**Reflections on Law and Impact in the Light of Brexit**

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**Abstract**

The impact agenda in academic research affords a range of rich opportunities – to inform the media, policy makers and the general public, and to co-produce research with third sector organisations. In the context of Brexit, the prevailing ignorance of politicians and other stakeholders has been so profound, and the falsehoods which have had popular purchase have been so baseless, as to make the need for impact and public engagement all the more acute. This is not simply about fact-checking, but about making the case for the very worth of expertise, and reasserting the basic, core scientific values that drive academic work – the need for evidence, for rigorous, critical enquiry and analysis, and academic integrity. These values have been trashed by the precepts of a postmodern nihilism, in which all positions are equally (in)valid, nobody knows anything, and nobody but your own gut can be trusted. But, vital though it is, challenging these precepts in public arenas comes at personal and professional cost. Impact and public engagement work come with significant workload implications, require the quick acquisition of new skills, and often involve dealing with a torrent of abuse. As such, this work needs institutional support; departments need to value it appropriately, and to promote equal access to impact opportunities and confront the discriminatory barriers to (and consequences of) taking up the impact gauntlet. And they need to offer that support urgently. In the lead-up to, and fall-out from, the UK’s referendum on EU membership, expertise and experts have been dismissed and denigrated. Our mission now, it seems, is to restore public faith in the value of the pursuit of truth.

**Keywords**

*Impact agenda; public engagement; academic values; evidence-based policy*

**Introduction**

This contribution will reflect upon the lessons academic lawyers might draw from the Brexit process, when it comes to the “impact agenda” which is now such a prominent feature of university life across the UK.[[1]](#footnote-1) The introduction of an impact component in the Research Excellence Framework provides some important context to this piece – as it creates hard, externally imposed, sector-specific targets, as opposed to softer societal ones. This, along with the move from research councils to make impact planning a prerequisite for external funding,[[2]](#footnote-2) drives, and can skew, our reading of what impact is, and why it is worth doing.[[3]](#footnote-3) However, in this piece we reflect upon the broader experiences and understandings of seeking to have impact, or to inform public debates, or to create some public good from our research and expertise. Those lessons are drawn directly from the authors’ respective experiences of engaging in an extensive programme of impact activity during the period leading up to and following the 2016 referendum on UK membership of the EU. We make no grand claims to have formulated and tested our professional and personal experiences of impact according to the sort of rigorous methodological standard we would normally apply to our own academic legal research. We simply share our thoughts and insights, in the hope that they might offer a useful source for reflection among our colleagues.

The next section will discuss some of the potential lessons of Brexit for the often fractious debate about the overall nature and effects of the “impact agenda” within UK higher education. Besides acknowledging the obvious ways in which academic research can help improve the quality of policymaking and public understanding when it comes to tackling specific societal challenges, we also locate the Brexit experience within a much broader context, concerning the rise of “post-truth politics” and its potential to pose a serious (even existential) threat to the very scientific values which underpin our own profession.

The following section will deal with some of the more granular issues that arise for individual academics as they engage with the “impact agenda”: for example, the need to cultivate a wide range of new professional and personal skills and attitudes; the difficulties of encountering and responding to novel forms of scrutiny and criticism when engaging with non-academic audiences and potential impact beneficiaries; or indeed the challenge of being on the receiving end of outright abuse and hostility for having posed a robust scientific response to the claims of an ideological belief system – a challenge that the Brexit process has carried to a state of apotheosis.

The final main section will explore some of the remaining logistical and policy issues which the Brexit experience highlights, for institutions and other sectoral stakeholders, when it comes to managing the “impact agenda” and its effects on higher education: for example, the importance of identifying and addressing appropriate training and support needs; the particular difficulties that impact can pose in terms of equality and diversity commitments; the problems often faced by legal researchers in evidencing the impact of their work upon non-academic audiences; and the dangers posed by false narratives about the need to preserve “academic independence” – narratives which are often designed to do precisely the opposite, by co-opting university communities into shielding ideological belief systems from well deserved scrutiny and criticism.

We conclude by posing the question: is the Brexit experience merely a concentrated illustration of already familiar debates about the “impact agenda”, its benefits and its problems; or how far might the powerful forces and changes unleashed through the Brexit process prove capable of leaving an indelible mark upon the relationship between science and society, between research and impact, well into the future?

**Brexit and the Big Picture: Impact and the fundamental challenge of defending basic scientific values**

It is easy to be critical of the “impact agenda” which emerged from the margins of academic life to become a central feature of policy and activity across the UK higher education sector.[[4]](#footnote-4) The chief objections are already familiar: for example, realising impact appears much more straightforward in some disciplines than in others;[[5]](#footnote-5) impact opportunities can often feel more a matter of happenchance than attributable to any academic merit or effort;[[6]](#footnote-6) there can be a real risk of unfair advantage for existing “impact incumbents” who enjoy established relationships with potential research beneficiaries; research users can be rather selective in their use of research that fits preferred narratives;[[7]](#footnote-7) it can be difficult to separate impact arising from general expertise and reputation from that generated by specific research outputs or findings; and even in the latter case, gathering credible evidence of the necessary causal link between research and impact can be more much challenging for certain activities than others. McNamara also notes the dissonance between impacts as presented for research evaluation, and the experiences of trying to achieve impact; “REF submissions are unlikely to talk about struggles or failures, or about what made impact possible or what hampered it. There is also an inherent risk of researchers ‘gilding the lily’”.[[8]](#footnote-8)

We will return to some of those problems (and various others) further below. But whatever the challenges of operationalising the “impact agenda” in practice, it is difficult to object to the underlying principle that research communities should be capable of offering and demonstrating tangible benefits to the wider society which supports and sustains their academic life.[[9]](#footnote-9)

From that perspective: even if the Brexit experience were to achieve nothing else, it should at least serve as a reminder of the sheer importance of academic work as a source of rational, evidence-based analysis, both to inform national policymaking and to enhance public understanding, when the stakes are nothing less than fundamental questions about the nature and future of our society. Indeed, in that regard: the Brexit process has shone a most damning light on the fact that large sections of the mainstream political parties,[[10]](#footnote-10) as well as the mainstream media,[[11]](#footnote-11) lacked even a basic degree of knowledge or insight about institutions, relationships, processes and forces which are nevertheless crucial to national life. Faced with such profound ignorance, contributing to public misunderstanding,[[12]](#footnote-12) and capable of producing such far-reaching consequences, the “impact agenda” might well be viewed as a core professional and indeed civic responsibility.

