Professor Mouhot, a Cambridge Professor in Mathematics, which is highly critical of Dr. Carl's appointment and critical of the College's appointment process. This letter made largely unparticularized allegations and assertions. It is surprising to me that so many academics – mostly outside Dr. Carl's discipline and most of whom could not possibly have verified the facts for themselves and had not sought any response from Dr. Carl - were willing to give their support to a letter of that kind. In any event it is wholly irrelevant to my (and I would have thought any) investigation charged with determining facts in an objective way. In a later letter, however, Professor Mouhot did set out specific criticisms of Dr. Carl's activities, his associates and the nature of his research which, he maintained, made Dr. Carl unsuited to be a College Fellow. Professor Mouhot is not a member of the College, however, and therefore has no standing to raise any grievance under the College Statutes. In any event, the points he makes are in substance mirrored in the students' concerns and they do not warrant separate consideration.

*The steps in the appointment process*

7. I set out in an appendix (Appendix A) a more detailed account of the appointment process provided to me by the College. It demonstrates the way in which the 943 candidates for this Fellowship were reduced to manageable proportions, and describes the process for assessing and finally confirming the chosen candidate. At this stage I simply set out the relevant steps in the process and identify those Fellows who, at each stage, were involved in the appointment of Dr. Carl.
8. The application process was not determined by the College acting alone. It was organised via the Joint Application Scheme, which is co-ordinated by Churchill college on behalf of six Cambridge colleges. There were in total eleven Research Fellowships available, but only one in the College. There was nothing unusual about the application system; it was a recruitment process for Research Fellows that had operated apparently successfully for a number of years. Essentially, it required each candidate to set out a research proposal, identify two referees, and provide two pieces of work for assessment by (ideally two) assessors. The closing date was 13 November 2017, but in fact Dr. Carl submitted his application on the 27 October.

9. Although the Isaac Newton Trust has provided funds towards the appointment, to match the funding from the Toby Jackman Trust fund, it was not involved in the recruitment process itself. It did, however, stipulate that the advertisement covered the full range of subjects in the category of Arts, Humanities & Social Sciences. Ideally, the College would have liked to have limited the subject categories and, as a consequence, the total number of applicants but it accepted the requirement.
10. As the procedural document makes clear, there were four stages in the recruitment process. The first involved overseeing the selection process and whittling down the number of candidates into a manageable shortlist. This task was carried out by the Recruitment Co-ordinating Panel, consisting of the Master, the Senior Tutor, Ms. Dobson and Dr. Paul. At this stage the Recruitment Co-ordinating Panel would have the references for candidates but no assessments had been sought. Various relatively broad criteria were used to provide an initial sift. For example, it was decided that a candidate had to have identified the College as first or second choice and to have produced at least two publications. These, and other requirements, reduced the number to 149 candidates. Each of these candidates was then evaluated by a number of evaluators who were either College Fellows or Directors of Studies. Each evaluator was given a number of candidates broadly within their fields of knowledge. They had to identify which of those candidates in their view was of the quality to be appointed (by grading their set of applications as A (outstanding), B (electable), C (not electable)), and place the first five (assuming they had that many candidates to consider) in order of preference. This was an important part of the sifting exercise. From the evaluated candidates the Recruitment Co-ordinating Panel reduced the number to a long list of twenty two candidates. Assessments were sought for these candidates and the number was further reduced to a shortlist of nine by the Recruitment Co-ordinating Panel.
11. The second, and in practical terms the critical, stage was the interview process. An Interview Panel of seven interviewers were drawn from the Fellowship: the Master (chair), Senior Tutor, Dr. Paul, Dr. McCosker, Dr. Jongkind, Dr. Oosterhoff, and Dr. Kessler. Each of the nine candidates was seen for about forty minutes on the 13 March 2018. There were no detailed minutes of that meeting and no notes or minutes of the positions adopted in discussion of individual candidates, nor of the final discussion when candidates were compared and Dr. Carl was chosen as the preferred candidate.
12. The third stage was the consideration of the Interview Panel's recommendation by the Nominations Committee at a meeting on the 26 April 2018. This consisted of six Fellows: the Master (chair), the Senior Tutor, the Dean, Dr. Jongkind, Dr. Gordon, and Professor White. Three of these had been on the Interview Panel. Five other members of the Nominations Committee did not attend; two of them were on leave. Save for copies of the two published papers relied upon by Dr. Carl, they had before them the documents which had been available to the Interview Panel plus an additional document, namely Dr. Carl's CV. This had been provided to the College following the decision of the Interview Panel in circumstances I discuss below. The Nominations Committee confirmed the recommendation of the Interview Panel.
13. The final stage was the consideration of the recommendation by the Governing Body. They had the same papers available as the Nominations Committee. They approved Dr. Carl's election without a substantive discussion at a meeting on the 12 June 2018.

*The nature of my investigations*

14. In the course of carrying out this task I have considered numerous papers, including all the materials which were at each stage before the relevant panels and committees. I have also interviewed all the Fellows bar one who were actively involved in the process which led to Dr. Carl being recommended for the Fellowship to the Governing Body. The exception is Dr. Oosterhoff who had left the College. I also met with a number of the Fellows who acted as evaluators, including the evaluator of Dr. Carl's application (it was not necessary or indeed possible to meet with every single evaluator). In addition, I had a meeting with four student members of the Combination Room representing the students, the President and Vice-President then in office, and the two who were shortly to replace them. It was a constructive discussion which enabled the students to air more fully their concerns about the appointment process.
15. Finally, I have also had a meeting with Dr. Carl and considered his written representations to the complaints (which he sent to the College on 27 February 2019). There was obviously nothing Dr. Carl could say about the internal processes, but I was able to explore with him issues relating to the question of disclosure. I did seek a short further meeting with him to ask some supplementary questions but he chose not to meet me without first taking legal advice. In the circumstances I do not consider his position to have been unreasonable, and I do not draw any adverse inferences against him from his unwillingness to answer further questions. Nevertheless, I have considered Dr. Carl's further written representations which were sent to the College on 22 March 2019.

*The complaints against Dr. Carl*

16. There are a number of distinct complaints which are advanced by the CR. They have been set out in three documents: first, an open letter to the College from the students dated 25 November 2018; second, a follow-up letter dated 2 December 2018; and third (but after the decision to set up the two investigations had been made) a document entitled "Dossier of Information" (the "Dossier") which deals with numerous issues but in particular includes criticisms of Dr. Carl in a document headed "Background Study of Dr. Carl." There are numerous points raised and I will seek to disentangle them, but for the purposes of this Report it is not necessary to set them out in detail.
17. First, it is alleged that the nature of Dr. Carl's work is connected with discredited "race and intelligence" research. In the Dossier, the Combination Room cite what they claim to be examples of this. Second, that Dr. Carl openly promotes a "racist belief system" which is offensive to the student body. Third, that his work is methodologically flawed. Fourth, that he has links with racist individuals and bodies. The students cite in particular Dr. Carl's involvement over a number of years in the London Conference on Intelligence held at University College London which has been criticised for the extreme and, in some cases it is alleged, outright racist views of some of the participants. The students also refer to the fact that Dr. Carl has published papers in the OpenPsych journals (which I believe embrace three titles) edited by individuals with known racist views, and sometimes in collaboration with them or acting as a reviewer. In particular they refer to Emil Kirkegaard, a highly controversial figure alleged to be from the far right.
18. In their original open letter to the Fellowship, the students identified two papers in particular which they claim made Dr. Carl's unacceptable views apparent and they expanded this significantly in the Dossier, which quoted from many passages of Dr. Carl's work.

19. I am aware that Dr. Carl has provided a detailed rebuttal of these charges. He says that they are factually incorrect, or had been (willfully or otherwise) misinterpreted and/or mischaracterized, and that the attempt to silence him was an illegitimate interference with his right to free speech and an attempt to stifle discussion by falsely contending that there was nothing to discuss. Dr. Carl has also produced a number of letters supporting him and praising his work. I emphasise that my function is not to determine whether the allegations made against Dr. Carl have substance and ought, or even arguably ought, to have disqualified from holding the office of College Research Fellow. Essentially I have to consider whether, assuming that some or all of these matters raise areas of legitimate concern, the relevant Fellows, and in particular those on the Interview Panel and the Nominations Committee, were aware of them when they recommended Dr. Carl for appointment and, if not, whether they ought to have been so aware. Were those conducting the recruitment process acting incompetently or without due diligence in failing to discover at least some of the relevant matters which ought have caused alarms to be sounded and which might have led to further investigations?

