

Higher Education (Freedom of Speech) Bill

Universities UK (UUK) parliamentary briefing October 2022 – Lords Committee Stage

This briefing presents ~~key concerns and~~ where clarification and assurances ~~are~~ still required on the Higher Education (Freedom of Speech) Bill Lords Committee Stage also encourages

Two: Remove the provision in the Bill which would create a statutory tort to avoid 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 within the Education 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 through s14.5 (5.6 (u

UUK would welcome amendments to the Bill that would require the new OfS Director:

- Has the necessary experience and understanding of higher education and the complex legal framework in place around free speech.
- Has not been a member or affiliated to a political party for at least 2 years.

This will be critical to ensure they are able to manage complaints effectively and fairly. Adding information on R&D partnerships and commercial arrangements to the list of issues to be considered by the Director also underlines the importance of securing an appropriate appointment.

UUK would also welcome a statement of intent from the government outlining how they intend the Complaints Scheme to work in practice and what the role of the OfS Director for Freedom of Speech and Academic Freedom will be in relation to the OIA.

Four: Ensure that duties on overseas funding are targeted with risk-based exemptions and proportionate reporting that will protect UK values and our national interest as universities continue to pursue new knowledge and commercial partnerships.

In developing new relationships with overseas higher education institutions, businesses and states, UK universities comply fully with national security regulations to help protect national

overseas and therefore, impact on wider government objectives relating to economic development and building a Global Britain

In addition, given the broad nature of financial activity that institutions will be required to report to the OfS, including research income, it will be vital that a proportionate and reasonable reporting threshold is set in regulations following the Bill. For example, equivalent legislation in the (s)-7.v6 (te)-9 (d)6..5 (Si)0.6 (i)11v6 (te).1 (s)-7.7 ()10 (th)-4.7 (a)0.1 (s)-7.6 (i)11-9 (

The OfS has also already been directed to monitor over reliance from a single source of funding. In a February 2021 guidance letter to the OfS, the then Secretary of State Rt Hon Gavin Williamson CBE said “Universities UK produced important guidelines and recommendations to help providers manage risks in internationalisation. I would like the OfS to monitor the adoption of these recommendations by providers and continue to support the sector to manage these risks to the reputation, integrity and sustainability of individual institutions, as well as to the sector as a whole”

UUK’s security guideline (pg 20) recommends that due diligence to mitigate security related risks should be undertaken regularly, with regular reviews in relation to international partnerships and projects, explicitly mentioning tuition fee income as part of this alongside other sources of income such as investments, donations, philanthropy, commercialisation, capital investment and staff honorary and consultancy appointments.