Impact work provides benefits not only for state-policy and public understanding, but also for the third sector.[[13]](#footnote-13) Many groups have a wealth of data relating to their client groups, but do not have the resources or expertise to academically analyse it; impact work can connect academic and third sectors, open up sources of data and create chances to help on the ground.[[14]](#footnote-14) These groups in turn can make our evidence go further in impact terms, disseminating it through their networks and to their policy connections. Academics can get involved in responding to requests for advice and support in technical questions, which may have lower-scale but immediate effects on clients or litigation strategies.

But the Brexit experience is important not just because its reminds us of the self-evident value of harnessing the potential for academic research to improve the quality of otherwise flawed policymaking, limited public understanding, and the research and advocacy of a straitened third sector. At the same time, Brexit serves as a warning to take more seriously another (perhaps less obvious but at least equally crucial) task: the increasingly pressing need to defend the basic values of our scientific profession in the face of deeply worrying and indeed dangerous trends and forces in contemporary political and social discourse. Let’s now dwell a little on that point.

In other fora, the current authors have spoken about the lessons that the process surrounding the UK’s withdrawal from the EU might reveal about the evolving tactics used (more broadly) by politically aggressive campaigners in pursuit of their disparate objectives. For those purposes our attention has focused on the tactics employed by Leave campaigners in the UK both before and since the 2016 referendum, as these were the tactics that most explicitly and systematically dismissed and denigrated evidence and expertise. The key points can be summarised as follows.[[15]](#footnote-15)

It is of course important to recognise that the Leave campaign in the UK was led by an “unholy alliance” of people who would normally have precious little in common with each other. It was largely a right wing alliance: ranging from outright racists and neo-fascists; through those courting false nostalgia and advocating a return to an imagined past (ironically, one often defined primarily in terms of imperial expansion); to neo-liberals who regard the EU and its vast webs of “red tape” as a socialist conspiracy to undermine global capitalism. But there was also a significant (if surely far smaller) left wing Leave campaign – made up of those who firmly believe the EU and its thirst for deregulation to be a capitalist conspiracy to undermine global socialism – apparently able to overlook the contradictions running across their newfound alliance. Indeed, regardless of their basic political orientation, these disparate tribes nevertheless rallied around a common “Brexit” cause. Yet not only that: they also employed very similar campaigning tactics, which can be divided into four main categories.

*1) Tell Lies.* And not just “little lies”: people see through “little lies”. Tell “big lies”: most people are sufficiently trusting that some of it will stick, because “surely it can’t *all* be a lie”. Suffice to recall, for example: how the UK had surrendered its sovereignty to the EU federal superstate – often expressed as an entirely made up percentage of UK law imposed by the unelected Eurocrats in Brussels;[[16]](#footnote-16) how unlimited free movement of people had allowed millions of migrants to pour into the UK, damaging its economy, prejudicing the indigenous workforce and undermining its public services;[[17]](#footnote-17) how imminent Turkish accession to the EU would lead to millions of new immigrants flooding into the UK;[[18]](#footnote-18) how the EU was poised to create a single army which would subsume and direct control over the UK’s own armed forces…[[19]](#footnote-19)

*2) Sell Fantasies.* Lying is not all about stoking fear and prejudice. It also lends itself well to peddling false hopes. Life outside the EU was to be a land of milk and honey. Everyone knows about the Leave battlebus which claimed that the £350 million a week sent to Brussels could go to fund the NHS instead.[[20]](#footnote-20) We will also remember being assured that, in negotiations with the EU, the UK “held all the cards”: we could have our cake and eat it, with the negotiations (future relationship included) done and dusted by the date of withdrawal itself;[[21]](#footnote-21) indeed, these would be the easiest negotiations in human history.[[22]](#footnote-22) Similarly, in relations with the rest of the world: the UK would explode onto the global stage as a major power in international trade – with a full round of trade negotiations completed by September 2017, or maybe September 2018, just to be on the safe side.[[23]](#footnote-23) Rather than substantiating with evidence or concrete claims, many of the fantasies were complemented with alluringly abstract patrio-rhetoric; Brexit would be a “stride into the light”;[[24]](#footnote-24) this was a moment to “be brave, to reach out”;[[25]](#footnote-25) and to “show Europe the way to flourish”.[[26]](#footnote-26)

*3) Suppress and Abuse Opposition.* Any source or voice of opposition to the Leave campaign, its victory or agenda must be attacked and savaged. Again, the tactics were highly repetitive. Many of us have grown familiar with the endless stream of personal abuse and attempts at intimidation (sometimes menacing, often aggravated by factors such as gender, race or sexuality).[[27]](#footnote-27) Many others have heard the cries of “anti-democracy”. We are repeatedly told that Leave campaigners know what the British people voted for, implying that they hold a monopoly on the interpretation of the complex and narrow victory for Brexit in the 2016 referendum, such that any alternative views will render their holder a dangerous subversive seeking to undermine the “will of the people”.[[28]](#footnote-28)

*4) Blame Scapegoats.* As the Leave campaign’s lies and fantasies began to meet with the cold realities of the world, it turned out that responsibility for the mess created by Brexit belonged to … everyone else. Externally, it was all the fault of the “Brussels Bullies”, intent on punishing poor little Britain for daring to declare its independence against the wicked “EUSSR”.[[29]](#footnote-29) Internally, it is the work of an army of traitors and saboteurs: the “elite establishment” has done everything in its power to hinder and undermine the great Brexit project. Indeed, there is scarcely an institution of UK state or society which has not been targeted by Leave campaigners seeking scapegoats for the failure of their own lies and fantasies to materialise in practice: Parliament, Whitehall, the judiciary, the Bank of England, the devolved governments, the BBC, the industry federations, the trade unions, the universities…