*Dr. Carl's candidature*

20. As I have said, the Research Fellowship was part of a wider recruitment exercise involving some six colleges, all co-ordinated by Churchill College. Candidates were required to set out certain specific information in their applications, which were made online. This requested some of the information that one might expect to be given in a CV provided by the candidate, although typically the CV will provide additional information. Candidates were not asked to provide a CV as such.

21. The compulsory information included eligibility, certain personal and academic details, including the statement of proposed research, the writings offered for assessment (there had to be two), and two references. The references were not seen by the candidates and were directly uploaded online by the referees. There were other categories of information which the candidate was given the opportunity to provide, such as details of employment and published work. Candidates were not required to give these details but no doubt it was reasonably assumed that candidates would provide particulars of posts and publications if they thought that these were of sufficient merit or significance to assist their candidature. There was, however, no obligation to set out all publications. It would be surprising if this were required since some publications (particularly on open access sites) may be provisional and merely floating ideas whilst others may be more in the nature of journalism than a serious peer reviewed academic paper. A candidate may understandably not wish to rely upon these in support of his or her application and indeed may think it inappropriate to do so.

22. Dr. Carl had a very impressive list of publications almost all of which he did choose to disclose in his application. He identified some 18 journal articles as well as two book chapters and two reports (in some of these he was a joint author). This is generally thought to be highly impressive for someone in the Social Sciences field and at his stage of academic development. The majority of the articles were in traditional peer reviewed journals (although I appreciate that some doubt has been cast over the integrity of some of these journals) but four were in the OpenPsych journals, only available on the internet where there is open access. These are generally (although not universally) perceived to be less prestigious (often because the peer review is less rigorous or non-existent). However, there was nothing in the rubric of the application form completed by Dr.

Carl either requiring or forbidding a candidate from relying upon his or her contributions to these open access publications.

23. Dr. Carl also provided a research statement in which he identified his research interests. He described himself as “an interdisciplinary scholar” with a wide range of such interests. He set out the structure of his D.Phil which was concerned with the relationship between cognitive ability and socio-political attitudes and also with the relationship between psychometric differences and political views. “Cognitive ability” has been defined as “the ability of an individual to perform the various mental activities most closely associated with learning and problem solving;” it is closely related to, but not the same thing as, intelligence. Psychometric tests are concerned with the objective measurement of skills and knowledge, abilities, attitudes, personality traits, and educational achievement; and psychometric differences identify the differences in these measurements.
24. Dr. Carl also identified three other papers which he relied upon to demonstrate an interest in other subject areas within the broad field of politics. One was a paper which he put forward for assessment and which looked at possible cultural reasons why, as evidence apparently suggests, members of the Pakistani and Bangladeshi community are disproportionately involved in corruption in local elections in the UK. A second paper looks at attitudes towards immigrants and concludes that opposition to immigration tends to be strongest with respect to those communities with the worst arrest rates in the UK. The point advanced, as I understand it, is that the public perceptions about communities may be more rational and less arbitrary than is often assumed. A third paper mentioned related to the Brexit vote; it looks at the historical background to the referendum and speculates as to the consequences for Britain in the future.
25. Dr. Carl’s research proposal for the Fellowship itself (if appointed) was entitled “Ideological Differentiation Among Professions as a Window Onto Political Polarisation.” It envisaged a study falling into three parts: the first would look at the extent of ideological differentiation amongst professions in the UK; the second would look at how that has changed over time; and the third would focus on why it has changed. The concern addressed by the proposal is that attitudes may be affected by “group think,” particularly where there is little diversity of opinion. Dr. Carl identified the sources from which he intended to base his proposed research, and they included various social attitudes surveys as well as data obtained from a poll he proposed to conduct on YouGov.

*The merits of Dr. Carl’s candidature*

26. Dr. Carl was chosen by the College from a field of some 943 candidates in the field of the arts, humanities and social sciences. On the face of it he was an extremely strong candidate indeed having performed with conspicuous success at every academic stage. He was top of his year in his prelims at St. Hugh’s College, Oxford; he obtained the Wilmer Crowther Prize for the best dissertation in his final year; and he achieved a distinction for his MSc and was given the A.H.Halsey Prize for the best performance in sociology.
27. His references, both from highly regarded academics, were truly outstanding, even allowing for the increasing and baleful tendency of referees to provide an (often grossly) inflated view of the candidate’s abilities. CD (*name and position redacted*) observed that “I hardly ever have spoken to a student who is so knowledgeable about so many topics. He is a rather unique multi-talent

who is a very active person as well. Below I will argue that it will be a joy for any college to have Noah Carl as a Research Fellow.” CD noted that Dr. Carl had written extensively in a range of journals – CD described the list of publications as “astonishing” – had produced an excellent thesis, and had been an active discussant in political science seminars where he always had “intriguing questions.” CD said that CD admired Dr. Carl’s independent thinking and willingness to take an unpopular stand. Indeed, so impressed was CD with Dr. Carl’s abilities that CD asked Dr. Carl to co-author a book CD was writing.

28. A second reference was provided by EF (*name and position redacted*). EF also wrote an extremely complimentary reference. EF was also so impressed with Dr. Carl that EF offered him a postdoctoral position on one of EF’s Wellcome Trust grants but he chose not to accept it because it was not sufficiently aligned with his own work. EF commented on Dr. Carl’s wide range of interests, his exceptional publishing record and his willingness to engage with the public. EF said that he was a “true intellectual with omnivore interests, which makes him both unique and flexible.” EF concluded:

“With his strong track record, I would also see him as someone who could easily also later bring in his own individual research grants to continue funding for his own position, but also an asset to the College.”

29. Dr. Carl’s internal evaluator, who had to make a preliminary judgment of his merits as part of the sifting process before any assessments were requested, was Dr. Sean Butler. He is Director of Studies in Law, but also a geneticist who had taken a PhD in Social Sciences. He placed Dr. Carl first out of a total of 11 candidates. Dr. Butler was asked to grade Dr. Carl and rated him as “outstanding”, whilst also observing that “some of his work is politically sensitive.” Dr. Butler told me that this was a reference to Dr. Carl’s research proposal into the professions and did not relate to any of the issues which now form the substance of the complaints.
30. Finally GH (*name redacted*) from (*redacted*) University gave an assessment of the two written pieces of work nominated by Dr. Carl. GH is again an esteemed scholar. It was suggested by the students that he could not be an appropriate examiner of Dr. Carl’s work since GH was an economist and not a sociologist. That criticism is, in my view, wholly unfounded and places too much weight on academic labels. GH’s interests are very wide, and include policy economics and political economy. In addition GH has written a number of articles on the ideological stance of academics, precisely the area in which Dr. Carl has been publishing. In any event, even if GH was not an appropriate assessor (which I do not accept), he was thought to be so by CD, who nominated GH and was obviously well placed to recommend someone appropriate; there is no basis on which the Fellowship could properly have cast doubt upon the suitability of CD’s choice.
31. GH had been (*redacted*). GH was “tremendously impressed” by Dr. Carl’s work, and equally so by Dr. Carl’s “consistently thoughtful and perspicacious handling of challenges and comments” during the oral examination for his D.Phil. GH noted that Dr. Carl was doing research “into matters which are politically charged as they stream to a wider, non-academic discourse,” whilst adding that “he does a superb job of avoiding the pitfalls of a wider discourse and keeping up scholarly integrity in the face of controversy.” GH concluded GH’s assessment as follows:

“The sensitive matters he treats are basically twofold: (1) ideological differences; (2) cognitive ability. He has already accomplished great things on these matters, and on the interrelation.”

GH was also extremely enthusiastic about the proposed area of research, noting that “his proposal to learn more about the policy views of UK professors (i.e. academics) would be a great contribution” to understanding the possible institutional failures of the academic world.

32. Ideally, there would have been a second assessor of Dr. Carl’s work at this stage of the recruitment procedure but the person asked to undertake that task did not respond, even after receiving a reminder. The proposed second assessor was in fact at Nuffield College where Dr. Carl had been a student. With hindsight, one can see that it might be the case (and I do not know that it was) that he did not wish to support Dr. Carl, perhaps because he was aware of some of the issues which have emerged within the College since Dr. Carl’s election. But that is not a justifiable inference from his silence. It is unfortunately the case that occasionally academics invited to act as assessors simply do not reply at all; they neither carry out the assessment nor do they refuse to do so (in which case there may be time to find another assessor) but simply leave matters in the air. It would clearly be unjust to a candidate in those circumstances to assume that any reference would have been unfavourable, and the policy of the group of colleges conducting the Research Fellowship appointments is quite properly not to make that assumption. At all stages the system relies upon the integrity of the participants, and this includes being willing to express reservations about a candidate if it is thought that a candidate is unsuitable. Accordingly, unlike the other shortlisted candidates, all of whom had two assessors, there was only one assessment of Dr. Carl’s work.
33. This was essentially the material before the Interview Panel when they interviewed Dr. Carl. On the face of it, this was a highly impressive young academic with much potential. I have reproduced the relevant material relating to Dr. Carl’s application as Appendix B.

