

Research Briefing

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Freedom of speech in universities

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Summary

- 1 What are the issues?
- 2 Higher Education (Freedom of Speech) Act 2023
- 3 Work of the Office for Students in protecting free speech

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Contents

Summary	4
1 What are the issues?	7
1.1 No platforming	8
1.2 Self-censorship	9
1.3 Safe spaces	13
1.4 Prevent Duty	14
2 Higher Education (Freedom of Speech) Act 2023	16
2.1 Previous legal framework	16
2.2 2021 policy paper	18
2.3 Content of the act	19
2.4 Implementation of the act	19
2.5 Pausing of the act's implementation	20
2.6 Current position	23
3 Work of the Office for Students in protecting free speech	29
3.1 Director for Freedom of Speech and Academic Freedom	29
3.2 Conditions of registration	31
3.3 Guidance on free speech duties	33
3.4 Complaints scheme	34

Summary

Freedom of speech in universities in England is a contentious topic, and has become especially so in light of recent debate surrounding the [Higher Education \(Freedom of Speech\) Act 2023](#) and its commencement. This briefing explores the issues around freedom of speech, explains recent changes to legislation, and sets out the role of the Office for Students in upholding free speech and academic freedom in universities.

What are the issues?

Concerns have been raised about universities allegedly curtailing freedom of speech through ‘no-platform’ policies, ‘safe spaces’, and perpetuating a general atmosphere of intolerance towards differing opinions.

There is evidence to suggest that [a minority of academics feel limited in discussing certain topics in their teaching](#). However, research has found [most students would prioritise protection from discrimination](#) over the allowance of unlimited free speech.

[Official figures by the Office for Students](#) show that only a tiny proportion of events or speakers on university campuses have been cancelled in recent years.

Legal framework

The legal framework underpinning free speech and academic freedom in higher education is complicated and has evolved over a number of decades, including most recently through the [Higher Education \(Freedom of Speech\) Act 2023](#).

The [Education \(No. 2\) Act 1986](#) requires higher education establishments to take reasonably practicable steps to ensure that freedom of speech is protected. The [Education Reform Act 1988](#) protects academic inquiry. The framework has since been shaped by employment, human rights, and charity law, and especially the [Higher Education and Research Act 2017](#), which established the Office for Students (OfS) as the regulator of higher education in England. The OfS has powers to take action when a higher education provider is in breach of its free speech obligations.

In 2021, the former Conservative government published a policy paper titled [Higher education: free speech and academic freedom](#), which argued that

freedom of speech in higher education is not adequately protected by the current legal framework. Following this, the then-government introduced the Higher Education (Freedom of Speech) Bill 2021, which intended to strengthen and extend the existing legislation.

The bill received royal assent on 11 May 2023 and became the [Higher Education \(Freedom of Speech\) Act 2023](#). However, on 26 July 2024, following that month's general election, the new Labour government decided to pause the implementation of the act due to concerns over student welfare. Following a review, [the government brought into force a number of the act's provisions in their original form from 1 August 2025](#), including:

- the provisions to strengthen the core free speech duties on providers, including a ban on non-disclosure agreements in cases of bullying, harassment, and sexual abuse or misconduct
- the duty on providers to put in place codes of practice setting out how they will discharge these duties
- the duty on the OfS to promote the importance of freedom of speech

The government also said it would retain the new director for freedom of speech and academic freedom role on the OfS board, [to which Professor Arif Ahmed had been appointed in 2023](#). However, it said some of the act's provisions would no longer be going ahead, including:

- the statutory tort, which would have allowed staff, students and external speakers to bring civil claims against higher education providers
- the free speech duties placed directly on students' unions and the requirement for the OfS to regulate compliance with these duties

While other provisions would be introduced in the future following some amendments, including:

- Changes to the OfS' free speech complaints scheme so the OfS is able to consider complaints at its discretion, rather than having a duty to consider every complaint, and restricting the scheme to just staff and visiting speakers.
- Giving the OfS a power, rather than a duty, to put in place new conditions of registration on compliance with free speech duties so the regulator has more flexibility in how it oversees different types of providers.

Repealing and amending provisions in the 2023 act will require new legislation, which [the government has said it will introduce "at the earliest opportunity"](#).

Work of the Office for Students in protecting free speech

The [Office for Students](#) (OfS) is the higher education regulator in England and a non-departmental public body of the Department for Education (DfE). It has a number of regulatory duties with regards to freedom of speech and academic freedom in higher education. These are overseen by the director for freedom of speech and academic freedom. The role was established by the Higher Education (Freedom of Speech) Act 2023, and the director sits on the board of the OfS.

To be included on the [OfS register](#), higher education providers must meet initial and ongoing conditions of registration. There are two conditions that relate to freedom of speech and academic freedom, with a further condition likely to be implemented following amendments to the 2023 act.

On 19 June 2025, the OfS published [guidance related to freedom of speech](#). The finalised guidance was published as a piece of [regulatory advice](#), which is not part of the OfS' regulatory framework, but does aim to help universities and other providers to understand OfS requirements.

The 2023 act also established a new complaints scheme, managed by the OfS, to consider free speech complaints made against universities and colleges. Under amendments to be made by the Labour government in future legislation, the OfS will have greater flexibility in its management of the complaints scheme, which will only take complaints from staff, external speakers, and university members. Complaints from students will instead be directed to the [Office of the Independent Adjudicator for Higher Education](#).

1

What are the issues?

In February 2021, the previous Conservative government published a policy paper titled [Higher education: free speech and academic freedom](#). This argued that freedom of speech in higher education was not adequately protected by the existing legal framework and pointed to instances of “cancel culture”, speakers being “no platformed”, and a general atmosphere of intolerance towards differing opinions.¹ It drew heavily on two reports published by [Policy Exchange](#), a think tank founded by Conservative MPs.²

In his foreword to the policy paper, Gavin Williamson, the then-Secretary of State for Education, said university campuses were witnessing a “rise of intolerance and ‘cancel culture’” and this has been shown in a number of ways:

- Codes or statements introduced by universities limiting free speech
- Students’ unions having inappropriate levels of control over which speakers can visit
- Prohibitive security costs being imposed on student societies when inviting speakers
- Schemes in which students are paid to report others for perceived offences
- Academics pressured to keep silent about their views for fear of discrimination in appointment or promotion
- The abuse and personal harassment of those with heterodox views³

The government argued a “chilling effect” of “increasing intolerance” was leading some students and staff to feel unable to express themselves on campus. It was particularly concerned “no platforming and similar campaigns” may lead staff and students to ‘self-censor’ themselves on campus or online, because they fear discrimination for expressing their views.⁴

¹ Department for Education (DfE), [Higher Education: free speech and academic freedom](#), February 2021, pp4-6, 17-20.

² Policy Exchange, [Academic freedom in the UK](#), November 2019; Policy Exchange, [Academic freedom in the UK](#), August 2020.

³ DfE, [Higher education: free speech and academic freedom](#), CP 394, 17 February 2021, pp4-6

⁴ As above, pp7, 17-21

The paper also suggested some academics believed their ability to research and teach freely without facing disadvantage due to their political views was not being adequately protected, and that some felt constrained in their ability to express themselves for fear of losing their jobs or privileges.⁵

Some of the concerns raised in the previous government's policy paper are explored in this section.

1.1

No platforming

The National Union of Students (NUS) introduced a [No Platform policy](#) in 1974 in response to the rise of the National Front.⁶ It prevents individuals known to hold “racist or fascist views” from speaking at NUS events and, since 2015, has covered six organisations.⁷ Not all students' unions have adopted the policy. Nevertheless, the term ‘no platforming’ is often used in the media to describe any occasion when a speaker has been prevented from appearing at an event.