Because of course: academics performing the public service of seeking to inform policymaking and / or improve public understanding were hardly spared such tactics. Far from it: in many respects, “experts” became a particular focus of vitriol – precisely because their work had the capacity to challenge many of the key lies and fantasies underpinning the Leave campaign. Many of us became familiar not only with the idle abuse or the familiar cries of anti-democratic subversion, but also with allegations of corruption (apparently, universities in general and academics as individuals are motivated primarily by the grubby desire for personal financial gain, in the form of research funding from the Great EU Cashcow, in return for which we will gladly churn out mindless pro-EU propaganda) and of incompetence (whereby the views of any so-called expert are automatically trumped by any random political campaigner, entitled to pronounce on whatever topic their heart desires, with complete authority and infallibility, despite lacking any relevant qualifications, knowledge, skills or experience).[[30]](#footnote-30)

The key question is: how far do those tactics add up to something greater than the sum of their individual parts? Are they simply a means to deliver Brexit at any cost, on behalf of a wide alliance of anti-EU campaigners who otherwise have little in common? Are the attempts to undermine and discredit academic work simply collateral damage to the sole and overriding objective of leaving the EU? Or is something more systematic, something deeper also at work here? Those are questions meriting serious investigation of a sort this modest paper cannot hope to provide. Suffice for now to offer two (inter-linked) observations for reflection and debate.

In the first place: some of its advocates might cling to the belief that Brexit is an expression of national sovereignty and national renewal, pushing back against the machinations of all those faceless foreign bureaucrats and globalists. On the other hand, many other actors and commentators in fact perceive Brexit to be one of the greatest victories notched up so far by the forces of illiberal authoritarianism which are currently on the march across the developed world and which together pose the gravest threat to the institutions and values of liberal social market democracy since 1945.

In the second place: regardless of Brexit’s underpinning motivations or eventual outcomes, there is good reason to fear that the tactics of deliberate and systematic disinformation which have fuelled the Brexit process seek to and do in fact create a state of mistrust and cynicism around the very idea of scientific investigation and analysis which lie at the heart of our own profession. The calls to ignore experts, and to listen to our gut instincts instead, amounted to a kind of postmodern nihilism; every proposition is equally valid or invalid as no-one knows anything, and no-one who claims to know anything can be trusted. Michael Gove, having stated that the public had “had enough of experts” added “I’m not asking the public to trust me. I am asking them to trust themselves”.[[31]](#footnote-31) Pro-Leave campaigners and commentators pointed to things they said experts had gotten wrong (or failed to predict) in the past,[[32]](#footnote-32) as though this justified the position that there is no point in having expertise in anything. This places us in the uncomfortable position of not only justifying our taking of a position on Brexit, but of justifying academic endeavour itself, of justifying the worth of learning, and the need to avoid a retreating into pre-enlightenment state of superstition. After all, many of the protagonists in the Brexit debate have embraced and encouraged values and strategies which are entirely inimical to those of academic research: anti-rational, anti-evidence, fuelled by ideological belief systems, hostile to difference, immune to persuasion.

Each of those observations would, on its own terms, be bad enough to contend with. But when those twin observations are read together, the real nature and scale of the potential risks become clearer. Academic research is dangerous because it challenges ideological beliefs. Ideologues respond by attacking academics and their research.[[33]](#footnote-33) But what if the attack on expertise is only a contributory part of a much wider process (whether conscious, coordinated, or otherwise) of undermining and eroding public trust in the very foundations of liberal social market democracy? The latter may be imperfect on many levels. But it remains the basic cornerstone of our civilisation. It also provides the essential ecosystem within which our profession has evolved and thrived. And yet its continued survival cannot be taken for granted. For how long are we willing to wait and watch, to see just how far that risk might materialise in practice?

Therein lies the key lesson from Brexit about the “impact agenda” in UK academic life. It is difficult enough to engage with, let alone push back against, people who simply refuse to play by your rules. The true menace comes when one realises that those people may well be deliberately and actively setting out to destroy your rules altogether. Viewed within that bigger picture, the stakes could not be higher: impact is not just a professional and civic responsibility, but an important part of our collective response to a potentially existential threat.[[34]](#footnote-34)

In the next section, we discuss how the Brexit experience has illuminated many of the challenges confronting individual academics who choose to pick up the impact gauntlet.

**The Experience of Brexit Brought Closer to Home: Impact and its implications for our own workloads and activities**

There is no doubt that, for many UK academics, engaging with the impact agenda has prompted a fundamental change in their own professional activities and careers. Brexit proves the point well – as the current authors will testify.

First, impact work can be enormously time consuming. One needs to be constantly up-to-date with often fast-changing and complex developments. It can involve extensive travelling across the UK and abroad: sometimes several trips in a single week, sometimes week after week. This degree of going above and beyond working hours and practices is likely not sustainable – many colleagues have referred in the last couple of years to being in constant “crisis mode”. Equally, impact often requires us to work in essentially “responsive mode”: invitations and requests issued at very short notice, often necessitating intensive effort, usually based on highly tailored / context-specific preparation. It can be frustrating to hear one’s well-meaning colleagues sagely suggest: why don’t you just say no? Because an important but often overlooked aspect of impact work is that it relies on cultivating and servicing key relationships over a long period of time, so as to keep one’s existing networks and opportunities alive. That creates serious pressure to respond to invitations and requests, even when there is little chance of immediate, direct and tangible “impact” as it would be understood, recorded and valued for institutional purposes. As with responding to state bodies or the media, third sector relationships often need cultivating, so that (quick) responses are expected even when there is no direct/immediate “gain” for the academic. After all: even a perfectly reasonable refusal to assist can have the damaging effect of effectively shutting down avenues for future impact – generating immense pressure to comply, especially when key actors are involved, even if it imposes hideous additional workload pressures.