*The discussions leading to Dr. Carl’s appointment*

34. There was common agreement amongst the Interview Panel that Dr. Carl was the most impressive of all the interviewees. His references were quite exceptional and from distinguished scholars at Oxford; his assessment likewise was unqualified in its praise (and GH, as I have said, was *(redacted)*); and his publication record was extremely impressive for someone in his field who had only relatively recently completed his D.Phil. It was generally thought that his proposed field of study, the research statement, was interesting and could realistically be achieved in the relevant time. Finally, Dr. Carl was very impressive in interview. The general impression was that he formulated arguments clearly and dealt with questions extremely well. The Master and Senior Tutor were both concerned that he was doing, as the Master put it, “high risk” research and raised this concern with the other members. This had nothing to do with the relationship between intelligence and race or eugenics; the concern was that he was looking at political views amongst different elites and his conclusions were potentially controversial and would be likely to arouse strong reactions, as might some of his work on Brexit. Some of Dr. Carl’s works about political attitudes in academia had already attracted not inconsiderable media interest. However, the clear view of the other members of the Interview Panel was that the College should not reject a candidate because his research was edgy or controversial or challenged traditional wisdom, or because it might cause some offence. They considered that academic freedom was an important

principle which the College should uphold. Dr. Carl was the best candidate, his proposed research was interesting and - an important factor - could realistically be concluded during his tenure, and he should be appointed.

35. The Master was concerned that Dr. Carl's proposed further research into the professions might attract unwanted criticism and media interest and that, both by temperament and as a young academic, Dr. Carl might not handle the media with sufficient sensitivity. He considered that it was desirable that Dr. Carl should be mentored by someone in the relevant University department. The Master twice contacted an eminent Professor in the POLIS department to ask if Dr. Carl could be brought under his wing but received no reply. The Master has, I am told, since been informed that this silence was not because of any concerns held at that time about Dr. Carl's work or connections. In fact, unbeknown to the Master, there was a formal procedure in place for linking a College Fellow with the department, a point I develop below.
36. An unfortunate feature of the interviewing process was that two of the Fellows could not be present throughout the whole day of interviews. One was unable to be available in the afternoon and another in the morning. As a consequence, none of the candidates was seen by all the interviewers and one of them missed the (potentially) crucial final discussion. That Fellow did, however, have no doubt that Dr. Carl was the best candidate and let it be known to others that Dr. Carl would be his personal choice. I say more about this later.
37. When the matter came before the Nominations Committee, the recommendation to elect Dr. Carl was subjected to only limited discussion. It was only one item on a relatively heavy agenda. There was only a bare quorum of six at the meeting and three of those present (the Master, Senior Tutor, and Dr. Jongkind) had been involved in the interviews. There seems to have been little discussion of his appointment, although the Master did apparently say that the choice was controversial, or words to that effect. The lack of discussion is not surprising given that the Interview Panel had been unanimous. One of those present had the impression that the Nominations Committee was told by the Master that they were there to "rubber stamp" the appointment. The Master denies this and no-one else recalls any comment being made to that effect; perhaps an innocent or flippant comment was misconstrued. It is true that in most cases the Nominations Committee is itself considering whether to appoint a candidate to a Fellowship and it then has to weigh the evidence and reach a decision itself whereas in this exercise it had the benefit of the view of the Interview Panel who, as a result of having seen the shortlisted candidates, were better placed to make an assessment. So the role of the Nominations Committee in this case was in the nature of a review of a decision made by others. But that is not to say that it is a mere formality, and I find it difficult to believe that any serious comment to that effect would have been made, not least because this was an experienced Nominations Committee of senior Fellows who would not, I suspect, have taken kindly to being told that their role in the exercise was purely nominal. The Nominations Committee plainly did think that there was nothing much to discuss in this case, but that is hardly surprising given Dr. Carl's outstanding record, his references and assessment, plus the fact that he was the unanimous choice of the Interview Panel. There was, so far as the Nominations Committee was concerned, no good reason to doubt the wisdom of the recommendation.
38. By the time the Governing Body was asked to elect Dr. Carl, his candidature had already been considered by two bodies and unsurprisingly, it supported the recommendation without discussion. A body of this kind would not usually second guess a considered decision of a

nominations committee, particularly in a case such as this where it is an area of judgment removed from policy, and the members are presented with a unanimous choice from two earlier bodies. That is not to say that its role is entirely formal. A number of the Fellows whom I interviewed confirmed that had a fresh issue been raised casting doubt upon the suitability of the appointment, the Governing Body could, and in an appropriate case would, have required any decision to be delayed pending further investigation into the implications of the new information.

39. At no stage was there any discussion about the matters which constitute the complaints now made against Dr. Carl. They had not surfaced as a result of the references or his assessment and none of the relevant Fellows appear to have been aware of them. Only one of the Fellows on the Nominations Committee had googled Dr. Carl but he did not turn up anything which caused him concern.
40. At this stage I deal briefly with a concern expressed during my meeting with the students. They raised the question whether it was true that Dr. Carl's parents were known to the Master, the implication perhaps being that there might have been some preference shown, or that the Master ought not to have been involved in the selection exercise. One of the Fellows on the Nominations Committee thought that the Master had said something to this effect after the decision had been taken. The Master has stated categorically that he is not aware of ever having met either of Dr. Carl's parents until he met Dr. Carl's father when he was a guest of Dr. Carl at Dr. Carl's matriculation. The Master's brother works in the same University department as Dr. Carl's mother, and it is possible that this was somehow the cause of this false rumour, although the Master denied even knowing that fact until well after Dr. Carl was appointed. Dr. Carl also confirmed that his parents did not know the Master, and was clearly upset on their behalf that they should have been alleged to have been involved in any way in his appointment. I am completely satisfied that there is no basis to this rumour; there was no impropriety by the Master and indeed it was he who raised some concerns about Dr. Carl with the Interview Panel. I categorically reject any suggestion that there was any bias or favouritism shown to the candidature of Dr. Carl. He was chosen on his own merits.

*Did the Fellows fail to carry out due diligence on Dr. Carl?*

41. On the face of it the Fellows made a wholly rational and justified decision to appoint Dr. Carl, adopting procedures which have served the College (and other linked colleges) perfectly well previously. Even so, the question arises whether the procedures are satisfactory and/or whether the Fellows ought to have carried out fuller investigations into the background of Dr. Carl.
42. It is possible to discern two distinct ways in which it is alleged that the relevant Fellows ought to have appreciated that Dr. Carl's work and some of those with whom he has chosen to associate were such as to disqualify him from being a College Fellow, however able he may be. First, it is said that it is obvious, even on a cursory reading of some of his papers, that many are racist and Islamophobic and that the methodology is inadequate and often confuses correlation and causation. In particular two articles were picked out as clearly revealing racist and Islamophobic attitudes which ought to have been obvious to the Fellows assessing his application. Second, it is said that his links with, for example, the London Conference on Intelligence and Mr. Kirkegaard was information in the public domain and therefore could have been relatively easily discovered by due diligence, for example by googling him on the internet. Also, Mr. Carl has a blog which, it is said, reveals unacceptable attitudes and beliefs.

*Should the Fellows have appreciated failings from the papers?*

43. The premise underlying this argument is that the relevant Fellows ought to have read the publications referred to in the application form. This seems to me to be wholly unrealistic, particularly when it is born in mind that there were nine candidates interviewed across a range of disciplines. No doubt in an ideal world the Interview Panel might read the two pieces of work submitted for consideration by each candidate, but even that seems to me to be expecting too much, and it must be doubtful how useful the exercise would be. Some of the Interview Panel said that they had skim-read Dr. Carl's two submitted pieces, and I do not think it realistic to expect anything more. Even if they do have some doubts about, for example, the methodology, they are not experts in the field and will inevitably rely heavily on the views of the referees and, specifically with respect to the written work, on the assessors. There is nothing improper about that; indeed, the system depends upon trusting the reports of others better placed to give a proper judgment.
44. I should not be taken to be accepting that if the papers had been read in full and in isolation, they would have been seen to be self-evidently racist or Islamophobic. That seems to me to be a highly contentious claim. It would not be appropriate for me to express views either way since that falls into the province of the Heritage Panel.

