

Higher Education (Freedom of Speech) Bill

Universities UK (UUK) parliamentary briefing October 2022 – Lords Report Stage and Third Reading

This briefing presents ~~key~~ concerns and ~~where~~ clarification and assurances ~~as~~ still required on the Higher Education (Freedom of Speech) Bill Lords Report Stage and Third Reading. It also encourages ~~peers~~ to consider amendments that aim to address these concerns and ensure that the Bill is proportionate, avoids any unintended consequences and does not lead to unnecessary burden or duplication of existing duties.

Academic freedom and freedom of speech sit at the heart of the UK's higher education sector. They are rightly championed for the role they play in driving forward ~~research~~ innovation, as well as providing students with the opportunity to think ~~critically~~ and engage with different perspectives. Without them, universities would not be able to fulfil one of their most essential aims: the advancement ~~of~~ understanding and pursuit of truth.

There are already several free speech requirements on higher education ~~providers~~, and universities host thousands of diverse debates and speaker events every year. As such, it is important that additional legislation and duties placed on universities are proportionate and seek to address the small number of incidents which take place across campuses. The sector is keen to work with the government on the legislation and UUK welcomes the opportunity to demonstrate our members' full and firm commitment to freedom of speech and academic freedom. UUK has ~~particularly~~ welcomed the ~~Bill's~~ shift from protecting ~~free~~ speech and academic freedom to more active and visible promotion within the sector. You can find more about how the sector is already responding to ~~this~~ in the appendix on ~~9~~.

1. Clearly outline how this Bill will interact with existing legislation which relate to free speech and academic freedom set out forward in the Bill of Rights Bill and Online Safety Bill.

speech. This will help universities to traverse and balance the complex legal and regulatory framework that already exists around freedom of speech.

(b) new proposals put forward in the Bill of Rights and Online Safety Bill

There are currently two pieces of legislation making their way through Parliament that could conflict with the HE FOBI – the British Bill of Rights Bill and the Online Safety Bill. We are aware that the timing and prioritisation of these Bills has changed since the HE FOBI was introduced. If the two Bills were to remain or return, albeit in different forms, our concerns would be of the following:

Following consultation on proposals to reform the Human Rights Act (HRA) Ministry of Justice (MoJ) brought forward a new British Bill of Rights Bill that seeks to strengthen free speech to become a legal “trump card”. UK members have raised concerns about potential unintended consequences relating to reforming the HRA. In particular, the MoJ consultation made reference to a strengthened section 12 of the HRA which applies “when a court is considering granting any relief that affects freedom of expression.” This has been reflected in Clause 22 of the draft Bill.

At the same time, the Department for Digital, Culture, Media and Sport (DCMS) has brought forward a Bill designed to increase safety online, the Online Safety Bill. While universities would not be covered directly by the Online Safety Bill, given any incidents related to on

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publishing a list of all financial disclosures. We also welcome the confirmation that it will take a more risk-based approach, with trusted partner countries that are exempt from requirements under the Academic Technology Approval Scheme (ATAS) also now excluded from the requirements of the duty.

There are, however, still several practical concerns with Clause 9. Firstly, UUK is concerned about the potential disclosure of commercially sensitive information to the Office for Students, which could make it more challenging to pursue new trading opportunities 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

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Appendix:

UUK work to promote free speech and academic freedom

Universities UK, alongside Advance HE and Guild HE, has recently held a series of workshops to help further understand some of the very real and practical challenges which universities are often faced with when making decisions regarding free speech and academic freedom.

This work is particularly significant in the context of the Higher Education (Freedom of Speech) Bill but is important and necessary work in its own right.