In March 2018, the House of Commons and House of Lords Joint Committee on Human Rights published a report following its inquiry on freedom of speech in universities.⁸ It highlighted examples of disruptive protests and “complicated processes and bureaucratic procedures”, which had unduly interfered with external speaker events. However, the report said it ultimately “did not find the wholesale censorship of debate in universities which media coverage has suggested”.⁹

In 2022, the Higher Education Policy Institute (HEPI), an independent think tank focused on higher education, published a study looking into ‘quiet’ no platforming.¹⁰ This is when events are cancelled pre-emptively, or speakers are intentionally not invited to avoid controversy. The HEPI report argued that cases of ‘quiet’ no platforming were more common than reports of no platforming.

Data on external speakers

The below table shows the number of external speakers and events at higher education providers which were approved, approved with conditions or

⁵ As above, pp20-21

⁶ Smith E, “[A Policy Widely Abused: The Origins of the “No Platform” Policy of the National Union of Students](#)”, History and Policy, March 2016

⁷ National Union of Students (NUS), [No platform policy](#) (PDF); [No platform list](#) (PDF), May 2015

⁸ House of Commons and House of Lords Joint Committee on Human Rights, [Freedom of Speech in Universities](#), 27 March 2018

⁹ House of Commons and House of Lords Joint Committee on Human Rights, [Freedom of Speech in Universities](#), 27 March 2018, Conclusions and recommendations, para 1

¹⁰ Higher Education Policy Institute (HEPI), [New study finds ‘quiet’ no-platforming to be a bigger problem than actual no-platforming](#), 13 October 2022

mitigations, or rejected in each academic year from 2019/20 to 2023/24.¹¹ Conditions and mitigations may include, among other measures, events going ahead with increased security or ticketing requirements.

External speakers and events at higher education providers						
England, numbers rounded to the nearest five						
	Approved		Approved with conditions/mitigations		Rejected	
	Number	%	Number	%	Number	%
2019/20	43,335	99.8	..	..	95	0.2
2020/21	19,405	95.9	630	3.1	195	1.0
2021/22	31,545	97.7	475	1.5	260	0.8
2022/23	39,475	96.0	1,285	3.1	340	0.9
2023/24	42,440	96.3	1,410	3.2	220	0.5

Source: Office for Students, [Prevent monitoring: Summary of 2023-24 accountability and data returns](#), table E2

Notes: .. indicates data not collected

In 2023/24, as the table above shows, 96.3% of external speakers and events at higher education providers were approved, with a further 3.2% approved with conditions or mitigations. Of the 220 (0.5%) external speakers or events that were rejected:

- 20 of these were due to health and safety
- 185 were for procedural reasons, for example the failure to meet timescales set out in provider policies
- 2 or fewer related to the Prevent Duty (for further information see section 1.4)
- 15 related to “other matters”.¹²

1.2

Self-censorship

Concerns have been raised about the tensions that exist for universities in their role to both safeguard student and staff wellbeing and protect academic freedom and freedom of speech.

There is evidence to suggest some staff and students of all political persuasions self-censor their views on campus and online. The results of a YouGov survey looking into the perspectives of research and teaching staff

¹¹ It is important to recognise the 2020/21 data in the context of the Covid-19 pandemic, when planned events were likely to be affected by changing restrictions on gatherings of people.

¹² Office for Students (OfS), [Prevent monitoring: Summary of 2023-24 accountability and data returns](#), 17 June 2025

regarding freedom of speech, which was commissioned by the Office for Students, were published in June 2025.¹³ The survey found that 50% of respondents thought that academics are free to express their views on some, but not all, controversial topics, while a further 9% thought they are not free to express their views on any controversial topics.¹⁴

In February 2024, Advance HE and HEPI organised a seminar on the state of academic freedom and freedom of speech in UK universities.¹⁵ During the event, Professor Tom Lawson, deputy vice-chancellor at Northumbria University, said that the repetition of challenging views may undermine universities' obligations to protect staff and student wellbeing.¹⁶

At the same event, Professor Robert Van de Noort, Vice-Chancellor of the University of Reading, argued that more needed to be done to protect academic freedom. He said that academics might self-censor because “being a divergent voice in an echo chamber can feel like a career limiting move”, and stated that:

Universities have worked by providing space for the rebels and the renegades, who have been willing to challenge accepted wisdom. Our job as university leaders is to give our colleagues and our students the space and the skills to come up with new ideas and challenge conventions. And they can't do that well if they are constantly looking over their shoulder for approval.¹⁷

In October 2022, ahead of the Higher Education (Freedom of Speech) Bill's committee stage in the House of Lords, representatives from the higher education sector, including Universities UK and NUS Charity (which supports the development of student unions), published a statement saying they take their responsibility to protect and promote free speech and academic freedom seriously. The statement said:

Students and staff should not feel the need to self-censor and universities work hard to create a culture of intellectual enquiry. This means that students and staff will sometimes be exposed to views they find disagreeable, or even offensive, but it is crucial that a broad range of different voices can be heard, challenged, and debated, including the right to peaceful protest.¹⁸

Students and self-censorship

The 2021 policy paper published by the previous Conservative government cited a [2019 report by King's College London's \(KCL\) Policy Institute](#), which showed a minority of students (25%) choose to self-censor their views

¹³ OfS, [Independent research: Freedom of speech in higher education: survey outcomes](#), 19 June 2025

¹⁴ As above.

¹⁵ Advance HE, [Advance HE/Higher Education Policy Institute \(HEPI\) House of Commons Breakfast Seminar: Has the higher education sector got it right on freedom of speech? How can governors and managers best support difficult-and-lawful speech in practice?](#), February 2024

¹⁶ As above

¹⁷ As above; University of Reading, [Vice-Chancellor: 'Be bold to protect academic freedom'](#), 27 February 2024

¹⁸ Universities UK, [Higher education sector statement on promoting academic freedom and free speech](#), 31 October 2022

because they are “scared of disagreeing with peers”.¹⁹ However, the same report found most students do not think that free speech nor academic freedom is under threat in their university, and students are more concerned about freedom of expression in wider society.²⁰

KCL’s Policy Institute published an update to this research in September 2022, which showed the figure had risen to 43%.²¹ However, it is unclear to what extent any free speech issues are unique to universities, because the 2022 report also revealed a similar proportion of the UK public at large have felt constrained from voicing their opinions for the same reason.²²

Where students seemingly do differ from the UK public, according to the KCL Policy Institute research, is a greater willingness to accept restrictions on an absolute right to free speech in order to ensure safety and freedom from discrimination.²³ This finding was also reflected in a [2022 poll for HEPI](#), which found nearly two-thirds of polled students believe, “when in doubt”, their own university “should ensure all students are protected from discrimination rather than allow unlimited free speech”.²⁴ This may explain why over a third of polled students (38%) said they believed “universities are becoming less tolerant of a wide range of viewpoints”.²⁵

Academic staff and self-censorship

The then-Conservative government’s 2021 policy paper cited a [2020 Policy Exchange report](#) that suggested some academics self-censor their opinions due to perceived hostility from colleagues and a fear of reputational and career harm.²⁶ According to the report, this was especially the case for academics who identify as ‘fairly right’ or ‘right’ on the political spectrum, with 32% saying they had stopped airing their views in teaching and research, compared with around 15% of academics who identified as being ‘in the centre’ or on the ‘left’ of political debate and said they had done similar.²⁷

Writing in the Guardian, Jonathan Portes, Professor of Economics and Public Policy at King’s College London, questioned the methodology and recommendations of the 2020 Policy Exchange report, arguing it relied on the views of a large number of retired academics and was “littered with basic statistical errors”.²⁸

¹⁹ King’s College London Policy Institute, [Freedom of expression in universities](#), December 2019, p16

²⁰ As above.

²¹ King’s College London Policy Institute, [The state of free speech in UK universities: What students and the public think](#), September 2022, p27

²² As above.

²³ King’s College London Policy Institute, [Freedom of expression in universities](#), December 2019, p21

²⁴ HEPI, [‘You can’t say that!’ What students really think of free speech on campus](#), June 2022, p4

²⁵ As above.