*Ought the Fellows to have carried out fuller investigations?*

45. It is important to identify what was in the public domain at the point when Dr. Carl was appointed. There were articles referring to Dr. Carl which might have raised issues with the Fellowship had they been known. In particular there was an article by an author who wrote a piece in 2016 in a journal *Health Geomatics Lab* which he was highly critical of Dr. Carl's methodology in his article "Net opposition to immigrants of different nationalities correlates strongly with their arrest rates in the UK."
46. More recently, and perhaps more pertinently, there was a *New Statesman* article published on 19 February 2018, over two weeks before Dr. Carl's interview, which was highly critical of the London Conference on Intelligence and its purpose, and specifically drew attention to the fact that Dr. Carl had been a participant. It seems likely that these items, and particularly the latter, might have been identified had there been a google search on Dr. Carl (although they appear not to have come up in a google search carried out by a member of the Nominations Committee; and no doubt it depends upon how the internet is interrogated). The students are critical that steps of this kind were not taken by the Fellowship before the appointment was finalized.
47. I do not accept that this is a justified criticism. There is a lively debate about whether google or other internet searches are appropriate, and if so, how they should be conducted. This was reflected amongst the Fellows whom I interviewed: some were inclined to google; some said they did not and had never thought to do so but wondered now whether they should; some thought it would be improper to do so. Younger Fellows were generally more inclined to google than older ones. But it is far from self-evident that this should be done as a matter of course. As I explain below, lawyers often advise their clients not to carry out internet searches on job applicants. Moreover, I note that guidance in the University's Social Media Policy states that "Staff should not use social media to screen job applicants...as part of the recruitment selection policy,"

although no reasons are given why this practice should be adopted. This does not apply to the College but I understand that colleges usually tend to comply with University policy on matters of this nature, although it is fair to say that the College has not expressly adopted the Social Media policy.

48. Suffice it to say that in my view it would be quite unjust to criticise any Fellow for not using the internet to investigate matters further. It was not College policy to do so and it is a principled stance, and in accordance with the principles of equal treatment, simply to assess each candidate on the information they have been asked to provide, without any particular candidate having either the benefit or the disadvantage of having other information about them considered which happens to be in the public domain. Indeed, some Colleges prefer not to interview at all for Junior Research Fellowship (“JRF”) posts because of the risk of being unduly influenced by non-academic considerations. I discuss below whether it may be appropriate to adopt a policy of using the internet and what the implications of that may be.
49. It would also have been known to the interviewers that Dr. Carl had a blog; it was referred to by both CD and EF in the references which they provided (and in fact was referred to in Dr. Carl’s CV and by Dr. Carl in his research statement as part of the application form). I have not read the blog but it might well have provided some further personal information about Dr. Carl and his interests. Since Dr. Carl is putting the information into the public domain, it is reliable information about Dr. Carl and the Fellows would not need Dr. Carl’s consent before reading it. In fact, it seems that none of them did read it. I do not accept that they can fairly be criticised for failing to do so. The blog was highly peripheral to his application, and it would in any event have been unfair to other candidates to have regard to material in Dr. Carl’s blog without similarly reviewing any blogs which other candidates might have, at least unless there was a cogent reason to treat him differently. No doubt if any of the Fellows had been alerted to some of the criticisms now directed at Dr. Carl, it might well have justified them reviewing the material in Dr. Carl’s blog before confirming his appointment to see if it cast light on those criticisms, although I do not thereby intend to suggest that the blog would necessarily have supported those criticisms. But they were not so alerted. On the contrary, the impression from the references and the assessment was that Dr. Carl handled difficult and controversial issues intelligently and sensitively. So whilst in retrospect it may be said that it would have been desirable had the blog been scrutinised, whether someone has acted with due diligence is not to be judged with hindsight. We can all be wise after the event.

#### *Conclusions on the complaint*

50. For all these reasons, therefore, I would personally conclude that there was no failure by the Master or the relevant Fellows to act appropriately or without due diligence. They made a perfectly cogent choice on the information they had, and they cannot in my view fairly be criticised for not finding out more about Dr. Carl. I do not understand anyone to be suggesting that Dr. Carl should have been rejected simply because his potential research project was controversial and might cause offence to students or other members of staff. Apart from the fact that this would probably place the College in breach of its obligation to uphold the principle of academic freedom, it is surely not what any self-respecting college, committed to academic excellence, would want for itself.

51. Having said that, there are certain ways in which the procedures could be refined to make it less likely that difficulties of this nature – by which I mean the risk that potentially relevant information might not be discovered prior to the appointment – may be limited in the future. I will discuss these after I have considered the question whether Dr. Carl improperly concealed information from the College.

*Did Dr. Carl conceal any material information?*

52. The general principle of English law is that there is no duty on a job applicant to disclose information which might undermine his application. There is not, in other words, a general duty of good faith, a principle established by the House of Lords in the case of *Bell v Lever Brothers* [1932] AC 161. Any information which the candidate provides must be truthful, and very exceptionally, concealing information might falsify information which is disclosed. But most people would, I think, understand that a job applicant puts his or her best foot forward and is not obliged to volunteer information which would jeopardise the application. It is not obligatory for a job applicant voluntarily to disclose the fact that he or she has a very poor attendance record, or is habitually late, or has been disciplined in the previous employment, or even has a criminal record (although typically that information will be specifically sought). Employers hope, perhaps over-optimistically, that matters of this kind will be revealed in a reference from the previous employer.

53. There are exceptions to this principle of no duty of candour, for example in relation to persons in a fiduciary relationship, or persons seeking to enter into a partnership. So someone negotiating to enter into a solicitor's partnership must reveal material facts which might influence the other parties to that decision: *Conlon v Simms* [2008] 1 WLR 484. I very much doubt whether a court would hold that a College Fellow falls into the fiduciary category, particularly in circumstances where the matters which a candidate needs to disclose have been carefully and precisely set out. But even if a court did take that view, I am satisfied that there was no material failure on the part of Dr. Carl to make relevant disclosure in this case.

54. In dealing with this question, it is important to focus on the application process. Each candidate is required to provide the information identified on the electronic application form. If one focuses on the information given by Dr. Carl, it provided all the information sought. His application was logged onto the computer on the Churchill College website. His personal information was accurate; and the publications he identified were those published by that date. There has been some criticism that in his list of publications he has referred to some papers in open journals which have no real academic pedigree and ought not to have been included. But I do not accept that he has materially misled the College by referring to them. He has not sought to conceal that they were in open journals. It is true that he did not disclose that these were subject to a different peer review system (and some would say a wholly inadequate one, although Dr. Carl himself would dispute that) but he was not required to do so. I do not possibly think that it could be said that he should have done so. Indeed, it seems to be generally appreciated that these journals do not have the same impact as the more conventional ones, often because of the lack of any, or any satisfactory, peer review. He did not conceal his involvement with Mr. Kirkegaard. He did not identify his connections with the London Conference on Intelligence or set out the conference papers which he presented there in 2015 and 2016, but the application form did not include portals for this kind of information and I can see nothing in his application which can be said to be misleading or inaccurate.

