

# Higher Education (Freedom of Speech) Bill

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## AMENDMENTS TO BE MOVED ON REPORT

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### Clause 1

EARL HOWE

Page 2, line 4, leave out “, beliefs or views” and insert “or opinions”

***Member’s explanatory statement***

*This amendment is consequential on the Minister’s proposed new definition of “freedom of speech” (see the amendment to Clause 1, page 2, line 36 in the Minister’s name).*

Page 2, line 5, leave out “, beliefs or views” and insert “or opinions”

***Member’s explanatory statement***

*This amendment is consequential on the Minister’s proposed new definition of “freedom of speech” (see the amendment to Clause 1, page 2, line 36 in the Minister’s name).*

Page 2, line 36, leave out from “speech” to end of line 38 and insert “are to the freedom to impart ideas, opinions or information (referred to in Article 10(1) of the Convention as it has effect for the purposes of the Human Rights Act 1998) by means of speech, writing or images (including in electronic form);”

***Member’s explanatory statement***

*This amendment proposes a new definition of “freedom of speech” referring to the European Convention on Human Rights, as it has effect for the purposes of the Human Rights Act 1998.*

Page 2, line 38, at end insert—

““the Convention” has the meaning given by section 21(1) of the Human Rights Act 1998;”

***Member’s explanatory statement***

*This amendment defines “the Convention” for the purposes of the Minister’s proposed new definition of “freedom of speech” (see the amendment to Clause 1, page 2, line 36 in the Minister’s name).*

Page 2, line 38, at end insert –

““member”, in relation to a registered higher education provider, does not include a person who is a member of the provider solely because of having been a student of the provider;”

***Member’s explanatory statement***

*This amendment excludes those who are members of the provider, solely due to having been a student of the provider, from being a “member” of the provider for the purposes of Part A1 of the Higher Education and Research Act 2017.*

**Clause 2**

EARL HOWE

Page 4, line 14, at end insert –

““member”, in relation to a constituent institution of a registered higher education provider, does not include a person who is a member of the institution solely because of having been a student of the institution.”

***Member’s explanatory statement***

*This amendment excludes those who are members of a constituent institution (eg a college), solely due to having been a student of the institution, from being a “member” of a constituent institution for the purposes of Part A1 of the Higher Education and Research Act 2017.*

**Clause 3**

EARL HOWE

Page 4, line 41, leave out “, beliefs or views” and insert “or opinions”

***Member’s explanatory statement***

*This amendment is consequential on the Minister’s proposed new definition of “freedom of speech” (see the amendment to Clause 1, page 2, line 36 in the Minister’s name).*

Page 4, line 43, leave out “, beliefs or views” and insert “or opinions”

***Member’s explanatory statement***

*This amendment is consequential on the Minister’s proposed new definition of “freedom of speech” (see the amendment to Clause 1, page 2, line 36 in the Minister’s name).*

**Clause 4**

EARL HOWE

Page 6, line 22, after “A1” insert “that causes the person to sustain loss”

***Member’s explanatory statement***

*This ensures that only persons who have sustained loss can bring civil proceedings under the new section A7 inserted into the Higher Education and Research Act 2017 by the Bill.*

Page 6, line 25, after “A1” insert “that causes the person to sustain loss”

**Member's explanatory statement**

*This ensures that only persons who have sustained loss can bring civil proceedings under the new section A7 inserted into the Higher Education and Research Act 2017 by the Bill.*

Page 6, line 27, after "A5" insert "that causes the person to sustain loss"

**Member's explanatory statement**

*This ensures that only persons who have sustained loss can bring civil proceedings under the new section A7 inserted into the Higher Education and Research Act 2017 by the Bill.*

Page 6, line 27, at end insert –

- “(2) A person may bring proceedings under subsection (1) only if –
- (a) the person has brought a complaint relating to the same subject-matter as the proceedings under a relevant complaints scheme, and
  - (b) a decision has been made under that scheme as to the extent to which the complaint was justified.
- (3) Each of the following is a “relevant complaints scheme” –
- (a) the scheme provided by virtue of Schedule 6A (the free speech complaints scheme), and
  - (b) the scheme for the review of qualifying complaints (within the meaning of section 12 of the Higher Education Act 2004) that is provided by the designated operator (within the meaning of section 13(5)(b) of that Act).”

**Member's explanatory statement**

*This provides that a person must first have recourse to a complaints scheme before bringing civil proceedings under the new section A7 inserted into the Higher Education and Research Act 2017 by the Bill.*

**After Clause 4**

LORD SIKKA

Insert the following new Clause –

**“Research grant funding and academic integrity**

After section A7 of the Higher Education and Research Act 2017 (inserted by section 4) insert –

**“A8 Research grant funding and academic integrity**

- (1) The provision of grant funding for research shall not be used as a means of interfering with the freedom for academics –
  - (a) to publish and disseminate their research; or
  - (b) to decide on the final form and academic integrity of such research.
- (2) Unless the conditions in subsection (3) apply, no contractual or other provision in a funding agreement that gives editing or publishing control to the funder shall be enforceable by law.
- (3) The conditions referred to in subsection (2) are –
  - (a) that a court finds the full publication of the research would threaten national security, public safety, or health; or

**After Clause 4 - continued**

- (b) the contracting parties to a research funding arrangement agree confidentiality of results in advance.””

**Member’s explanatory statement**

*This amendment reduces the ability of public, private or philanthropic funders of academic research to infringe upon academic integrity and the freedom to publish results. Contractual attempts at interference with academic expression will be unenforceable, unless confidentiality of research was agreed in advance or where a court finds a national security, public safety or health justification for preventing publication.*

**Clause 5**

EARL HOWE

Page 7, line 12, leave out “the promotion of” and insert “how to support”

**Member’s explanatory statement**

*This clarifies that the new function conferred on the OfS enabling it to identify good practice in freedom of speech matters and to give advice about such practice is not directed at giving guidance to providers about how to discharge their new duty to promote the importance of freedom of speech.*

**The Schedule**

EARL HOWE

Page 19, line 40, at end insert –

“(ca) after the definition of “the institutional autonomy of English higher education providers” insert –

““member”, in relation to a registered higher education provider or a constituent institution of such a provider, has the same meaning as in Part A1 (see sections A1(11) and A4(4));

““member”, in relation to a students’ union which is a representative body and not an association (see section 20(1)(b) of the Education Act 1994), means those whom it is the purpose of the union to represent, excluding any student who has signified that they do not wish to be represented by it;”;

**Member’s explanatory statement**

*This amendment ensures that “member” (of a registered higher education provider, of a constituent institution of such a provider and of a students’ union) means the same in Part A1 and Part 1 of the Higher Education and Research Act 2017.*

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*30 November 2022*

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