²⁶ Policy Exchange, [Academic freedom in the UK](#), August 2020, p8

²⁷ As above, pp54-55

²⁸ [“The rightwing defence of ‘academic freedom’ masks a McCarthyite agenda”](#), The Guardian, 4 August 2020 (accessed 28 July 2022)

More recently, the Office for Students (OfS) commissioned YouGov to conduct a survey on the perspectives of research and teaching staff on freedom of speech in universities. The survey was carried out from March to April 2024 and had 1,234 respondents. YouGov weighted the sample to align it with the broader demography of higher education teaching staff.²⁹

The survey found that 21% of respondents felt “not very” or “not at all” free to discuss challenging or controversial topics in their teaching. The survey asked this group why they felt unable to discuss certain topics in their teaching:

- 82% cited fear of professional consequences
- 60% cited fear of social consequences
- 53% cited a desire to avoid offence
- 52% cited pressure from senior staff
- 24% cited fear of being physically attacked.³⁰

According to the survey, fewer academics (16%) feel unable to discuss challenging or controversial topics in their research. However, 34% of those surveyed do not feel able to speak freely in other contexts, including when at speaking engagements or using social media.³¹

Do universities have a left-wing bias?

In 2017, a report by the right-wing think tank the Adam Smith Institute argued individuals with left-wing and liberal views are overrepresented in British academia, and this may have had a number of adverse consequences, including “curtailments of free speech on university campuses”.³²

A 2020 article in the British Journal of Sociology demonstrated that while professors in European universities may be more liberal and left leaning than other professionals, there is little evidence there exists an exceptional ideological monoculture on university campuses. The article said:

there is no greater homogeneity of political orientations among the professoriate relative to other specific professions, suggesting that there is a diversity of opinions which is similar to what professionals would find in other occupations.³³

²⁹ OfS, [Independent research: Freedom of speech in higher education: survey outcomes](#), 19 June 2025

³⁰ As above.

³¹ As above.

³² Adam Smith Institute, [Lackademia: Why do academics lean left?](#), 2 March 2017

³³ HG van de Werfhorst, ‘[Are universities left-wing bastions? The political orientation of professors, professionals, and managers in Europe](#)’, The British Journal of Sociology 71.1 (2020), pp47-73

The article also noted “there is no evidence that professors bring their political orientation into the classroom”.³⁴

In 2022, an article in the British Journal of Sociology argued higher education had no more than a “small direct casual effect” on attitudes in adulthood, and that this effect is not always liberalising.³⁵ The article analysed the attitudes of individuals before and after attending university. By comparing this to the attitudinal development of individuals, notably including the siblings of university graduates, over the same timeframe, it found that other factors had a greater impact on political viewpoints. Simon said:

The difference in attitudes could be explained by self-selection effects; whereby liberal individuals disproportionately choose to study for, and ultimately end up completing, degrees on the basis of their particular pre-adult characteristics (for example, their socio-economic resources or parental socialisation). Or it could also be driven by adult stratification-based confounders – for example, the fact that graduates typically earn more than non-graduates, and that income determines our attitudes.³⁶

1.3

Safe spaces

Some students’ unions (SUs) have adopted ‘safe space’ policies. In 2021, several SU presidents published [Taking the Debate Forward](#), a report looking at free speech in universities. With regards to these policies, the report said:

Students’ unions centrally operate a number of democratic meetings and forums that allow students to obtain experience of debate and discussion with others. In some cases, they will adopt so-called “safe space” policies for the operation of these events, which generally set out the standards of conduct that the SU might expect during those meetings.³⁷

Any policies are generally concerned with incidents and acts of discrimination, harassment, and bullying, with a particular focus on racist, sexist, homophobic, threatening, or violent behaviour. Not all universities have adopted ‘safe space’ policies, and while the report asserted they exist to uphold principles of freedom of speech and ensure everyone can feel comfortable engaging in debate, it did acknowledge that their titling and framing can cause confusion. The report said:

³⁴ As above, p62

³⁵ Elizabeth Simon, [Demystifying the link between higher education and liberal values: A within-sibship analysis of British individuals’ attitudes from 1994–2020](#), The British Journal of Sociology 73.5 (2022), p967

³⁶ Wonkhe, [Universities as “left-wing madrassas” are a myth](#), 28 September 2022

³⁷ Wonkhe, [Taking the debate forward: A new code to secure and champion freedom of speech and political diversity on campus](#), February 2021, p34

We accept that there is a significant danger that policies that stress “safety” may end up perceived as trying to create an environment where robust debate, challenge and difficult ideas are not welcome.³⁸

This issue was highlighted in the [2018 JCHR report](#), which noted the concept of safe spaces has proved problematic at times, and universities and SUs needed to do more to ensure that such policies co-exist with and respect free speech. The Joint Committee on Human Rights said:

While the intention behind safe spaces is understandable and whilst there must be opportunities for genuinely sensitive and confidential discussions in university settings, we received evidence which showed that safe space policies, when extended too far, can restrict the expression of groups with unpopular but legal views, or can restrict their related rights to freedom of association.³⁹

Polling published in a 2022 HEPI report looking at what students think of free speech on campus found that an increasing proportion of students support the adoption of safe space policies by universities. In 2016, 48% of students supported safe space policies, but this figure rose to 62% in 2022.⁴⁰

1.4

Prevent Duty

The Prevent Duty aims “to stop people from becoming terrorists or supporting terrorism” by addressing the ideological causes of terrorism, intervening to support those susceptible to terrorism and disengage and rehabilitate those who have already engaged in terrorism.⁴¹ In the 2018 JCHR report, the committee said that “fear and confusion over what the Prevent duty entails” was “limiting free speech”.⁴²

However, the OfS has said in the past that it has not found any evidence that the Prevent Duty has had a negative impact on freedom of speech:

We have not found evidence of providers systematically not allowing events to proceed because of Prevent. We do not comment on individual events, but we have not seen any evidence that has caused us concern that providers are not appropriately balancing their free speech obligations with the Prevent duty. We remain mindful of the need to monitor this carefully, however, as we do not want providers overinterpreting their requirements under the duty and harming other legal responsibilities like free speech.⁴³

³⁸ As above.

³⁹ House of Commons House of Lords Joint Committee on Human Rights, [Freedom of Speech in Universities](#), 27 March 2018, HC 589, pp27-29, para 56

⁴⁰ HEPI, [‘You can’t say that!’ What students really think of free speech on campus](#), 23 June 2022, p12

⁴¹ Home Office, [Prevent duty guidance: England and Wales \(2023\)](#), 6 March 2024

⁴² House of Commons and House of Lords Joint Committee on Human Rights, [Freedom of Speech in Universities](#), 27 March 2018, [Summary](#); see also [Factors inhibiting freedom of speech](#), para 61-86

⁴³ OfS, [Prevent monitoring accountability and data returns 2017-18 FAQs](#) (PDF)

DfE guidance on [Prevent for staff and students in higher education](#) says that the duty is part of the safeguarding and welfare responsibilities of universities and other higher education providers. It explains that:

The duty is not about restricting debate or free speech. The Prevent duty legally requires higher education providers to have particular regard to the duty to secure freedom of speech and academic freedom.

Higher education providers should be safe spaces in which learners can understand and debate sensitive topics.

However, the right to free speech is not an absolute right. It does not include the right to harass others, or incite others to violence or terrorism. Higher education providers should not provide a platform for these offences to be permitted.⁴⁴

The latest Prevent monitoring data, summarising higher education providers' Prevent-related activities in 2023-24, was published by the OfS in June 2025. The regulator reported that the total number of external speakers rejected for reasons related to Prevent risks was two or fewer in 2023/24.⁴⁵

⁴⁴ DfE, [Explaining Prevent to staff and students in higher education](#), 16 February 2024

⁴⁵ OfS, [Prevent monitoring: Summary of 2023-24 accountability and data returns, 17 June 2025](#), p4, p6

2

Higher Education (Freedom of Speech) Act 2023

The legal framework underpinning free speech and academic freedom in higher education is complicated and has evolved over a number of decades.