55. A complication here is that in addition to the application itself, Dr. Carl later (in March 2018) provided a CV which in certain respects differed from the information given in the application. It is important to note why this CV was provided. Shortly after the decision of the Interview Panel had been taken, Dr. Carl was contacted and asked to provide a CV to give to the Isaac Newton Trust. It was not suggested that this would be taken into account by the College, and in my view there was no reason why Dr. Carl should have thought that it would be. This is particularly so since he had by then been sent a letter from the Master from which he might reasonably have inferred that his election was virtually certain and simply had to go through the formalities. Indeed, in his further written representations, Dr. Carl explained that he submitted this version of his CV because the Isaac Newton Trust, as a funding body, would only be concerned with “high impact academic outputs” (see further below). Dr. Carl also notes that he was not aware of any formal rules which dictate which of his academic outputs needed to be included on his CV.
56. AB, the senior Fellow to whom I referred earlier, in his confidential letters to the Master, has identified areas where he believed that Dr. Carl had been less than frank in the way he drafted the CV. AB has focussed on what he identifies as potential failures of disclosure by Dr. Carl. He notes that nowhere in Dr. Carl’s CV does he refer to the papers he has delivered to the London Conference on Intelligence, but Dr. Carl does identify other conference papers; nor does Dr. Carl mention a number of papers which he has written, either alone or jointly with others, in the journal “Open Quantitative Sociology and Political Science” (part of OpenPsych). Whilst AB suggests that Dr. Carl might legitimately choose not to reveal these articles because they were published in not very well regarded journals, he suggests that this is unlikely to be the reason since Dr. Carl himself regularly reviews articles for that journal. AB suggests that Dr. Carl would appear to be seeking to downplay their existence. He is also highly critical of Dr. Carl’s close links with Mr Kirkegaard.
57. These points are cogently made by AB, but they do not in my view reveal any wrongdoing. First, in his application for the Fellowship itself, Dr. Carl did refer to four of the five articles to which AB refers, and the fifth was not published until after Dr. Carl’s application was lodged. He cannot be said to have sought to conceal them from the College in any way. Nor has he concealed his connections with Mr. Kirkegaard who is identified as a joint author of some of the papers. When I asked Dr. Carl why they were not also mentioned these articles in his CV, he said that it was because they were not published in journals which had an “impact factor” i.e. which were considered intellectually strong among academics. AB accepts that this would be a good reason for not referring to them. Similarly, with respect to the failure to mention papers delivered at the London Conference on Intelligence, Dr. Carl told me that this was because both of those conference papers had been turned into full papers which he had disclosed (identifying what they were) and Dr. Carl did not think that he should pad out the CV by referring to what were, in essence, drafts of papers for which benefit had already been claimed. He said that he also left out of the CV another paper, which he had delivered at a conference organised by the Hayek Society in Oxford, essentially for the same reason. In addition, in his further written representations, Dr. Carl notes that he only included presentations “at conferences with a high degree of official standing.”
58. I found this to be a cogent explanation for their omissions although, like AB, I have some doubts whether, as Dr. Carl claims, he was wholly uninfluenced by the adverse publicity which was by then being generated about his activities and connections and which he would understandably not

wish to emphasise. But even if that was one of Dr. Carl's reasons for not revealing these particular matters, and even if Dr. Carl's wish was to distance himself from some of his earlier work and activities, that would not have been wrong. It would not make the CV dishonest because Dr. Carl wished to present himself in a good light.

59. In his second letter, AB refers to the fact that Dr. Carl had not made any reference in his CV to an article in the "pseudo-journal", as he describes it, Mankind Quarterly, entitled "The Relationship between Solar Radiation and IQ in the United Kingdom." AB suggests that this is a journal which is funded by people with unacceptable racist views and that it publishes articles of a very dubious character. AB suggested that this article was very likely under review at the time the CV was produced and that Dr. Carl's failure to mention it in the category of "Unpublished Papers" may again have been a deliberate decision to conceal a potentially controversial paper from the College. AB says that he himself would not have been willing to confirm the appointment of Dr. Carl had he been aware of this particular publication.
60. I do not think that it can be assumed that this article was in a sufficiently completed state to warrant reference in Dr. Carl's CV in that category. Even if the paper had already been accepted for "Mankind Quarterly," again Dr. Carl could say that it fell into the same category as the articles in the open journals: it had an insufficient "impact factor." I assume that AB would agree that this would be a legitimate reason for not referring to it.
61. The short point is that writing a CV is not an exercise in candour; a candidate is not required to identify every article or paper, whether published or under review. The applicant is entitled, whether in a CV or an application form, to identify only those articles by which he or she wishes to be judged (unless the rubric clearly indicates otherwise). It may be that Dr. Carl did refer in his application to articles which, on reconsideration, he would prefer not to be judged by and which he therefore did not identify in his CV. But this is the converse of concealing that information from the College.
62. In short, in my view there is no basis for saying that Dr. Carl acted improperly in the manner in which he filled out either his application form or his CV. In the former, he answered the questions posed. In the latter, he was not obliged to disclose potentially damaging information, unless it was necessary to correct an obviously false impression in what was said, and that is not the case. And as I have said, he could reasonably have assumed that the College would not pay attention to his CV, given the reason why it was requested.

*What improvements might the College make in its admission processes?*

63. Although I have found that there was no failure by the College Fellows in the way they applied the procedures, and I understand that the procedures have worked satisfactorily in previous years, I have given consideration to how the procedures might be amended so as to minimise the risk of situations of this kind occurring again. By that I mean the College believing that it did not have available all the material which might have had a bearing on the selection of Dr. Carl. I am not thereby assuming that even had that information been available, the College either would or should have taken a different decision; that is a matter for the Herrtage Panel. But it might have been thought relevant to the discussion.

64. In addition, as a result of my investigations, and partly in response to points raised in discussion with the Fellows, I have identified a number of other areas where the College might like to consider whether changes in the procedures could be made.

*Minimising the risk of lack of information*

65. There are three different steps which the College may consider taking which could improve the likelihood of potentially relevant (and possibly embarrassing) information emerging prior to the election of a Fellow being made. These are searching the internet; establishing links with the University department in which the Fellow will operate; and making full disclosure an express requirement. I will briefly summarise how these might operate.

*Searching the internet*

66. It may be that in the light of its experience in this case, the College may want to consider adopting a clear policy about internet searches on candidates. There are potential legal implications of this. As I have said, lawyers will often advise that this should not be done. It may inform an employer of something which can be turned against him. For example, he may discover that a candidate is pregnant. If the candidate is rejected and sues, alleging that her pregnancy is the reason, the employer will not be able to meet the case simply by showing that he did not know of the pregnancy. Ignorance may in those circumstances be an advantage.
67. In addition, there are certain legal implications which I can only touch upon here. If candidates are to be made the subject of an internet search then under article 14 of the General Data Protection Regulation they should be notified that this may or will be done, and that information thereby obtained might be taken into account when assessing their application. In my judgment the common law principle of fairness would also require potential candidates to be informed if information obtained from the internet is to be used against them so that they have the opportunity of rebutting it or putting it in context. This is particularly important given the unreliability of much of the information that is put on the internet. This can of course be an onerous duty. If there is going to be a policy of internet searches, then it would not be sensible to search all candidates. That would be an enormously time consuming exercise. It seems to me that the sensible approach would be to have only the shortlisted candidates subjected to the search so that anything emerging from that exercise could be explored at interview. The alternative is that the exercise could be undertaken only with respect to the chosen candidate, but if this system were employed it could delay matters if information thereby obtained had at that stage to be put to the candidate. I would also have thought it desirable to have one nominated person to carry out any searches which are undertaken. The information gleaned would of course have to be shared with all those involved in making the decision otherwise the Fellows involved may be judging candidates from different perspectives.
68. Whatever the College decides to do, it should have a clear policy and Fellows should be required to respect it. If the policy is not to search, no surreptitious searching should be undertaken. It would be unacceptable that some Fellows might carry out internet searches and perhaps covertly take into account untested information which is not available to all. The risk that Fellows might be tempted to google, even if the policy is not to do so, is perhaps one reason to adopt a policy to search.

69. Before adopting any specific policy, the College should perhaps consult the University Human Resources department to see if they have any views or policies about this. It would be worth discovering if they follow the policy adopted in the University's Social Media document. I would be surprised if the problem has not arisen and been the subject of careful consideration within the Human Resources department. In addition, if it is considered desirable to go down that road, it would be sensible for the College to take detailed legal advice.

*Links with the relevant University department*

70. In some cases it may be that facts are known to academics in the relevant department which are not appreciated by the College itself. In fairness to the Master, he did try to make contact with a senior professor to find Dr. Carl a mentor and that might have elicited relevant information. What the Master did not appreciate at the time is that there is a procedure promulgated by the Bursars' Committee in February 2017 and by the University's Human Resources Committee in October of that year, whose purpose is "to clarify the arrangements for the election of College JRFs and the extent to which the University engages with those processes in individual Colleges." It should help facilitate the integration of the Research Fellow with the relevant University department and clarify the entitlements and responsibilities for all parties. The nature of the arrangements depends on the extent to which the Research Fellow will be involved in the department; typically scientists are much more fully involved than those in the Arts and the Humanities and cost arrangements can be complex. But even for someone in Dr. Carl's position, whose use of University facilities is likely to be limited largely to library and IT provisions, it is recommended that a College Fellow's letter be sent, although this is not compulsory. That letter, and the terms relating to it, appears to envisage that a supervisor will be appointed by the department. This is not, I assume, someone playing the role of a D.Phil supervisor but is more in the nature of a mentor. The point is that it is envisaged that this person will be identified before the final election of the Fellow is made. If there are known concerns about the desirability of a potential Research Fellow being introduced into the department, one might anticipate that they will be raised before the appointment is finalised and therefore would allow time for them to be explored further by the College.
71. It is unclear whether this procedure was formally in place when this recruitment exercise was undertaken but if so, none of the participant Colleges appear to have appreciated that fact. It is impossible to say whether the proposed JRF procedure would have helped in this particular case even if it had been applied. But if it is adopted in future, as I understand it will be, this should make it less likely that relevant information bearing upon a prospective Fellow's research work or suitability will remain concealed, although it clearly would not prevent that possibility.