Among the longstanding concerns expressed about the “impact agenda” is that it would risk pressurising UK academics into acting as a source of unpaid labour for the state. The Brexit experience surely bears out such fears: it would be fascinating to calculate the true financial value of the academic time which has gone into assisting and advising Parliament, Whitehall, the devolved administrations and other public bodies “for free”. But the unpaid labour extends much further than the state: third sector organisations, private businesses and citizen groups can all benefit from the academic goodies generated by the “impact economy”.

Secondly, impact work generally involves the acquisition of new skills. That includes the obvious challenge of learning to communicate one’s research to very different audiences, using very different tools and outlets, but without sacrificing basic standards of accuracy and rigour. The adoption of a “public face” in itself for many can be stressful; in a study with mid-senior career academics about the impact agenda, Chubb et al found a number who expressed “a fear of being ill-equipped or unsuited to tackle the associated risks of operating in the agora” and a “sense of lost control and vulnerability in terms of the choreography of their public face; the risk perhaps of being fixed with a professional portraiture they might not recognise, like or agree with”.[[35]](#footnote-35)

But there are other important tasks to master: for example, learning to recognise, manage and enforce the limits of one’s own academic expertise and professional competence. Should an EU constitutional lawyer really be drawn into commenting authoritatively on the implications of Brexit for detailed and complex questions of financial services regulation or cross-border security cooperation or the operation of the pharmaceuticals sector – subjects about which he / she actually possesses only a rather sketchy understanding? It can feel like quite a tightrope to navigate – avoiding straying beyond our own expertise, but at the same time we have to be willing to budge out of narrow comfort zones. If we do not offer some informed comment on a subject unless it has been the sole focus of our research for ten-plus years, then outlandish claims (from other panel members/interviewers and so on) might go unchallenged. Similarly, is it really so wise to offer an “expert opinion” on several hundred pages of new legal text only moments after its publication, just because a news channel would like an immediate analysis for public broadcast? After all, being “caught out” not only risks a rather painful personal embarrassment, but could also undermine broader efforts to prove the public benefit of reliable, evidence-based expertise. And yet, saying “no” this time might mean there is less chance of ever being asked again …

There are also difficult decisions about how far to engage directly with social media: even if the claim of being “technologically challenged” sometimes rings rather hollow, there are nevertheless competing factors to balance – the opportunities for immediate and direct contact with large and diverse audiences, together with the dubious allure of online celebrity; versus the risk of overstepping appropriate expert boundaries at one’s own initiative rather than by invitation, as well as the often hostile and aggressive tone of the online environment.

Which brings us directly to our third point: impact work also involves the cultivation of new attitudes and personal resources. The current authors have spoken and written about their own experiences of coping with the torrent of abuse directed against them (almost invariably by Leave campaigners and supporters): racism, misogyny, threats of violence, defamatory allegations, reputational insults.[[36]](#footnote-36) It is one thing to talk coolly and calmly about the tactics of abuse which have infected the entire Brexit debate. But it is another thing entirely when such abuse regularly screeches out of your own email inbox or when walking down the street. Yet the attitudinal challenges are not just about abuse. Impact work often exposes academics and their research to a very unusual level but also a very different type of critical scrutiny. Parliamentary committees and town hall meetings do not necessarily respect the behavioural norms of academic conferences – where appropriate disciplinary boundaries are implicitly recognised and respected, colleagues hold reasonable expectations of what is known and indeed knowable, and minor slips or errors can be overlooked or forgiven in a spirit of professional solidarity. Placing one’s work in the public eye, particularly on a matter of such deep contestation and division as Brexit, calls for an entirely different mindset about its potential interpretation and reception.

That last point links up with another important attitudinal challenge: resigning oneself to the fact that all the additional effort of *engagement* – including the time, the skills, the abuse, the scrutiny, the pressure – might actually produce precious little by way of positive or tangible *impact*. Indeed, the experience of Brexit demonstrates that the extra demand for our expertise does not necessarily translate easily into appreciable or recordable changes in policy or opinion: that full week of intensive work and anxiety preparing for a parliamentary committee might earn you little more than some brief mention in one of the footnotes to the final report. Impact work can be both invigorating and disempowering at the same time.

Fourthly, impact work has obvious and direct consequences for one’s other professional activities – and especially for the time and space which remains available for the production of scientific research outputs intended for the creation of new knowledge and the advancement of understanding among one’s own academic peers. It is inevitable that a serious commitment to impact – of the sort which many colleagues across the UK have made during the entire Brexit process – calls for important sacrifices in other fields: there is simply less time to follow and reflect upon other developments in the field (the discipline of EU law has hardly stood still while the UK devours itself through uncertainty and self-harm); one can boast of fewer academic outputs than might have been possible if that invaluable period of research leave had been dedicated to publication rather than impact.

But such sacrifices do need to be put into perspective. We need to recall our previous discussion: to understand impact work as a professional and civic responsibility, even as a response to the serious threat facing scientific values, makes certain sacrifices more than worthwhile – and surely the world will survive without reading another article this year by O’Brien or another casenote the next by Dougan… However, some workload pressures can have direct implications for other colleagues. Perceived delays in responding to emails, difficulties juggling admin, and the need for flexibility as to timescales for other tasks, can all cause frustration to colleagues (and students) who do not understand why our diaries appear subject to sudden changes.

Here, we anticipate our final set of points, by stressing the concomitant importance of appropriate institutional and sectoral policies, adjustments and actions to recognise and support the far-reaching changes and challenges which the “impact agenda” entails for individual academics – such that the personal sacrifices are ultimately transformed into communal ones.