Two pieces of legislation, the [Education \(No. 2\) Act 1986](#) and the [Education Reform Act 1988](#), first enshrined free speech and academic freedom for staff, students, and visiting speakers in the late 1980s. The framework has since been shaped by employment, human rights, and charity law, and especially the [Higher Education and Research Act 2017](#), which established the Office for Students (OfS) as the regulator of higher education in England. The OfS has powers to take action when a higher education provider is in breach of its free speech obligations.

Most recently, the legal framework was developed further by the passage of the [Higher Education \(Freedom of Speech\) Act 2023](#), which, among other things, introduced strengthened free speech duties for providers. However, some provisions in the act will be amended before their introduction, while others will be repealed and not come into effect at all. This follows decisions made by the current Labour government not to go ahead with specific free speech duties for students' unions (SUs) or the 'statutory tort', which would have allowed individuals to bring civil proceedings against universities or SUs. Further legislation will be required to make these changes.

2.1

Previous legal framework

In 1986, [section 43 of the Education \(No. 2\) Act](#) required further and higher education providers to take "reasonably practicable" steps to secure freedom of speech for their members, students, staff, and visiting speakers.⁴⁶ Providers could not deny the use of premises to an individual because of their beliefs, and they had to keep a code of conduct to ensure all activities complied with this legal duty.

There was no direct means of enforcing the section 43 duties, but there were other means of redress available. These included:

- Individuals could complain directly to their university.

⁴⁶ [Education \(No. 2\) Act 1986 s43](#).

- Students could bring unresolved free speech complaints to the higher education ombuds service.
- University staff could bring claims before an employment tribunal, including under the Equality Act 2010.
- The OfS could act, including by imposing monetary penalties and suspending access to public funding, when universities were in breach of registration conditions relating to free speech and academic freedom.
- Universities could be subject to judicial review, particularly if they are in breach of Article 10 of the European Convention on Human Rights; the right to freedom of expression.

In 1988, the [Education Reform Act 1988](#) came into effect, enshrining academic freedom in law.⁴⁷ [Section 202 of the act](#) gave academic staff the right “to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or the privileges they may have at their institutions.”⁴⁸

[The Higher Education Research Act 2017](#) established the OfS as the higher education regulator in England.⁴⁹ The OfS has powers to act when a registered higher education provider is in breach of its registration conditions, including those related to free speech and academic freedom, which are both [public interest governance principles](#) with which all higher education providers registered with the OfS (the higher education regulator in England) must comply.⁵⁰

What is a ‘registered higher education provider’?

Under the [Higher Education and Research Act 2017](#), higher education providers in England must register with the OfS to access public funding, award degrees, and recruit international students.⁵¹

To be included on the [OfS register](#), higher education providers must meet initial and ongoing conditions of registration demonstrating their ability to provide quality higher education. Registration conditions relate to financial sustainability, good governance, and student access, participation, and outcomes.⁵²

⁴⁷ [Education Reform Act 1988 s202\(2\)\(a\)](#)

⁴⁸ As above.

⁴⁹ [Higher Education Research Act 2017 Part 1](#)

⁵⁰ OfS, [Public interest governance principles](#), February 2022

⁵¹ OfS, [Benefits of registration](#), February 2022

⁵² OfS, [Conditions of registration](#), February 2022

The legal duties of providers to secure freedom of speech and academic freedom have always only ever extended to speech that is lawful. Higher education providers have always had to consider their other legal duties, such as those arising from the [Equality Act 2010](#) and the public sector equality duty.⁵³ Unlawful speech might include speech that provokes violence, amounts to discrimination or harassment, or which might draw people into terrorism.

Under the [Higher Education Act 2004](#), students became able to bring unresolved freedom of speech complaints against providers to the Office of the Independent Adjudicator for Higher Education (OIA), which administers a scheme for reviewing student complaints.⁵⁴

2.2 2021 policy paper

In a 2021 policy paper, the then-Conservative government argued the legal and regulatory framework for upholding freedom of speech and academic freedom was “overly complex”.⁵⁵

The paper cited the Joint Committee on Human Rights report, which identified several “regulatory barriers” that serve to inhibit freedom of expression in higher education, including the [Prevent duty](#), the regulation of students’ unions by the Charity Commission, and bureaucracy arising from a university’s statutory duties.⁵⁶

The policy paper also argued there remained “gaps” within the current framework, and that compliance with, and enforcement of, existing duties was insufficient.⁵⁷ The government was particularly concerned there was no direct means for enforcing a breach of a university’s section 43 free speech duties ([as set out in the Education \(No. 2\) Act 1986](#)) and that students’ unions were not regulated with regards securing freedom of speech.

Later that same year, the Conservative government introduced the Higher Education (Freedom of Speech) Bill. The purpose of the bill was to strengthen and extend existing legislation on freedom of speech and academic freedom in higher education, in order to address the issues it set out in the 2021 policy paper.

⁵³ [Equality Act 2010 s149](#). The public sector equality duty requires universities not to discriminate against people who are disadvantaged or suffer inequality. For more information, see the Citizens Advice article, [What’s the public sector equality duty?](#)

⁵⁴ [Higher Education Act 2004 Part 2](#).

⁵⁵ DfE, [Higher Education: free speech and academic freedom](#), February 2021, p7

⁵⁶ House of Commons and House of Lords Joint Committee on Human Rights, [Freedom of Speech in Universities](#), 27 March 2018, Factors inhibiting freedom of speech, para 61-86

⁵⁷ DfE, [Higher Education: free speech and academic freedom](#), February 2021, p7

The bill passed the House of Commons on 13 June 2022 and the Lords on 13 December 2022. It received royal assent on 11 May 2023, and became the [Higher Education \(Freedom of Speech\) Act 2023](#).

2.3 Content of the act

The bill was amended by the then-Conservative government following its introduction in Parliament, and, as an act, currently has 10 substantive sections:

- Sections 1 to 3 relate to the legal duties of registered higher education providers (HEPs), their constituent institutions, and students' unions (SUs) to protect freedom of speech and academic freedom.
- Section 4 introduced a new statutory tort to allow individuals to bring legal proceedings against a HEP or SU if they were not complying with their duties to protect freedom of speech and academic freedom.
- Sections 5 to 10 concern the functions of the OfS, which regulates higher education in England. They relate to:
 - a new complaints scheme
 - new registration conditions for HEPs
 - new monitoring of overseas funding
 - a new director for freedom of speech and academic freedom.

The clause to introduce a statutory tort was removed on report in the Lords against the wishes of the government, but was subsequently restored by the Commons. The act extends to England and Wales but its main provisions apply to England because higher education is devolved. This means any practical effect will occur in England only.

Background to the act, published on 18 May 2021 in advance of its second reading in the Commons, can be found in the Library briefing: [Higher Education \(Freedom of Speech\) Bill 2021](#). Further information about how the act progressed through Parliament, amendments that were made, and the perspectives of opposition parties during debate can be found in the Library briefing: [Higher Education \(Freedom of Speech\) Bill: Progress of the Bill](#).

2.4 Implementation of the act

When the act received royal assent in May 2023, the DfE published information on how its implementation would affect university students,

stating the act would “bring about a change of culture on our campuses”.⁵⁸ The DfE expected measures in the act would be implemented by the 2024/25 academic year, highlighting the following provisions in particular:

- the requirement for universities, colleges and SUs “to ensure lawful freedom of speech on campus”
- the creation of a freedom of speech code of practice by HEPs and SUs
- the appointment of an OfS director for freedom of speech and academic freedom to “champion free speech on campuses and ensure that the OfS takes action where needed”. On 1 June 2023, the [DfE announced that Professor Arif Ahmed had been appointed](#) to this role.⁵⁹
- the removal of universities’ ability to use non-disclosure agreements (NDAs) where complaints are made over sexual misconduct, abuse, harassment, or bullying
- the creation of an OfS-managed free-to-use complaints scheme
- the ability for students, staff and visiting speakers to bring legal proceedings against a HEP or SU if they feel it has unlawfully restricted their rights to freedom of speech (the statutory tort)

However, on 26 July 2024, after winning that month’s general election, the new Labour government decided to stop the implementation of the act due to concerns over student welfare.