*Requiring information from the applicant*

72. As I have indicated, the general principle is that Fellowship candidates must truthfully provide the information sought but have no obligation to volunteer information which is unfavourable to them. It is therefore possible for the College to ask prospective candidates questions which might elicit this information. For example, I understand that potential magistrates must answer a question along the lines of whether there is anything about their conduct or activities which might embarrass the magistracy were it to come into the public domain, or bring it into disrepute, and my recollection is that judges are asked something similar. Such a question could be asked of potential candidates for Fellowship, perhaps at the interview stage, at the very end of an interview. I am doubtful how effective it is, since there is much room for debate about whether

certain facts ought to cause embarrassment or whether they do show anything disreputable. This is particularly so where conflicting views about academic freedom and its limits are in play. Moreover, the mere fact that something might cause embarrassment or bring the College into disrepute (in the eyes of some, at least) is not of itself a reason for rejecting a candidate, particularly where it is linked to the free expression of views. But I see no reason why a suitably drafted question should not be put to a candidate. It may elicit relevant information, and if it does not, it may strengthen the College's position if something untoward emerges at a later date.

*Other possible improvements to the procedures*

73. During the course of my investigations other matters have emerged which have identified aspects of the procedure which I think might merit further consideration by the College. Some of them are very minor, and there is no obviously single correct answer to them, but since they have been identified, I have thought it appropriate to draw them to the College's attention. Some arise out of this particular research exercise, whilst others apply more generally. I do not put them in any particular order.

*(1) Criteria for appointment*

74. A potential weakness in the process is that there was no clear guidance about precisely what factors should be taken into account when deciding who should be appointed. Should the criteria be purely academic so that the best candidate should be recommended, or is it right to have regard to wider considerations such as whether the candidate will fit into the particular international ethos of the College, or might in future fill a College teaching need? Different Fellows gave different answers to this question, and I am not sure that some had ever consciously engaged with it (although that is not intended as a criticism). Some colleges take a clear stance that academic merit is all; they do not interview precisely because they are concerned that non-academic factors might influence the outcome. Colleges may be reluctant to appoint a candidate who comes across in interview as different or controversial, or who may be perceived as unconventional in his or her values or attitudes; the interview is considered inappropriate. That is not to say that colleges which interview must have necessarily decided to have regard to wider considerations. An interview can be a testing intellectual exercise and in an extreme case, where the authenticity of work is in issue, may be the only effective way to discover whether a candidate's work is really his or her own.
75. I have the impression that the predominant view amongst the Fellows to whom I posed this question was that academic merit should be primary but not paramount. This would, I think, be consistent with a position that it should be assumed that a candidate will fit into the College but that he or she should not be appointed if there were clear evidence to the contrary. Of course, in some contexts it may be wholly uncontroversial to take into account the College's wider interests, such as where there is the opportunity to appoint a teaching Fellow in a field not represented amongst the Fellowship. Academically stronger candidates may be rejected for that reason. But that is very different from rejecting someone solely because his or her personality, character or political ideology is thought to be unsuitable. Furthermore – and the importance of this both morally and legally should not be underestimated – any objection to the work undertaken must have full regard to the College's obligation to respect academic freedom.

76. It is not for me to tell the College what approach it should adopt, but I think that the question should be acknowledged and the issue debated in the hope of reaching a common consensus.

*(2) Continuity of the Interview Panel*

77. As I have observed, two members of the Interview Panel were not present throughout and one was not present for the deliberations of the Interview Panel. I think that this is highly regrettable and should not have occurred. I appreciate that to some degree problems of this nature are bound to arise in a system which relies upon the voluntary co-operation of very busy Fellows who have conflicting demands on their time. Even so, I think that it should be made plain that attendance throughout an exercise of this nature has to be a priority. There is a risk of unfairness if different candidates are seen by (even only marginally) different panels; and all interviewers should be present to hear the discussion of the Interview Panel. An Interview Panel member's views might after all modify the position of others. The risks of an unsatisfactory outcome are obvious in a situation where there are two similarly able candidates. A candidate may suffer unjustly if a potential supporter on the Interview Panel is not present at his or her interview and/or is absent for the discussion. If necessary, it may be better to try to reduce the field of interviewees to six and thereby reduce the time spent on the process, or alternatively to reduce the number of interviewers. But I appreciate that these are pragmatic compromises which may involve removing potentially very able candidates from the selection process or leaving the Interview Panel with too narrow a range of disciplines.

78. Although this was undoubtedly a weakness in the procedure adopted in this case, I am wholly satisfied it did not prejudice any candidate. The Fellow who missed the final discussion was very clear that Dr. Carl was the best candidate of those he had seen, and he was the unanimous choice. No-one else impressed to anything like the same degree. It is unrealistic to think in this case that the position would have been otherwise had all the Fellows been present at the final discussion, but that may not always be true.

*(3) Lack of specialist in the discipline*

79. A further potential weakness is that no sociologist was involved on the Interview Panel; plainly it would have been desirable to have had one. However, this is an inherent problem in a College which has a significant number of Fellows in certain fields, such as medicine and theology, but does not have Fellows in all major fields. There was no-one on the Interview Panel with a specialism in linguistics either. There are, I understand, two sociologists in the College but one was on leave at the material time, and the other is a Bye-Fellow and such Fellows are not involved in College appointments. It would in any event be unrealistic to have a representative from the discipline of each candidate. With a shortlist of nine, that would require at least nine interviewers even if the Master and Senior Tutor are not included. That is, I would have thought, too large a panel and very daunting for the candidates. It also creates significant administrative problems getting all members together on the same day. It must also be said that even if there is someone in the same discipline, so diverse and specialised are the subject disciplines that it will often be the case that, say, a medieval historian will be in no better position to assess the work of a modern historian than a philosopher or modern theologian. Perhaps a Bye-Fellow or Director of Studies could have been asked to have a look at the application for any particular comments, but I can see that this might be thought to involve treating different applicants differently. Another possibility is to get someone with the relevant expertise to attend the interview of candidates

where the discipline is not represented amongst the interviewers, but then it is unsatisfactory to have different panels for different candidates, and they would not be able to participate in the discussions, having no knowledge of the other candidates. There would also be very real organisational problems in such a system. It may be that the current approach is the least unsatisfactory, but the issue warrants consideration.

*(4) Problem of one assessor only*

80. Only one external assessor (GH) had considered Dr. Carl's two papers. The College quite rightly did not hold this against Dr. Carl. The alternative assessor was chased up by the Churchill administrator, in accordance with the system, but sent no reply. It is apparently not unusual for this to happen. I appreciate that the timing of these Fellowship elections is very tight, but I wonder whether the system might be structured so that where a chosen assessor has not responded within a fixed time, a reminder is given to a potential assessor in strong terms inviting him or her in terms either to undertake the task or to refuse it, for whatever reason, and emphasising that it is important in the interests of all the candidates that he or she does one or the other. The time would need to be long enough to provide a realistic opportunity for another assessor to be found if possible. I appreciate that potential assessors are doing the colleges a favour (they are paid but it is more in the nature of an honorarium) but it is irresponsible simply to ignore the request altogether. It may be that the reminder letter is already written in reasonably robust terms, but the terms and timing of the letter might merit reconsideration.

*(5) Minuting discussions of the candidates*

81. Should the nature of any discussion about the suitability of a Fellow be minuted or otherwise recorded? This is a complex question. Typically I am told that discussions on Fellowship applications are not minuted or maintained in any form (although individual Fellows may retain any notes they made), and I am also informed that all elections are by secret ballot. I was told that the reason for not minuting the discussion is, at least in part, the concern that there could be a freedom of information request, either by a third party or by the candidate who is the subject of discussion (who may also make a data subject access request).
82. There might well be a public interest defence available under the Freedom of Information Act 2000 ("FOIA") to meet a request made by a third party, because it could be said that revealing discussions about a candidate could prejudice free debate and might undermine confidence within the Fellowship if, for example, the information disclosed the fact that there was a certain amount of opposition to a successful candidate. There might also be a defence on the basis that disclosing the information to a third party under the FOIA would breach the candidate's data protection rights.
83. However, if there were a subject request under the data protection legislation made by a candidate who was the subject of debate, those particular defences would not run and it is doubtful whether any other exception would apply. Accordingly, the information might very well have to be made available to the candidate. The College may wish not to have potentially adverse comments on the record.
84. There are contrary arguments. The College does, I understand, provide feedback and so some note, even if brief, about the shortlisted candidates would, I would have thought, be desirable to enable memories to be refreshed. Moreover, a short note of, say, the Interview Panel's discussion

might assist the Nominations Committee, and the latter's discussions might in turn assist the Governing Body. It would not, I would have thought, be necessary for the identities of Fellows who took a particular position to be identified in any minutes if it were thought that this could cause embarrassment. However, I appreciate that in some cases it might be unfortunate to show that there is any opposition to a candidate at all, such as where an existing Fellowship is renewed. As the above somewhat tenuous discussion demonstrates, I have no very clear view of what the most satisfactory solution is. It is again a matter which warrants some thought, perhaps with legal advice if the College is minded to change the current practice.