**Brexit and Impact: The Importance of the Institutional and Sectoral Response**

Those who have engaged in significant impact activity – whether related to Brexit or otherwise – might be forgiven for sometimes wondering whether the institutional and sectoral push for greater academic engagement with policymakers, stakeholders and the wider public, has been sufficiently balanced by an open and honest recognition of the fact that impact is not necessarily an unconditional good; as well as by appropriate mechanisms of support and recognition for the myriad efforts, challenges and costs which impact work entails.

First, there are issues around the provision of appropriate training and support: for example, through media training for those academics likely and / or keen to experience such exposure; for the production and promotion of impact by organising engagement events, producing high quality media, ensuring wide dissemination etc; with collecting, measuring and analysing evidence of impact (especially in the case of large scale and / or diffuse public engagement activities); assistance in developing and deploying robust and credible methodologies for establishing the necessary links between research and impact; and not least – meaningful support in dealing with the pressures generated by impact, especially the experience of personal abuse and even outright hostility. Impact is draining. As Lee puts it, “the sheer emotional and intellectual labour of putting our knowledge, understanding and experience as an academic at the disposal of the public interest should not be underestimated”.[[37]](#footnote-37) It demands investment, not just by the individuals concerned, but also by their departments and institutions, and not just from the spare change lying around campus, but potentially significant in both nature and scale.

Secondly, there are questions about how institutions value impact, especially as compared to the relative merit attached to impact achievements as compared to the tally of research outputs: for example, in defining and overseeing overall workload expectations; as well as in HR processes such as promotion or indeed performance management. Watermeyer has persuasively characterised public engagement work as a “workload extravagance”, viewed as opposed to, and extraneous to, academic workloads.[[38]](#footnote-38)

Similarly, there are questions about how the particular demands of impact can best be balanced against other academic commitments: for example, we discussed above the often immediate, responsive and intensive nature of impact opportunities; institutions need to define and articulate how such demands can best be incorporated into policies affecting the student experience (such as the re-timetabling of teaching or office hours). Such questions are particularly acute in departments (which may well be the norm) where the burden of producing impact case studies for REF purposes falls upon a relatively small number of staff. Institutions have to create a sustainable workload model which makes impact activity attractive and rewarding into the future and across a wider spectrum of colleagues. They also have to create a culture in which impact is valued by other members of staff, and by students – positive messaging to students about the impact activities of departments, along with opportunities to get involved or interact with the staff members in question – could help to “sell” the need for some timetable flexibility, rather than assuming that the interests of the student body must automatically be opposed to not-directly-teaching-specific activities.

Thirdly, particular challenges arise around promoting equality and respecting diversity. For example: we need to be realistic about how far people with care responsibilities (which is in turn a gendered category) are able to engage in intensive or widespread travel; or indeed in activities (such as public meetings or debates) which are frequently organised in evenings and over weekends. But what is actually the most appropriate response to such challenges in practice: simply to accept and accommodate the exclusionary effects imposed by current impact practices; or to work with stakeholders to devise better practices that offer fairer impact opportunities to a wider range of staff? The accept-and-accommodate approach, perhaps exempting some members of staff from impact expectations, would be problematic, likely resulting in skewed career development, in favour of the already included groups getting higher profiles, and leaving those with restricted availability to pick up the teaching slack and housekeeping. If institutions do not do something to tackle the exclusionary tendencies of impact work, then greater support for “impact stars” could actually end up entrenching inequalities of workload, bearing in mind the context of gendered workloads and time constraints already affecting career progression. Early career academics could be at a particular disadvantage[[39]](#footnote-39) if attempting to juggle impact, other work, and care responsibilities.

Similarly, we need to recognise that abuse of the sort and scale which has become so familiar from the Brexit process is particularly vicious and potentially damaging when targeted against women and minorities – whether defined by familiar criteria such as race, sexual orientation or disability; or indeed by other relevant factors such as regional identity or socio-economic background. Again, what is the most appropriate institutional response here: to express particular support for those affected within the confines of the university campus; or to be more proactive (say) in pushing for the identification and prosecution of those who have potentially committed a criminal offence?

Fourthly, there are issues about evidencing impact, particularly for the purposes of external assessment, especially in a discipline such as law. As the Brexit experience illustrates so well: much of our impact as academic lawyers consists of providing better information and promoting clearer understanding (as compared to the inferior resources and more flawed perspectives that might otherwise have existed without our intervention). But it can be especially difficult to measure or prove an impact contribution which consists primarily in influencing and improving the quality of an ongoing debate, without necessarily producing a direct change in law, policy or other external behaviour. Moreover, such intangible impacts tend to be incremental and cumulative, and not traceable to any one contribution. As Lee puts it, “[w]e cannot claim credit because the work is genuinely collaborative, and our contribution is small. An academic contributes to a complex set of contexts, relationships and knowledges, which we may hope will push policy in a particular direction”.[[40]](#footnote-40)

Public engagement activities furnish a useful illustration: our research can be disseminated far and wide, perhaps having a potent effect on the comprehension and thence attitudes and behaviours of thousands or even millions of people, but such diffuse effects are extremely difficult to track, record and evaluate. Moreover, the distinctive nature of so much legal impact leads on to other (closely related) challenges: for example, there are striking differences between how far different beneficiaries of our research are willing and / or able to acknowledge our contribution to or influence over their work – especially given that certain institutions rarely or never publicly cite academic research (the rulings of the Court of Justice of the European Union being a case in point) and that changes in personnel can easily lead to a rupture in or even loss of institutional contact points.