2.5

Pausing of the act’s implementation

On 26 July 2024, the Labour government announced that it was stopping the implementation of the 2023 act by preventing its commencement regulations going ahead.⁶⁰ At the time, the government said it would review options for the act, including its repeal, in the longer term.

What are commencement regulations?

Commencement regulations are statutory instruments. They are used to bring a piece of legislation into force at a later date than when it became law.⁶¹ Erskine May explains that commencement regulations may be different for various parts of the same bill.⁶²

In the case of the Higher Education (Freedom of Speech) Act 2023, the government used a commencement revocation to pause Commencement No.2 of the act.⁶³ This meant that the following provisions in the act were not brought into force as planned for the 2024/25 academic year:

- duties on HEPs, constituent institutions, and SUs to secure lawful freedom of speech and academic freedom on campus
- the statutory tort for breaches of freedom of speech duties
- the OfS-managed complaints scheme
- the inclusion of the recruitment and promotion of academics in the protection of academic freedom
- the removal of the ability for universities to use NDAs where complaints are made over sexual misconduct, abuse, harassment, or bullying
- new OfS registration conditions for higher education providers
- new OfS monitoring of overseas funding⁶⁴

The Labour Party did not include plans to pause the 2023 act in its [2024 general election manifesto](#). However, while in opposition during the act's passage through Parliament, Labour did table an unsuccessful amendment to deny the bill a second reading.⁶⁵

Explaining the decision to stop the act's implementation, the DfE cited "concerns from vulnerable groups about how the rules might harm student welfare" and the potential legal and financial burden on universities.⁶⁶ It said:

[T]here are fears that the legislation could protect those using hate speech on campuses, and that it could also push providers to overlook the safety and well-being of minority groups, including Jewish students.

There are also fears the Act could expose higher education providers, like universities, to costly legal action that would impact teaching and learning.

The DfE also said the OfS would be "refocus[ed]" on university financial security, student outcomes, and protecting against harassment and sexual misconduct on campuses, but that the government remained "committed to protecting freedom of speech on campus". On 31 July 2024, the OfS announced that, effective from 1 September 2024, the use of NDAs by universities and other higher education providers in relation to such cases would be banned.⁶⁷

⁵⁸ DfE, [Freedom of Speech Act: How it will affect university students](#), 30 May 2023

⁵⁹ DfE, [University Freedom of Speech Bill becomes law](#), 1 June 2023

⁶⁰ DfE, [Free Speech Act: what you need to know](#), 26 July 2024

⁶¹ UK Parliament, [Commencement regulations](#) (accessed 8 April 2025)

⁶² Erskine May, [Commencement](#) (accessed 8 April 2025)

⁶³ Legislation.gov.uk, [The Higher Education \(Freedom of Speech\) Act 2023 \(Commencement No. 2\) \(Revocation\) Regulations 2024](#), 25 July 2024

⁶⁴ For more information, see Wonkhe, [What does today's announcement on free speech mean for SUs?](#), 26 July 2024

⁶⁵ Commons business papers, [Votes and Proceedings, 12 July 2021](#), No. 32

⁶⁶ DfE, [Free Speech Act: what you need to know](#), 26 July 2024

⁶⁷ OfS, [Non-disclosure agreements](#), 31 July 2024

Reaction to the government's decision

Political parties

On 10 October 2024, there was a debate in the House of Commons on [freedom of speech in universities](#), which largely focussed on the government's decision to stop the commencement of the 2023 act.

In the debate, the then-shadow Education Secretary Damian Hinds (Conservative) argued the consequences of the government's decision were "direct, indirect and chilling". The then-shadow minister went on to criticise the stopping of the act without parliamentary debate, and said "600 academics, including seven Nobel prize laureates, have written to the Secretary of State in support of the legislation".⁶⁸

The Liberal Democrat Universities and Skills Spokesperson, Ian Sollom, welcomed the government's decision to pause the commencement of the 2023 act, saying that "the lack of facts and data, and even of much of an idea [had] failed to convince the Liberal Democrats of the need for the Higher Education (Freedom of Speech) Act".⁶⁹

Press and stakeholder comment

Over 650 academics signed an [open letter to the Education Secretary calling for the 2023 act to be resumed](#). The letter called the 2023 act "vitally important" due to its enforcement mechanisms for free speech duties, in particular noting the role of the OfS complaints scheme and statutory tort.⁷⁰

Writing in Times Higher Education, Abhishek Saha, a mathematics professor at Queen Mary University of London and former member of the London Universities' Council for Academic Freedom, called the pause a "tragedy". Saha said that the 2023 act was "the most inspiring, vital, and significant legislation on higher education in living memory", and said that, without its implementation, academic freedom was not being adequately protected.⁷¹

However, several stakeholder groups, including the representative body Russell Group Students' Unions, welcomed the government's decision to pause the commencement of the 2023 act. It said freedom of speech is "vital" in higher education but also noted "concerns about the practicalities of the new legislation and the potential impact on marginalised students."⁷²

GuildHE, which represents vocationally focussed higher education providers, said the "balance between protecting free speech and securing the safety of their students and staff is paramount", but also welcomed the government's

⁶⁸ HC Deb [[Universities: Freedom of Speech](#)], 10 October 2024, vol 754 c456

⁶⁹ As above, c457

⁷⁰ Academics for Academic Freedom, [Sign this open letter to Bridget Phillipson](#), 2 August 2024

⁷¹ Times Higher Education, [The likely repeal of England's free speech act is a tragedy](#), 30 July 2024

⁷² Russell Group Students' Unions, [Our response to the Higher Education \(Freedom of Speech\) Act pause](#), 31 July 2024

decision. GuildHE argued the 2023 act “would have introduced an unnecessary level of regulatory burden without achieving that aim”.⁷³

The Free Speech Union, a membership organisation that campaigns for freedom of speech, appealed the government’s decision to stop the commencement of the 2023 act.⁷⁴ A judicial review hearing was scheduled for 23 January 2025, but the legislation was ultimately resumed prior to this date.⁷⁵

2.6

Current position

On 15 January 2025, the Secretary of State for Education, Bridget Phillipson, announced that the implementation of the 2023 act would be resumed, but the government was seeking to repeal “burdensome provisions” in the act.⁷⁶ Speaking in the House of Commons, the Education Secretary said:

In July 2024 I paused further commencement of the Act in response to concerns raised by a cross-section of voices. I took that decision because it is vital that we get this right. Our universities are one of this country’s greatest strengths, and I know Members across the House share my pride in a truly world-leading sector. At the centre of that excellence sit academic freedom and freedom of speech. The ability of our academics to explore and express new ideas through teaching and research is precious and we must protect it.

These fundamental freedoms are more important—much more important—than the wishes of some students not to be offended. University is a place for ideas to be exposed and debated, to be tried and tested. For young people, it is a space for horizons to be broadened, perspectives to be challenged and ideas to be examined. It is not a place for students to shut down any view with which they disagree.⁷⁷

New commencement regulations, the [Higher Education \(Freedom of Speech\) Act 2023 \(Commencement No. 3\) Regulations 2025](#), were signed on 28 April 2025. The provisions included in the new commencement regulations came into force on 1 August 2025.

2025 policy paper

On 26 June 2025, the DfE published a policy paper on [the future of the Higher Education \(Freedom of Speech\) Act 2023](#), which expanded on the

⁷³ GuildHE, [GuildHE responds to DfE pause on HE \(Freedom of Speech Act\) and Independent Review of the OFS](#), 29 July 2024

⁷⁴ Free Speech Union, [Education Secretary faces court over shelving free speech laws](#), 3 November 2024

⁷⁵ Free Speech Union, [The Higher Education \(Freedom of Speech\) Act](#), 6 May 2025

⁷⁶ Department for Education, [Government reaffirms commitment to Free Speech in universities](#), 15 January 2025

⁷⁷ HC Deb [[Universities: Freedom of Speech](#)], 10 October 2024, vol 754 c456

government's decisions regarding the affected provisions in the act. These decisions are summarised below.