*(6) The choice of assessors*

85. This issue was immaterial in this case since only two persons were suggested to read Dr. Carl's work. But sometimes there will be more than two potential assessors. Each referee can identify up to three, and the evaluators can add any suitable names if they wish. Who should then be chosen? At present the choice is made on very arbitrary criteria, with the Senior Tutor choosing in something of a vacuum. I would have thought that it is desirable that some more structured system should be adopted, although I concede that it is difficult to formulate criteria. It may be appropriate at this stage to ask, perhaps informally, someone in the relevant discipline in the College or, if necessary, the wider University to see if they have views on the more appropriate assessors. As elitist as this may seem, it may also be appropriate to choose first assessors from the more highly regarded academic institutions although I am certainly not under the misapprehension that all the best academics are to be found there. There are obvious advantages in asking a University of Cambridge academic if possible (and I gather that would normally be done). Perhaps the referees (who are after all acquainted with the candidate's work) could be asked to identify anyone who is in his or her view particularly well suited to carry out the assessment, and then add any others who they believe might be able to do so if the most appropriate persons cannot do it. Perhaps they could also be asked who might assist in identifying appropriate assessors if they feel unable to do so themselves. I appreciate that a risk here is that a referee will recommend someone known to be generous in his or her assessments, or sympathetic to the candidate's perspectives or views. But risks of that kind are unfortunately inherent in all appointments and the system has to operate on trust. Again, there are no easy answers and I do not suggest that the proposals I have made will necessarily meet with approval. They are principally intended to promote a debate.

*(7) Taking opinions in the Interview Panel*

86. One concern raised in the course of an interview was that in some cases more senior Fellows might, perhaps unconsciously, influence the views of younger Fellows by stating their views first in a forceful manner. It is said that the more junior Fellows might be inhibited in expressing their true views. I am sure that this did not happen here; the Interview Panel consisted of relatively senior Fellows, well able to fight their corner. But in some cases (and not only in Fellowship exercises but in small committees more generally) the point may have some force.. A practice sometimes adopted is to ask for opinions from the most junior to the most senior Fellows. I raise it for consideration.

*(8) Who should chair?*

87. It was also suggested to me, and hence I raise it now, that it may be desirable for someone other than the Master to chair meetings where academic appointments are concerned, particularly if the Master is not an academic. It seems to me that there can be different views about that but again it is a matter which the College may wish to consider. There may be advantages in someone who can bring a different or wider experience to appointments, particularly where the criteria are not solely academic but also involve considering how the candidate would fit into the College. Moreover, a College head, as the person ultimately responsible for running the College, plainly has a close interest in who is being introduced to the Fellowship. I do not know what the general practice is in other colleges.

#### *Conclusions*

88. For the reasons I have set out above, I do not think that the Master or the College Fellows or any of them acted negligently, or without due diligence or otherwise improperly in the way in which they conducted the exercise to select the Toby Jackman Newton Trust Research Fellow. I would therefore recommend that the Governing Body should reject the complaints made by the Combination Room in relation to the appointment procedure.

89. Nevertheless, with hindsight it is possible to identify possible ways in which the College might in future mitigate the risks of an appointment being made in ignorance of potentially relevant information about a candidate. I have drawn attention to these for the College to consider.

90. I have also identified certain areas where the procedure did not operate in an entirely satisfactory way, and other issues, some of which were raised in the course of discussion with the Fellows, where arguably the system could be improved. Again, there are no correct answers to these issues but I have drawn attention to them, together with brief observations of my own, for the College to consider if it thinks fit.

**SIR PATRICK ELIAS**

**30 APRIL 2019**

## Appendix A

### **Toby Jackman Isaac Newton Trust Research Fellow:**

#### **Recruitment process 2018**

The application process for the Toby Jackman Isaac Newton Trust Research Fellow was organised via the Joint Application Scheme for Early Career Research Fellowships, which is co-ordinated by Churchill College. By using the Churchill Joint Application Scheme, we followed a recruitment process for Research Fellows that has operated successfully for a number of years for several colleges. This scheme is used by Churchill, Fitzwilliam, Murray Edwards, Selwyn, St Edmund's and Trinity Hall, although not all of these take part each year.

The Isaac Newton Trust has provided funds towards the appointment, to match the funding from the Jackman trust fund. The Isaac Newton Trust did not require or have any involvement in the recruitment process and their only stipulation was that the advertisement covered the full range of subjects in the category of Arts, Humanities and Social Sciences. They were aware that this would lead to a huge number of applications.

The initial co-ordination for the process within St Edmund's College was provided by a Recruitment Co-ordinating Panel, consisting of the Master and three experienced Fellows; the Senior Tutor, Ms. Dobson and Dr. Paul.

Full administrative support was provided by the College Administrator, who liaised with Churchill College and sought advice on the process when required. Support from Churchill College was provided by the Fellowship Secretary and by the developer of the recruitment system. The stages of the recruitment process were as follows:

#### **College commitment to initiate Research Fellowship**

The Toby Jackman Research Fellowship was established as a result of a bequest by Toby Jackman, a long standing member of College. The funding available from the trust would only partially support a Research Fellowship so a funding partner was required to provide full funding. The Isaac Newton Trust co-funded the first Toby Jackman Research Fellowship in 2015-2018 and an application was made to continue this funding to enable a new Fellowship to be offered once the current tenure had ended. After initially being rejected, in September 2017 the Isaac Newton Trust agreed to co-fund the new post, providing £15k per annum for each of the 3 years, on the condition that the full range of subjects in the category of Arts, Humanities and Social Sciences was advertised.

In October 2017 the College, recorded in the minutes of the 10 October 2017 Council meeting, committed to launch the search for a Research Fellowship, with the recruitment process beginning in Michaelmas 2017 and the post to begin Michaelmas 2018.

#### **Advertisement**

The advertisement was posted on the following in October 2017:

- College website
- University website

- jobs.ac.uk

Applicants for the post completed an application form requesting information about:

- eligibility
- personal details
- academic details:
  - subject
  - choice of college
  - research/PhD supervisor
  - university record
  - statement of research (pdf file could be uploaded)
  - writings offered
  - employment (optional)
  - published work (optional, free text – no subtitles)
- two references - note the candidates could not see the references, referees were nominated and entered references into the application portal themselves.

Once the deadline had passed for applications and references to be received, the Churchill administrator assigned the completed applications to the colleges who were advertising in that subject. For St Edmund's College this meant that we received 943 completed applications, across all Arts, Humanities and Social Science subjects. Many did not put St Edmund's as their 1<sup>st</sup> choice and of the 943 completed applications received:

- 133 candidates named St Edmund's as 1<sup>st</sup> choice college;
- 300 candidates named St Edmund's as 2<sup>nd</sup> choice college;
- 241 candidates named St Edmund's as 3<sup>rd</sup> choice college;
- 163 candidates named St Edmund's as 4<sup>th</sup> choice college;
- 106 candidates did not select St Edmund's at all.

### **Initial co-ordination and first sift stage: November 2017**

The Recruitment Co-ordinating Panel met on 14 November 2017 and 30 November 2017 to discuss the most effective strategy for processing 943 applications. There were no minutes of these meetings but it was decided to only consider those who put St Edmund's as their 1<sup>st</sup> or 2<sup>nd</sup> choice. This reduced the number of applications to sift to 433. The College Administrator implemented this decision on the recruitment system.

Further filtering was carried out by the members of the Recruitment Co-ordinating Panel to remove the candidates who:

- were not expected to receive their PhDs by October 2018; or
- had not yet produced at least 2 publications; or
- were not in the early stages of their research career.

The remaining 149 applications were divided up into groups for further evaluation, according to subject area.