Fifthly, Brexit has thrown into sharp relief certain difficult questions about the effect of the impact agenda upon both our understanding and the practice of “academic independence”.[[41]](#footnote-41) Obviously, individual researchers may have to decide whether to present a scientifically dispassionate position of strict non-affiliation or instead to identify themselves as a campaigner for a particular policy cause or with a particular social group. But Brexit has surely taught us the dangers of pandering to (or indeed conning ourselves into sharing, let alone actively promoting) an entirely artificial definition of “impartiality” – whereby any indication that one viewpoint should be considered more robust or convincing than its rival is to be condemned as “bias”. This is a fundamental misrepresentation of what “bias” means; that would suggest hidden factors or predispositions affecting and shaping the conclusions reached. It is not biased to actually reach conclusions; we are *supposed* to do that. The role of academics is to critically analyse evidence – not to parrot out competing viewpoints and shrug. As Brexit has so well illustrated: in the hands of ideological political campaigners, the notion of “impartiality” belongs in the arsenal which seeks to undermine public confidence in our very profession; while in the hands of naïve colleagues or institutional managers, such “impartiality” becomes a tool of academic complicity and scientific betrayal. We should be crystal clear: if there are two sides to an argument, only one of which is supported by rational, evidence-based analysis and represents the overwhelming consensus across the scientific expert community, then to pretend that the debate or choice is somehow balanced or neutral is *in itself* deeply biased - giving undue credit and unwarranted credibility to a perspective which deserves neither.

Brexit has also reminded us of other threats to academic independence which should be a source of concern not only to individual researchers but also our institutional managers and sectoral policy leaders.[[42]](#footnote-42) In particular, there is a real danger that the quest and pressure for impact creates and encourages relationships of dependence between researchers and the potential beneficiaries of their work: for example, whereby we tell public officials or private sector interlocutors what we believe they want to hear, or at least mute the truth of our critical commentary, simply in order to keep our valuable impact channels alive. This specific concern echoes the more general misgivings of Watermeyer and Hedgecoe, who argue that the impact agenda compromises academic independence because it forces us to meet the demands of the market, signalling “the continuing neoliberalisation of higher education”, and promoting the “selling” of research and of ourselves as impactful celebrities, in keeping with “the commodification of seemingly every facet of academic life and its celebration”.[[43]](#footnote-43)

Of course, such debates about how to define appropriate professional ethical boundaries in relations with the non-academic world are nothing new: similar dilemmas have long surrounded (say) the pressure to secure private sector funding, the creation of commercial partnerships or the acceptance of corporate benevolence. But such is the nature of the impact agenda, that uncertainty over the dividing line between circumspect diplomacy and damaging self-censorship risks becoming an everyday feature of academic life for large numbers of our colleagues. For now at least, suffice to recall that we do still exercise certain tools of collective defence – not least the process of robust peer review in setting an appropriate threshold for the publication of academic research in our journals and collections.

Last but not least: the Brexit experience suggests that the higher education sector would do well to reflect upon the apparent ease with which parts of the population appear susceptible and sympathetic to propaganda deliberately designed to denigrate academic research and its potential to contribute to the betterment of human society. Can large numbers of people really believe that we live in ivory towers, incapable of offering any meaningful contribution to the lives of our fellow citizens?[[44]](#footnote-44) That we spend our time thinking about how best to brainwash our students with “leftie propaganda”? That we would trade away all notion of professional integrity for the slightest whiff of funding (or at least of funding deemed to be “politically suspect” by the relevant propagandists)? Even in the best of times, if such beliefs were proven to carry any appreciable weight among any significant part of the population, it would suggest the need for a more proactive and effective strategy to communicate the true nature of the academic profession and the real value of universities to our economy and society. But during a period when the very fundamentals of scientific research are being called into question, by Brexit and its cognate populist movements and methodologies across the developed world, such a strategy might appear doubly urgent.

**Concluding Remarks**

Through the “impact agenda” introduced and mainstreamed under the REF process, successive UK governments have fundamentally changed the nature of the UK higher education sector not only at the national level but also for academic institutions and for individual researchers. For some colleagues, those changes are so fundamental as to effectively transform their professional life almost beyond recognition. But for all of us, directly or indirectly, the impact agenda is redefining what it means to be an academic in the UK,[[45]](#footnote-45) and redefining public expectations. The academic landscape is altering; even those who successfully ignore the impact agenda will see the shape and purpose of academia changing around them – and may end up picking up the loose ends of non-impact activity, as space is made for those that are doing impact work. Impact expectations are creating new conceptions of what our roles can or should entail, opening fresh avenues for professional and personal activity and attainment, demanding the cultivation of new skills and adoption of different attitudes, imposing new pressures and anxieties, together with additional risks to our individual and collective well-being, posing difficult challenges for those entrusted with the management, leadership and strategic direction of our disciplines and communities.

From all those perspectives, the experience of academic lawyers engaging in impact work during the complex, contested and prolonged Brexit process might well be viewed simply as a relatively extreme manifestation of symptoms we had already experienced in many other contexts. However, it is worth reflecting upon whether the sheer scale and depth of the political, economic, social and cultural transformations already revealed and still to be unleashed by Brexit, might also lead to certain more fundamental changes in the dynamics of how UK academic life may be reshaped into the future by (or indeed despite) the impact agenda. How far might the Brexit debate have left an indelible imprint upon the ways in which policymakers, stakeholders and the wider public view and (de)value the contribution of expert research to the management of important societal challenges? How far might the Brexit experience have shaped or damaged internal and external understandings or perceptions of academic impartiality and independence? In what ways might the Brexit process have aggravated and accelerated the broader challenges posed by the rise of “post-truth politics”, whereby public policy and opinion are manipulated and distorted by voices and forces whose values and methods are fundamentally in conflict with those of scientific research? Whatever one’s views or preferences concerning the UK’s membership of or withdrawal from the EU, of the myriad painful lessons in Brexit Britain, the overriding one might be our failure as a sector to successfully galvanise public support for the advancement of knowledge and understanding, for the gathering of evidence, for teaching, and for the pursuit of truth. Should that failure make impact activists of us all?