Provisions coming into force as planned

The following sections of the act were included in the commencement regulations made on 28 April 2025 and came into force on 1 August 2025:

- Section 1: Duties of registered HE providers. Much of this section came into force without amendment (except for the provisions relating to SUs - see below for more information). The section replaces and extends the duties in section 43 of the 1986 act with regards to securing freedom of speech and maintaining a code of practice. It also introduces duties that require higher education providers (HEPs) to promote the importance of freedom of speech and academic free and prevents them from entering into non-disclosure agreements in cases of harassment, bullying, and sexual misconduct.
- Section 2: Duties of constituent institutions. This section places duties on constituent institutions, such as colleges, of HEPs to take steps to secure freedom of speech, follow the code of practice, and promote the importance of freedom of speech and academic freedom, similarly to the application of these duties to the governing body of the HEP.⁷⁸
- Section 5: Functions of the Office for Students. The government has commenced section 5, which requires the OfS to have regard to the need to promote and protect freedom of speech within the law and academic freedom. It also gives the OfS new powers and duties in relation to these issues, such as identifying good practice and giving advice to providers about such practice.⁷⁹

The policy paper also noted that section 10 of the act, relating to the establishment of the role of director for freedom of speech and academic freedom on the OfS board had been in force since August 2023.⁸⁰ The government said:

We believe that maintaining the role of the Director is crucial not only to signal the importance of this policy area in higher education, but also to ensure that there is a dedicated champion for free speech and academic freedom, with the profile and powers to bring about change.⁸¹

Provisions that have been removed

The government has announced that it is seeking a legislative vehicle to remove the statutory tort and duties placed on SUs from the 2023 act. The DfE argued the statutory tort might place “disproportionate” legal costs on

⁷⁸ DfE, [The future of the Higher Education \(Freedom of Speech\) Act 2023](#), 26 June 2025, p11

⁷⁹ As above, p17

⁸⁰ As above, p27

⁸¹ As above, p27

universities, while duties placed on SUs could leave them “overwhelmed with additional costs and administrative burdens”⁸²:

- Sections 3 and 7: Duties of students’ unions and regulation of duties on students’ unions. These sections are not in force, and the government is seeking a legislative vehicle to repeal them.
 - The definition of “students union” was commenced on 1 August 2025, due to the use of the term elsewhere in the act.
 - The DfE states SUs are “not equipped” to manage the duties that the act would impose with regards to “funding, resources or expertise”. Further, the DfE argues that SUs will be “better and more appropriately incentivised and supported to protect freedom of speech through duties on HE providers”, and that most SUs in England and Wales are also regulated by the Charity Commission.⁸³
- Section 4: Civil claims. The government is seeking to repeal section 4, which would introduce a statutory tort allowing staff, students and external speakers to bring civil claims against HEPs, constituent institutions, or SUs for breaching their free speech duties.
 - The DfE states that the implementation of the tort could have a “chilling effect on freedom of speech on campus”. The government argues HEPs might become “risk-averse” when inviting external speakers, and the risk of legal and financial redress could cause HEPs to “unduly” prioritise the protection of free speech over the interests of people who might “feel harassed or intimidated”.
 - The government says there are other avenues for redress, and the OfS complaints scheme will expand this.⁸⁴

Provisions that will be amended or kept under review

The Education Secretary also announced that the government plans to amend certain provisions in the act prior to their implementation:

- Section 1: Duties of registered higher education providers. The government plans to amend this section of the act to require HEPs to take reasonably practicable steps to ensure SUs follow the provider’s freedom of speech code of practice on both provider and non-provider premises.

⁸² DfE, [Government reaffirms commitment to Free Speech in universities](#), 15 January 2025

⁸³ DfE, [The future of the Higher Education \(Freedom of Speech\) Act 2023](#), 26 June 2025, pp12-13

⁸⁴ As above, p15

- The code of practice should state that SUs cannot deny affiliation to student societies on the basis of their “lawful policy or objectives, or the lawful ideas or opinions of its members”.⁸⁵
- Section 6: Regulation of duties of registered higher education providers. The government is seeking to amend section 6 to give the OfS the power, rather than the duty, to impose an initial or ongoing condition of registration relating to freedom of speech and academic freedom.
 - It said this will allow the OfS greater flexibility, and “leaves scope for proportionate application to a diverse sector”.⁸⁶ The government has also said it expects the OfS to implement a condition of registration despite this not being a requirement.
- Section 8: Complaints scheme. The government plans to amend section 8, related to the OfS complaints scheme, so the OfS has the power rather than the duty to consider complaints.
 - The government said it wanted to retain the scheme, but that prior to amendment it risked being “overly burdensome and time-consuming for the OfS”.⁸⁷
 - The new OfS complaints scheme will focus on complaints from staff, external speakers, and university members, including complaints where people from these groups feel they have suffered adverse consequences because a HEP hasn’t fulfilled its duty to secure compliance with its code of practice.
 - It will not consider complaints from students or about SUs. To avoid the duplication of complaints schemes for students, student complaints will be directed to the Office for the Independent Adjudicator.
- Section 9: Overseas funding. The government is keeping section 9 of the act under review, but duties placed on SUs in relation to overseas funding, and on the OfS in relation to regulating them, will be removed from the section.
 - Speaking in Parliament, the Education Secretary said she is “fully committed to tackling cases of interference by overseas Governments,” but wants to “ensure that any new reporting requirements for providers add value without being overly burdensome”.⁸⁸
 - In the meantime, the DfE has said it will introduce “alternative mitigations” to help HEPs improve their “international due

⁸⁵ As above, p7

⁸⁶ As above, p18

⁸⁷ As above, pp19-20

⁸⁸ HC Deb [[Universities: Freedom of Speech](#)], 10 October 2024, vol 754 cc379-381

diligence”. As part of its review, the DfE will assess the implementation of the [Foreign Influence Registration Scheme](#) (FIRS) in the higher education sector. FIRS is a public register of arrangements with foreign powers and foreign power-controlled entities which aims to increase the transparency of foreign influence.⁸⁹

Comment

Political parties

Political parties showed mixed responses to the Labour government’s amendments.

When the Education Secretary [announced the commencement of the 2023 act in the House of Commons](#), Laura Trott, the Shadow Secretary of State for Education, reinforced the Conservative party’s position that pausing the act had been a “mistake”. The shadow minister said “confusion” remained, and called for the Education Secretary to “perform the U-turn in full” by commencing the act in its entirety, including the statutory tort and the measure on overseas funding.⁹⁰

The Liberal Democrat Universities and Skills Spokesperson, Ian Sollom, said he “welcome[s] now the acknowledgement of its flaws and the Secretary of State’s move to repeal the provisions on the tort and on student unions in particular”.⁹¹ However, the Liberal Democrat spokesperson questioned the need for the act at all, pointing to existing legislation and guidance which seeks to protect freedom of speech in universities. Sollom stated concerns about the protection of minority groups in universities and called for HEPs to be given a statutory duty of care for their students.