## Evaluation stage: 30 November 2017 – 4 January 2018

The specialisms of the evaluators were matched as closely as possible to the subject areas of the applications, within the constraints of the subject coverage of the Fellowship. 19 evaluators were selected from within the College Fellowship and 4 individuals who were not Fellows but did have a strong connection with the College (as Directors of Studies) were also asked to help in subject areas not covered within the Fellowship.

Note that at this stage the evaluators did have the references identified by the candidates. Dr. Carl's references were provided by CD (*name and position redacted*), and EF (*name and position redacted*).

The following list of evaluators were allocated to the following subject areas:

| <b>Evaluator</b>            | <b>Subjects Allocated</b>  | <b>No of apps</b> |
|-----------------------------|--|-------------------|
| Matthew Bullock, Master     | Economics<br>History (Economic and Social)<br>History (World History)<br>History (Modern British)<br>Political Thought and Intellectual History (World)<br>Political Theory and Political Philosophy | 17                |
| Dr. Butler                  | Sociology<br>Human, Social and Political Science/PPSIS   | 15                |
| Dr. Charalampous            | English  | 9                 |
| Dr. D'Angelo                | Ancient History & Classical Archaeology<br>Classical Literature & Linguistics  | 6                 |
| Ms Dobson                   | Law and Criminology  | 6                 |
| Dr. Everett                 | Asian and Middle Eastern Studies   | 4                 |
| Professor French            | Archaeology  | 1                 |
| Dr. Gannon                  | History of Art   | 4                 |
| Dr. Gemelos                 | English  | 9                 |
| Dr. Heesen (now left)       | Philosophy   | 10                |
| Dr. Liu                     | Philosophy   | 19                |
| Dr. Maine (now left)        | Education<br>Psychology  | 3                 |
| Dr. McCosker                | Ancient Philosophy<br>Divinity/Theology  | 8                 |
| Dr. Morrison                | Human, Social and Political Science/PPIS.<br>She did not carry out the evaluations sent to her, so they were reallocated at late notice to Dr. Heath.  | -                 |
| Dr. Oosterhoff (now left)   | History (Early Modern)<br>History and Philosophy of Science  | 8                 |
| Dr. Paul                    | Modern and Medieval Languages<br>History (Ancient and Medieval)  | 5                 |
| Mr. Schellhorn (now left)   | Music  | 4                 |
| Dr. Heywood (DOS, now left) | Anthropology (Social)  | 6                 |

|                     |                                     |    |
|---------------------|-------------------------------------|----|
| Dr. Heath (DOS)     | Human, Social and Political Science | 11 |
| Dr. Biberauer (DOS) | Linguistics                         | 4  |

The role of the evaluators was to identify outstanding and appointable candidates and also rank the top 5. To do this evaluators were asked to grade their set of applications as A (Outstanding), B (electable), C (Not Electable) and to rank the top 5 applications. Comments were requested about the top 5 ranked candidates. Their responses were entered directly onto the recruitment system by the evaluators themselves (unless they requested assistance from the College Administrator).

Evaluators were able to see the titles of the writings that the candidate intended to submit for assessment and the assessors that had been nominated by the referees. Evaluators were asked if they accepted the nominated assessors and they could add the details of other assessors if they wished.

Dr. Carl was graded by his evaluator as Outstanding and was ranked as 1<sup>st</sup> out of the 15 applications the evaluator was considering. No additional assessors were nominated by the evaluator.

### **Longlisting: 9 January 2018**

The Recruitment Co-ordinating Panel met again on 9 January 2018 to select a long-list of candidates, based on the documentation including the references and the evaluators' gradings, ranking and comments. At the time of the long-listing decision, it was not known how many would be a suitable number of candidates to choose to ensure a successful appointment. If more than one college wished to appoint the same candidate, the candidates' ranking of the colleges would be taken into account. The panel selected a long-list of 22 candidates.

At the time of the long-listing decision it was also not known how many of the assessments would need to be paid for by the College. The cost of assessments for 22 candidates was a concern to the College, because it could potentially have been as much as £4,400. The decision about which assessment fees would be paid by each college was made by Churchill College once all of the long-lists had been selected. St Edmund's was asked to pay for a higher number of assessments than had been budgeted.

### **External assessment: 17 January – 25 February 2018**

Long-listed candidates were asked to submit written work of their choice for further assessment. For each candidate, two external assessors, who have knowledge in that field, were contacted to request assessments of the written work that was submitted. Assessors were offered a small honorarium (£100) to carry out this task (£50 if they had provided a similar assessment for other competitions).

The nomination of assessors was normally made by the candidates' referees, based on their knowledge of the field; the details were entered into the system by the referees when they provided their reference. Each referee was offered the chance to nominate up to 3 assessors. The evaluators also had the ability to add assessors on the system. If there were more than two nominated assessors on the system, the College administrator sought the advice of the Senior Tutor over which assessors to contact in the first instance.

Dr. Carl's two assessors were nominated by his referee CD (*name and position redacted*). His second referee did not nominate any assessors.

Dr. Carl submitted two papers for assessment:

- *'Can intelligence explain the overrepresentation of liberals and leftists in American academia?'* (published in the journal *Intelligence*)
- *'Ethnicity and electoral fraud in Britain'* (accepted for publication in the journal *Electoral Studies*)

An assessment was received from GH (*name and position redacted*). The second assessor, IJ (*name redacted*) did not return an assessment. IJ was reminded by the Churchill co-ordinator, but did not reply.

It was not an unusual experience to have assessors who needed reminding or did not respond. For candidates who had more than two nominated assessors, it was possible to approach another assessor if necessary. As the deadline approached, it was more difficult to find alternative assessors who would take it on. For the St Edmund's long-list, there were still 20 assessments outstanding just before the closing date (25 February 2018), but 13 arrived over that weekend (just in time to meet the deadline). A few other assessments arrived shortly after the deadline.

### **Shortlisting: 28 February 2018**

The Recruitment Co-ordinating Panel met on Wednesday 28 February 2018 to select a short-list of candidates, based on all of the documentation, including the external assessments. By that time, all of the long-listed candidates had at least one assessment, but 5 of them had only one assessment. The panel selected 9 candidates for the short-list, of which 2 had only one assessment. This meeting and decision were not minuted.

The short-listed candidates were invited to the interview day. Three more assessments arrived after the short-listing meeting, one of which was for a short-listed candidate. So by the time of the interviews, Dr. Carl was the only short-listed candidate with only one assessment.

### **Interviews and panel decision: 13 March 2018**

The Interview Panel consisted of the Master, Senior Tutor and 5 experienced Fellows in the field of Social Sciences and the Arts (Dr. Paul, Dr. McCosker, Dr. Jongkind, Dr. Oosterhoff, Dr. Kessler). Due to other commitments, Dr. Kessler and Dr. McCosker were not available for the whole day. The interview schedule was configured to ensure that they were present for the interviews of the candidates in their field of expertise and for the discussion and decision at the end of the day. The panel members were provided with the application documents for all of the short-listed candidates including the references, evaluations and assessments.

- The interview process on Tuesday 13 March 2018 involved a 40 minute interview with the panel. Other Fellows were invited to meet the candidates at lunchtime, with refreshments in the SCR and lunch in the dining hall.
- All members of the Interview Panel met at the end of the day and made a recommendation that Dr. Carl was appointed as the Jackman Newton Trust Fellow. No minutes were taken of the discussion or decision.

### **Nominations Committee: 26 April 2018**

The application papers and current CV for Dr. Carl were provided to the Nominations Committee prior to their committee meeting.

The members of the Nominations Committee in attendance at that meeting were:

- Master (Chair)
- Senior Tutor
- Dean
- Dr. Jongkind
- Dr. Gordon
- Professor White

The Nominations Committee recommended Dr. Carl to the Governing Body for election as a Fellow under Title B for 3 years from 1 October 2018. Minutes were taken of this meeting but no discussion points were noted.

### **Governing Body: 12 June 2018**

Dr. Carl's application papers and current CV were provided to the Governing Body Fellows prior to the GB meeting 12 June 2018. The Governing Body elected Dr. Carl as a Fellow under Title B for 3 years from 1 October 2018. The process was, as usual, by way of election.

The Director of the Isaac Newton Trust was informed of the appointment and was sent a copy of Dr. Carl's CV. The Director acknowledged the CV on behalf of the Trustees.

At this point all matters relating to the recruitment of the individual had been completed.

*25 February 2019*

## **Appendix B**

### **Dr. Carl's Application Documents**

*Content redacted as it contains personal data*