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 Please note that, although M Dougan has been appointed as a member of the Law Subpanel for the purposes of REF 2021, that will take effect only from the commencement of the assessment phase and, in any case, he writes here in an entirely personal capacity as a member of academic staff at the University of Liverpool. [↑](#footnote-ref-1)
2. Research Councils UK “Joint Statement on Impact by HEFCE, RCUK and Universities UK”, see <<https://www.ukri.org/files/legacy/innovation/jointstatementimpact-pdf/>>. [↑](#footnote-ref-2)
3. MacNamara notes “These external drivers shape the ways that academics and law schools work. Impact counts for millions of pounds in law school income and expenditure. For example, in 2015, of the £21 million allocated on the basis of research quality (‘QR funding’) distributed to law schools in England, £4.1 million was based on impact”. L McNamara “Understanding Research Impact in Law: The Research Excellence Framework and Engagement with UK Governments”, (2018) 29(3) *King’s Law Journal* 437. [↑](#footnote-ref-3)
4. The introduction of a new “impact” component for assessment under the REF 2014, and its further consolidation and expansion within the evaluation system proposed for the REF 2021 is part of a wider shift towards greater expectations of public engagement and demonstrable impacts, or societal gains from research. [↑](#footnote-ref-4)
5. R Watermeyer, “Impact in the REF: Issues and Obstacles” (2016) 41(2) *Studies in Higher Education* 199, 204. [↑](#footnote-ref-5)
6. McNamara, note 3, 462-3, 467. [↑](#footnote-ref-6)
7. A Stevens, “Telling Policy Stories: An Ethnographic Study of the Use of Evidence in Policy-Making in the UK” (2011) 40 *Journal of Social Policy* 237. [↑](#footnote-ref-7)
8. At note 3, 443-4. [↑](#footnote-ref-8)
9. We stress “communities” – which is not to suggest that equal expectations or burdens should fall upon every individual researcher regardless, e.g. of subject matter or seniority. [↑](#footnote-ref-9)
10. #  From a fairly wide pool, some examples: J Stone, “Minister for Brexit David Davis appeared unaware of how EU trade deals actually work” *The Independent* 14 July 2016; BBC News, “Dominic Raab under fire over Dover-Calais comments” 8 November 2018, <<https://www.bbc.co.uk/news/uk-politics-46142188>>; The Journal.ie, “The ridiculous things UK politicians have said about Ireland and Brexit” 31 December 2018 <<https://www.thejournal.ie/uk-politicians-4336217-Dec2018/>>.

 [↑](#footnote-ref-10)
11. See the extraordinary list of media myths debunked at the European Commission in the UK Euromyths webpage:”Euromyths: A-Z Index of Euromyths 1992 to 2017” at <<https://blogs.ec.europa.eu/ECintheUK/euromyths-a-z-index/>>. [↑](#footnote-ref-11)
12. #  T Peck, “EU referendum: British public wrong about nearly everything, survey shows” *The Independent* 10 June 2016; S Hix, “Britons among least knowledgeable about European Union” *The Guardian* 27 November 2015.

 [↑](#footnote-ref-12)
13. #  S Bastow, P Dunleavy & J Tinkler, “Civil society organisations and the third sector” in S Bastow, P Dunleavy & J Tinkler (eds), *The Impact of the Social Sciences: How Academics and Their Research Make a Difference* (Sage, 2014).

 [↑](#footnote-ref-13)
14. As in the EU Rights Project: C O’Brien, *Unity in Adversity: EU Citizenship, Social Justice and the Cautionary Tale of the UK* (Hart, 2017). [↑](#footnote-ref-14)
15. See, e.g. M Dougan, “Les gros mensonges ne peuveut êtres tout à fait faux” in *Lacan Quotidien* (No 808 of 17 December 2018) available at <<https://www.lacanquotidien.fr/blog/wp-content/uploads/2018/12/LQ-808.pdf>>. [↑](#footnote-ref-15)
16. Claims whose mendacity are explored in greater detail, e.g. in M Dougan, “Faux Research in the Service of Ideological Deceit during the 2016 EU Referendum Campaign: The Legal Surreality of Leave’s ‘Sovereignty’ Statistics” [2017] *Radical Statistics* Issue 118, pp 21-33. [↑](#footnote-ref-16)
17. #  On political misrepresentation of EU migration, see O’Brien *Unity in Adversity* note 14, 117-123; C O’Brien, “European migrants are not just paying their way, they're paying our way too” *The Independent* 24 July 2016 << https://www.independent.co.uk/voices/brexit-europen-free-movement-eu-migrants-paying-their-way-european-immigration-is-working-a7153551.html>>.

 [↑](#footnote-ref-17)
18. Notwithstanding the relevant provisions governing the accession of new Member States as contained in the Treaty on European Union (as well as the self-evidence political realities surrounding the prospects for Turkish accession in particular – see C O’Brien, “Is Turkey Likely to Join the EU?” *Full Fact,* 26 May 2016 <<https://fullfact.org/europe/turkey-likely-join-eu/>>). [↑](#footnote-ref-18)
19. Despite the relevant provisions governing decision-making in the field of CFSP and CSDP as contained in the Treaty on European Union; as well as the parliamentary and referenda locks contained in the UK’s European Union Act 2011. [↑](#footnote-ref-19)
20. Note that, in September 2018, the Centre for European Reform calculated that the UK’s public finances were approximately £500 million per week worse off that might otherwise have been the case if Remain had won the 2016 referendum: see <<https://www.cer.eu/insights/cost-brexit-june-2018>>. [↑](#footnote-ref-20)
21. Claims that were indeed a central feature of UK Government policy for a surprisingly persistent period of time after the publication of the White Paper, *The United Kingdom’s exit from and new partnership with the European Union* (Cm 9417, February 2017). [↑](#footnote-ref-21)
22. See, e.g. <<https://www.theguardian.com/politics/2017/jul/20/liam-fox-uk-eu-trade-deal-after-brexit-easiest-human-history>>. [↑](#footnote-ref-22)
23. See, e.g. <<http://www.conservativehome.com/platform/2016/07/david-davis-trade-deals-tax-cuts-and-taking-time-before-triggering-article-50-a-brexit-economic-strategy-for-britain.html>>. [↑](#footnote-ref-23)
24. #  I Hardman, “Iain Duncan Smith: Brexit would be a ‘stride into the light” *The Spectator* 28 February 2016 <<https://blogs.spectator.co.uk/2016/02/hang-on-to-nurse-for-fear-of-something-worse-iain-duncan-smith-derides-in-campaign/>>.

