

# Higher Education (Freedom of Speech) Bill

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AMENDMENTS  
TO BE MOVED  
IN GRAND COMMITTEE

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**Clause 1**

LORD MOYLAN

Page 2, line 8, at end insert –

- “(5A) For the purposes of subsection (1) –
- (a) refraining from interfering with freedom of speech within the law is a reasonably practicable step in all circumstances where the speech in question is of a political, philosophical or academic nature;
  - (b) in all other circumstances, a step may be regarded as not reasonably practicable if and only if taking that step would prejudice the functioning of the provider.
- (5B) “Speech of a political nature” includes speech that constitutes debate of any question of public interest.”

***Member’s explanatory statement***

*This amendment would compel providers to tolerate all lawful speech of a political, philosophical or academic nature, and clarify when a step is not reasonably practicable.*

Page 2, line 41, at end insert –

**“A1A Freedom of speech within the law**

- (1) “Freedom of speech within the law” means the freedom of a person mentioned in subsection A1(2) to express any idea, belief or view (whether within or outside the premises of the provider) provided that such idea, belief or view, or the manner in which it is expressed –
- (a) is not prohibited by law,
  - (b) is not contrary to any duty imposed on that person, or on the provider, by –
    - (i) any enactment or rule of law,
    - (ii) any confidentiality agreement, or
    - (iii) the intellectual property rights of any person, or any agreement not to infringe such rights, and
  - (c) does not constitute promotion of Holocaust denial.

**Clause 1 - continued**

- (2) In applying section 26(4) of the Equality Act 2010 (harassment) to any expression or act to which this Part applies, particular regard must be had to—
- (a) the particular importance of freedom of speech,
  - (b) the particular importance of academic freedom, and
  - (c) any relevant duty under this Part.”

***Member’s explanatory statement***

*This amendment seeks to provide an enhanced statutory definition of freedom of speech within the law and clarifies the relationship between free speech and other legal obligations.*

Page 3, leave out lines 32 to 36 and insert “have particular regard to the need to—

- (a) eliminate unlawful interference with freedom of speech within the law and academic freedom,
  - (b) promote and prioritise the particular importance of freedom of speech within the law,
  - (c) promote and prioritise the academic freedom of academic staff of registered higher education providers and their constituent institutions, and
  - (d) foster a culture of free thought and open-mindedness,
- in all decision-making concerning the provision of higher education and in conducting and managing research activities.”

***Member’s explanatory statement***

*This amendment seeks to clarify the steps providers will need to take in order to promote freedom of speech and academic freedom.*

**After Clause 1**

LORD MOYLAN

Insert the following new Clause—

**“Amendment to the Equality Act 2010**

In section 149 of the Equality Act 2010 (public sector equality duty), at the end insert—

- “(10) In complying with the duties in this section a public authority must have particular regard to the duty—
- (a) to take steps to secure freedom of speech imposed by section 43(1) of the Education (No. 2) Act 1986 if the authority is subject to that duty;
  - (b) to take steps to secure freedom of speech and academic freedom imposed by section A1(1) of the Higher Education and Research Act 2017 if the authority is subject to that duty.””

***Member’s explanatory statement***

*This new Clause seeks to ensure that the duties imposed by the Bill are consistent with, and not overridden by, the Equality Act public sector equality duty.*

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*26 September 2022*

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