



## Key points for clarification

## Two: Provide safeguards to ensure the statutory tort does not lead to universities having to defend themselves against vexatious or frivolous claims.

The Bill contains provision to create a statutory tort for individuals who suffer loss resulting from a breach of the strengthened Section 43 duty. The current Section 43 duty (contained in the Freedom of Information Act 1986) requires universities to take “*such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.*” Strengthening this duty involves shifting the emphasis from ‘protecting’ to ‘actively promoting’ free speech and provides a legal route through which an individual may sue a university or students’ union if they feel they are not adequately meeting this new duty.

Universities have concerns that, without appropriate safeguards, the creation of this tort may encourage a ‘compensation culture’, leaving universities exposed to the risk of spurious or vexatious claims.

Furthermore, it has been suggested that universities would be able to use the new Director role as a 'two-