



Mr Brian J Lacy AO  
Independent Review Panel Chair  
Owen Dixon Chambers West  
525 Lonsdale St.  
Melbourne  
VIC 3000  
[brian@bjlacy.com](mailto:brian@bjlacy.com)

**Via Email Only**

18 January 2024

**In the Matter of an Independent Review Panel and the Dismissal of Professor  
Andrew Timming**

Dear Mr Lacy,

We write with reference to the above matter on behalf of the Free Speech Union of Australia, in your capacity as Chair of the Independent Review Panel formed under Clause 35.12 of the RMIT Enterprise Agreement to consider Prof. Timming's request for reinstatement.

The Free Speech Union of Australia is a non-profit and non-partisan organisation set up to promote the fundamental human right of freedom of speech within Australia. We defend, protect and promote the free speech rights of all Australians, irrespective of the content of the speech. We were formed in part due to the failure of existing organisations (including established trade unions) to effectively protect these fundamental rights.

In this matter, there are two concerns we wish to raise.

**1. Fairness and Partiality of the Panel**

Unfortunately, we have significant concerns as to the NTEU's appointment to the panel in this matter. Dr Robin Laycock is an active member of the Marxist movement.<sup>1</sup> Professor Timming is openly against Marxism and considers it fundamentally against Western values. A fair-minded observer would have significant concerns that Dr Laycock would likely be consciously or unconsciously biased against Professor Timming. This appearance presumably amounts to a breach of s.351 of the Fair Work Act 2009 (Cth) ("the Act"), as it discriminates against Professor Timming on the basis of his political opinion, at what is naturally already a distressing time for him and his family.

We are concerned that such a careless approach towards an appointment might also be a breach of the wider general protections provisions under s.340 of the Act in respect of

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<sup>1</sup> <https://redflag.org.au/author/robin-laycock>



Trade Union Activity by the NTEU. One doubts that Professor Timming would be being mistreated in this manner if he were not a public opponent of them.<sup>2</sup> This is unlawful adverse action (see s.342 of the Act), as it potentially prejudices his future employment. The wider issue of whether such conduct calls into question NTEU's fitness to be registered as a Federal Union is a matter for another day.<sup>3</sup>

We trust you are familiar with the relevant authorities on apprehended bias and will take appropriate steps to address this issue. We expect that Professor Timming will now be able to nominate his own choice of member in the circumstances, and the NTEU be directed to accept this nomination.

## **2. Petition**

As you might be aware, there has been a public petition in support of Professor Timming and directed at the Vice Chancellor, who is the final decision-maker in this matter. We attach a **confidential** list of the over 700 signatories (and growing), all of whom provided sufficient information to enable us to verify their signature. Many of the signatories are highly respected individuals, some are elected representatives. We trust that you will draw this to the Vice Chancellor's attention in your report.

The signatories of the Petition also recognise something that RMIT's administration has so far failed to do: the fundamental importance of academic freedom in a democratic society.<sup>4</sup> We hope that your report will similarly recognise this overarching principle and reach evidence-based conclusions that are consistent with this foundational Western value. We also trust you are aware of your own obligations under anti-discrimination law.

We expect that Professor Timming will exercise his right to ensure that your report is a public document. We hope that this report is prepared with that in mind, with appropriate recommendations to reform RMIT so that something like this is not repeated.

If we can assist further with this investigation, please do let us know.

Yours sincerely,

Free Speech Union of Australia

*CC Professor Joo-Cheong Tham, Division Assistant Secretary (Academic Staff), NTEU  
(j.tham@unimelb.edu.au)*

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<sup>2</sup> <https://www.spectator.com.au/2021/12/the-case-against-the-unions/>

<sup>3</sup> By way of an example, consider s.19 together with s.30 of the Fair Work (Registered Organisations) Act 2009. It is unclear how the NTEU can be an effective Union, where it does not protect academics or academic freedom with sufficient force or effectiveness. We note a considerable number of public allegations to this effect have been made in recent months, which we need not enumerate here.

<sup>4</sup> If this is not fully understood, we would invite the panel to watch Professor Timming's eloquent explanation of this issue: <https://www.facebook.com/watch/?v=906558014416118>. We would expect this be considered by the reformed panel as matter of natural justice in any event.