Press and stakeholder comment

The Russell Group welcomed the revisions made by the government, in particular noting the removal of the statutory tort. It said that pausing the 2023 act was beneficial, and had allowed “time to understand its impact and ensure new legislation is fit for purpose and proportionate”.⁹²

Similarly, Universities UK welcomed the changes, also noting the removal of the statutory tort; a change it referred to as “absolutely essential”.⁹³ The University and College Union (UCU), while welcoming the removal of the statutory tort, argued that the government should have gone further by

⁸⁹ DfE, [The future of the Higher Education \(Freedom of Speech\) Act 2023](#), 26 June 2025, pp22-23

⁹⁰ HC Deb [[Universities: Freedom of Speech](#)], 10 October 2024, vol 754 cc382-383

⁹¹ As above, c385

⁹² Russell Group, [Government update on free speech at universities](#), 15 January 2025

⁹³ Universities UK, [UUUK responds to the Education Secretary's announcement on the Higher Education \(Freedom of Speech\) Act](#), 16 January 2025

repealing the 2023 act in its entirety.⁹⁴ The higher education site Wonkhe said changes to the legislation showed “an explicit recognition of the fine lines, complexities and contradictions often in play on the issue”.⁹⁵

In contrast, the Committee for Academic Freedom “urge[ed] the Government to stop stalling the implementation of this vital piece of legislation, and to finally allow the Act to commence in full.” However, the group also said that the announcement of a date of commencement for the provisions that have come into force “is a significant improvement on the situation in last year, when the entire future of the Act was in jeopardy.”⁹⁶

⁹⁴ University and College Union, [Labour should dispense with Tory culture war bill all together, says UCU](#), 15 January 2025

⁹⁵ Wonkhe, [Bridget Phillipson reaffirms commitment to free speech](#), 15 January 2025

⁹⁶ Committee for Academic Freedom, [Commencement of key free speech provisions set for 1 August](#), 13 May 2025

3

Work of the Office for Students in protecting free speech

The [Office for Students](#) (OfS) is the higher education regulator in England. It was established by the [Higher Education and Research Act 2017](#) and came into existence in 2018. It is a non-departmental public body of the Department for Education (DfE).

The OfS has a number of regulatory duties with regards to freedom of speech and academic freedom in higher education. The activity and requirements of the OfS in protecting free speech are explored below.

3.1

Director for Freedom of Speech and Academic Freedom

The Higher Education (Freedom of Speech) Act 2023 established the role of the director for freedom of speech and academic freedom on the board of the OfS. The director is responsible for overseeing the free speech functions of the OfS.

Appointment

The OfS director of freedom of speech and academic freedom is appointed by the Secretary of State for Education. In response to a parliamentary question, the previous Conservative government said this was in line with the appointment of other OfS board members as determined by the [Higher Education and Research Act 2017](#) (HERA).⁹⁷

On 1 June 2023, Professor Arif Ahmed was appointed to the role of OfS director for freedom of speech and academic freedom. He started working in the post on 14 August 2023.⁹⁸ In a speech delivered at King's College London on 9 October 2023, Arif Ahmed outlined his perspective on the role. He stated that it "is not a partisan role", and that the OfS would "take a broadly viewpoint neutral approach" in carrying out its duty to protect lawful freedom of speech.⁹⁹

⁹⁷ OfS, Freedom of Expression, [PQ 187493](#), 20 June 2023

⁹⁸ OfS, [Office for Students announces its first Director for Freedom of Speech and Academic Freedom](#), 1 June 2023; Office for Students, [Who we are: Our board](#), 5 August 2025

⁹⁹ OfS, [Transcript of Arif Ahmed's speech at King's College London](#), 10 October 2023

While announcing the resumption of the 2023 act, the Education Secretary Bridget Phillipson, citing OfS appointment recommendations made in the Behan review, expressed concerns over the status of the director as a political appointee.¹⁰⁰ Although Phillipson emphasised “complete confidence in Dr Ahmed”, she said the independence of the director should not be undermined by “any suspicion of political bias” in their appointment.

What was the Behan review?

In July 2024, Sir David Behan, the former CEO of the Care Quality Commission and chair of the board of Health Education England, published the results of his review [Fit for the Future: Independent Review of the Office for Students](#),¹⁰¹ which was carried out as part of the [Public Bodies Review Programme](#).

The review made 32 recommendations for the OfS, the government, and the higher education sector to consider, concluding that higher education must be effectively regulated to address the unprecedented challenges the sector faced. The report found that while the OfS was operationally independent in the judgements and decisions it made, perceptions of the regulator’s closeness to government were undermining respect, trust, and ultimately the OfS’ credibility in the eyes of stakeholders.

Behan recommended that while the Secretary of State should continue to appoint the chair and non-executive directors of the OfS, the DfE should “carefully consider” OfS board appointments by paying particular regard to the skills required for these roles. However, the review recommended that the executive team of the OfS, which [includes the Director of Freedom of Speech and Academic Freedom](#), should be appointed by the chief executive (who themselves should be appointed “by the board”).

The review noted that the director’s appointment process was passed in legislation by HERA and the 2023 act, but enacting the review’s recommendations would “provide clear lines of accountability and avoid a dilution of the chief executive’s authority.”¹⁰² The review recognised new legislation would be required to enact this. Behan was made the interim chair of the OfS until July 2025, with the government saying his primary role was “to work with the current executive to implement the recommendations of the independent review”.¹⁰³

¹⁰⁰ HC Deb, [[Higher Education Regulatory Approach](#)], 15 January 2025, vol 760 cc379-381

¹⁰¹ Department for Education, [Fit for the Future: Independent Review of the Office for Students](#), 26 July 2024, p21

¹⁰² DfE, [Fit for the Future: Independent Review of the Office for Students](#), 26 July 2024, p21

¹⁰³ HCWS26, [[Higher Education Regulation Update](#)], 26 July 2024

3.2

Conditions of registration

To be included on the [OfS register](#), higher education providers must meet initial and ongoing conditions of registration, which demonstrate their ability to provide quality higher education.¹⁰⁴ These conditions enable the OfS to exert a degree of control over the quality of higher education provision in England, and, in return, providers are able to access public funding and recruit international students.¹⁰⁵

Two OfS conditions of registration relating to freedom of speech and academic freedom are already in place. A further condition of registration will be implemented under the Freedom of Speech (Higher Education) Act 2023, although this provision in the act will be amended to give the OfS greater flexibility in its implementation.¹⁰⁶

Existing conditions of registration

The OfS currently has two conditions of registration which relate to freedom of speech: conditions E1 and E2.¹⁰⁷ Condition E1 requires providers' governing documents to reflect all relevant public interest governance principles. Condition E2 requires providers to maintain "adequate and effective management and governance arrangements" to work within its governing documents and public interest governance principles.¹⁰⁸

The public interest governance principles are laid out in [Annex B of the OfS regulatory framework](#). Among the principles applicable to all registered higher education providers are the principles of academic freedom and freedom of speech, which state:

I. Academic freedom: Academic staff at an English higher education provider have freedom within the law:

- to question and test received wisdom; and
- to put forward new ideas and controversial or unpopular opinions

without placing themselves in jeopardy of losing their jobs or privileges they may have at the provider.

[...]

¹⁰⁴ OfS, [Securing student success: Regulatory framework for higher education in England, Annex A: Initial and general ongoing conditions of registration](#), 24 November 2022

¹⁰⁵ OfS, [Registration with the OfS](#)

¹⁰⁶ OfS, [Freedom of Speech: Changes to regulation](#), 27 February 2025

¹⁰⁷ OfS, [Securing student success: Regulatory framework for higher education in England, Annex A: Initial and general ongoing conditions of registration](#), 24 November 2022

¹⁰⁸ As above

VII. Freedom of speech: The governing body takes such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.¹⁰⁹

University of Sussex breach of condition E1

In October 2021, the OfS opened an investigation into the University of Sussex's freedom of speech and academic freedom obligations.¹¹⁰ This followed student protests calling for the dismissal of Kathleen Stock, who was a professor of philosophy at the university, because of her views regarding gender self-identification. These protests ultimately contributed to Kathleen Stock's decision to resign from the University of Sussex.¹¹¹

The OfS investigation focused on the university's general compliance with its regulatory framework, rather than on Kathleen Stock's departure. In March 2025, the OfS found that the University of Sussex had breached condition E1 in relation to free speech.¹¹² This breach concerned the university's Trans and Non-Binary Equality Policy Statement, which the OfS deemed to be in contravention of the freedom of speech and academic freedom public interest governance principles and responsible for a "chilling effect" that led students and staff – including Kathleen Stock – to self-censor their views and teaching.