 [↑](#footnote-ref-24)
25. #  B Johnson, “There is only one way to get the change we want – vote to leave the EU” *The Telegraph* 16 March 2016 << https://www.telegraph.co.uk/opinion/2016/03/16/boris-johnson-exclusive-there-is-only-one-way-to-get-the-change/>>.

 [↑](#footnote-ref-25)
26. #  M Gove, “EU referendum: Michael Gove explains why Britain should leave the EU’’ *The Telegraph* 20 February 2016 <<https://www.telegraph.co.uk/news/newstopics/eureferendum/12166345/European-referendum-Michael-Gove-explains-why-Britain-should-leave-the-EU.html>>.

 [↑](#footnote-ref-26)
27. E.g. just have a glance at the comments pages accompanying almost any of the Brexit videos produced by the Liverpool Law School and publicly available at <<https://www.youtube.com/channel/UCwhYDFEl4zV991Ei\_drGLMA/videos>>. [↑](#footnote-ref-27)
28. The Daily Mail and the Daily Express were, of course, particularly adept at employing proto-fascist denunciations of saboteurs, traitors and other “enemies of the people”. [↑](#footnote-ref-28)
29. It marked yet another low point in British politics and diplomacy when even Jeremy Hunt, as UK Foreign Secretary, referenced the standard (yet utterly inappropriate and deeply offensive) Europhobic comparison between the EU and the USSR: see, e.g. <<https://www.theguardian.com/politics/2018/oct/01/jeremy-hunt-draws-eu-ire-over-soviet-prison-comparison>>. [↑](#footnote-ref-29)
30. See further, e.g. “Editor’s Introduction” in M Dougan, *The UK After Brexit: Legal and Policy Challenges* (2017, Intersentia Publishing, Cambridge). [↑](#footnote-ref-30)
31. H Mance, “Britain has had enough of experts, says Gove” *The Financial Times* 3 June 2016 << https://www.ft.com/content/3be49734-29cb-11e6-83e4-abc22d5d108c>>. [↑](#footnote-ref-31)
32. #  Gove in *ibid*, and A Heath, “Economists have a century of failure behind them. No wonder they back Remain now” *The Telegraph* 18 May 2016.

 [↑](#footnote-ref-32)
33. #  As demonstrated at the extreme, by the actions taken by self-proclaimed “illiberal” Viktor Orban’s government in Hungary against the Central European University. See N Thorpe, “Central European University makes last stand in Hungary” BBC News, 25 October 2018.

<<https://www.bbc.co.uk/news/world-europe-45976454>>. [↑](#footnote-ref-33)
34. #  As suggested by A Hoffman discussing the “scientists’ social contract” in “**Why academics are losing relevance in society – and how to stop it” *The Conversation* 6 September 2016.**

 [↑](#footnote-ref-34)
35. J Chubb, R Watermeyer & P Wakeling, “Fear and loathing in the academy? The role of emotion in response to an impact agenda in the UK and Australia” (2017) 36:3 *Higher Education Research & Development* 555, 565. [↑](#footnote-ref-35)
36. See, e.g. “Editor’s Introduction” in M Dougan, *The UK After Brexit: Legal and Policy Challenges* (2017, Intersentia Publishing, Cambridge). [↑](#footnote-ref-36)
37. M Lee, “Public Service, Environmental Law Academics and Brexit” *Working Paper* (2018) <<https://papers.ssrn.com/sol3/cf\_dev/AbsByAuth.cfm?per\_id=869755>>. [↑](#footnote-ref-37)
38. R Watermeyer, “Public Intellectuals vs New Public Management: The Defeat of Public Engagement in Higher Education” (2016) 41 *Studies in Higher Education* 2271, 2275. [↑](#footnote-ref-38)
39. C Leathwood & B Read “Assessing the impact of developments in research policy for research on higher education: An exploratory study” (2012) *Society for Research into Higher Education,* Final Report, 19*.* [↑](#footnote-ref-39)
40. Lee, above, note 37, 6. [↑](#footnote-ref-40)
41. Causing us to revisit a long-standing controversy: S Smith, V Ward and A House, “‘Impact’ in the proposals for the UK’s Research Excellence Framework: Shifting the boundaries of academic autonomy” (2011) 40 *Research Policy* 1369. [↑](#footnote-ref-41)
42. The letter sent by Chris Heaton-Harris MP, Minister of the Department for Exiting the EU, to Vice Chancellors of UK universities, requesting the names of academics involved in teaching European affairs and Brexit, a copy of the syllabi, and access to online lectures, did not augur well for the protection of academic independence in the wake of Brexit. See << https://www.theguardian.com/education/2017/oct/24/universities-mccarthyism-mp-demands-list-brexit-chris-heaton-harris#img-2>>. [↑](#footnote-ref-42)
43. R Watermeyer & A Hedgecoe, “Selling ‘impact’: peer reviewer projections of what is needed and what counts in REF impact case studies. A retrospective analysis” (2016) 31(5) *Journal of Education Policy* 663. [↑](#footnote-ref-43)
44. A “Britain Thinks” study on public perceptions of universities for Universities UK reported that a majority of participants in study workshops “rarely think about universities, largely finding the sector irrelevant”: *Public perceptions of UK universities*, Universities UK: *A report prepared by BritainThinks* (November 2018) <<http://britainthinks.com/pdfs/Britain-Thinks\_Public-perceptions-of-UK-universities\_Nov18.pdf>>, page 8. [↑](#footnote-ref-44)
45. Marcella et al note the effect on the cultivation of future generations of researchers: “[i]nevitably, early and mid-career researchers will seek to learn how to ‘play the game’, a game which will vary by discipline”: R Marcella, H Lockerbie & L Bloice, “Beyond REF 2014: The impact of impact assessment on the future of information research” (2016) 42(3) *Journal of Information Science* 369, 382. [↑](#footnote-ref-45)