The OfS' [regulatory case report for University of Sussex](#) stated this was the first time the regulator had found an E1 breach regarding freedom of speech and academic freedom.¹¹³ Because of this, the OfS charged the University of Sussex with a reduced penalty of £585,000. The regulator said that, without adjustments, a fine of up to £3.7 million could have been issued.¹¹⁴ During a media briefing, Arif Ahmed, the OfS director for freedom of speech and academic freedom, is reported to have said: "Clearly, future cases will not be the first case of their kind, so there will be a potential for higher fines in the future".¹¹⁵

¹⁰⁹ OfS, [Securing student success: Regulatory framework for higher education in England, Annex B: Public interest governance principles](#), 24 November 2022

¹¹⁰ OfS, [Investigation into the University of Sussex](#), 16 November 2021

¹¹¹ BBC News, [Kathleen Stock: University of Sussex free speech row professor quits](#), 29 October 2021

¹¹² OfS, [University of Sussex fined £585,000 for free speech and governance breaches](#), 26 March 2025

¹¹³ OfS, [Regulatory case report for University of Sussex: OfS decisions relating to breaches of conditions E1 and E2 and the imposition of monetary penalties](#), 26 March 2025, p17

¹¹⁴ As above, p18

¹¹⁵ The Guardian, [University of Sussex fine sparks fears of bigger penalties for other institutions](#), 26 March 2025

3.3

Guidance on free speech duties

On 19 June 2025, the OfS published [guidance related to freedom of speech](#).¹¹⁶ Alongside the finalised guidance, the OfS published an analysis of responses to the draft guidance, which was [consulted on in March 2024](#).¹¹⁷

The finalised guidance was published as a piece of [regulatory advice](#), which is not part of the OfS’ regulatory framework, but does aim to help HEPs to understand OfS requirements. In line with the commencement of section 5 of the Higher Education (Freedom of Speech) Act 2023, relating to functions of the OfS, the guidance was effective from 1 August 2025.

The OfS guidance is aimed at HEPs and their constituent institutions, looking specifically at their duties under the 2023 act to secure freedom of speech within the law and to establish and maintain a freedom of speech code of practice.

[Section one](#) of the guidance defines ‘freedom of speech’ and ‘academic freedom’.¹¹⁸ [Section two](#) lays out a “three-step framework” for HEPs and constituent institutions to assess compliance with their duty to secure freedom of speech within the law:

Step 1: Is the speech ‘within the law’? If yes, go to step 2. If no, the duty to ‘secure’ speech does not apply.

Step 2: Are there any ‘reasonably practicable steps’ to secure the speech? If yes, take those steps. Do not restrict the speech. If no, go to step 3.

Step 3: Are any restrictions ‘prescribed by law’ and proportionate under the European Convention on Human Rights?¹¹⁹

[Section three](#) provides examples of “reasonably practicable” steps that HEPs and constituent institutions can take in a range of circumstances to secure freedom of speech. The OfS notes that the examples given are not exhaustive, and that reasonably practicable steps “may vary” between providers, but says the guidance illustrates steps that HEPs and constituent organisations “should take in the majority of circumstances”.¹²⁰ The examples given relate to:

- admissions, appointments, employment, and promotion

¹¹⁶ OfS, [Regulatory advice 24: Guidance related to freedom of speech](#), 19 June 2025

¹¹⁷ OfS, [Consultation on proposed regulatory advice and other matters related to freedom of speech: Analysis of responses and decisions](#), 19 June 2025

¹¹⁸ OfS, [Regulatory advice 24: Guidance related to freedom of speech, Section 1: Freedom of Speech](#), 19 June 2025

¹¹⁹ OfS, [Regulatory advice 24: Guidance related to freedom of speech, Section 2: Framework for assessment](#), 19 June 2025

¹²⁰ OfS, [Regulatory advice 24: Guidance related to freedom of speech, Section 3: Steps to secure freedom of speech](#), 19 June 2025

- codes of conduct
- complaints and investigation processes
- free speech code of practice
- governance
- research
- speaker events
- teaching
- training and induction

3.4 Complaints scheme

The [Higher Education \(Freedom of Speech\) Act 2023](#) established a new complaints scheme managed by the OfS to consider free speech complaints made against universities and colleges.

When implementation of the 2023 act was resumed in January 2025, the Education Secretary Bridget Philipson announced changes would be made to the complaints scheme to give the OfS greater flexibility in its management. Following future legislative changes, the scheme will only take complaints from staff, external speakers, and university members.¹²¹ Complaints from students will be directed to the Office of the Independent Adjudicator for Higher Education.

Functions of the scheme

In December 2023, the OfS published proposals on the free speech complaints scheme for consultation.¹²² The proposals included who could make a free speech complaint, what they could complain about, how complaints would be reviewed, and actions that the OfS would take if a complaint was upheld.¹²³ The consultation reflected the legislative requirements of the complaints scheme under the 2023 act before the changes announced by the Labour government in 2025. The OfS has not yet published amended proposals to reflect changes in the legislation.

Speaking in the House of Lords on 21 January 2025, the Skills Minister Baroness Smith of Malvern expressed “a strong expectation” that complaints will go through internal university processes before being escalated to the

¹²¹ DfE, [Government reaffirms commitment to Free Speech in universities](#), 15 January 2025

¹²² OfS, [Consultation on the OfS’s new free speech complaints scheme](#), 14 December 2023

¹²³ OfS, [OfS to act to secure free speech for students with proposals on new free speech complaints scheme](#), 14 December 2023

OfS.¹²⁴ The minister argued it was therefore “appropriate” that the OfS complaints scheme should be a power rather than a duty, and this will allow the OfS to focus on cases with “the strongest thematic and sector-wide implications”.¹²⁵

In [response to a PQ on 18 February 2025](#), Education Minister Janet Daby said the complaints scheme will be free at the point of use. The minister stated that amending the provisions of the complaints scheme in the 2023 act requires primary legislation, and this will be sought by the Secretary of State for Education “at the earliest opportunity”.¹²⁶ Bridget Phillipson has announced that the government will provide further detail on the proposed amendments in an upcoming policy paper.¹²⁷

Office of the Independent Adjudicator for Higher Education

As part of the proposed changes to the 2023 act complaints scheme, the DfE announced student complains relating to freedom of speech would be directed to the Office of the Independent Adjudicator (OIA) for Higher Education, rather than the OfS.¹²⁸

The OIA is an independent body set up to review student complaints about higher education providers in England and Wales. It reviews unresolved complaints; makes recommendations, suggestions, or observations based on its findings; shares learning from its casework; and works with other organisations in the ombuds sector to develop policy and practice.¹²⁹

Speaking in the House of Lords, the Skills Minister said directing student freedom of speech complaints to the OIA would make it “much clearer for students to know where to go” given the body has existing responsibility for student complaints.¹³⁰

The OIA published a [press release reacting to the proposed amendments](#) to the 2023 act on 15 January 2025. It welcomed the change, saying the OIA had previously raised concerns over what it called “the complexity and lack of clarity of arrangements” for student freedom of speech complaints under the original 2023 act complaints system.¹³¹

¹²⁴ HL Deb, [Higher Education Regulatory Approach](#), 21 January 2025, vol 842 c1660

¹²⁵ As above

¹²⁶ [PQ 29557](#), Academic Freedom, 18 February 2025

¹²⁷ HC Deb [[Higher Education Regulatory Approach](#)], 15 January 2025, vol 760 c381

¹²⁸ DfE, [Government reaffirms commitment to Free Speech in universities](#), 15 January 2025

¹²⁹ Office of the Independent Adjudicator (OIA), [About Us](#) (accessed 3 July 2025)

¹³⁰ HL Deb [[Higher Education Regulatory Approach](#)], 21 January 2025, vol 842 cc1659-1660

¹³¹ OIA, [OIA response to announcement regarding implementation of Higher Education \(Freedom of Speech\) Act 2023](#), 15 January 2025

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