
Committee Stage: Wednesday 15 September 2021

Higher Education (Freedom of Speech) Bill (Amendment Paper)

This document lists all amendments tabled to the Higher Education (Freedom of Speech) Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

This document should be read alongside the Chair's provisional Selection and Grouping, which sets out the order in which the amendments will be debated.

☆ Amendments which will comply with the required notice period at their next appearance.

Matt Western

50

Clause 1, page 1, line 8, leave out from beginning to "must" and insert "Every individual and body of persons concerned in the government or management of a registered higher education provider"

Member's explanatory statement

This amendment expands the duty on a governing body of a registered higher education provider to take steps that are reasonably practicable to secure freedom of speech within the law to include any individual or body of persons concerned in the government or management of a registered higher education provider.

Matt Western

51

Clause 1, page 1, line 9, leave out "importance" and insert "primacy"

Matt Western

43

Clause 1, page 1, line 10, after "speech" insert "and academic freedom"

Member's explanatory statement

This amendment would require the governing body of a higher education provider to also have particular regard to the importance of academic freedom.

Emma Hardy

81

☆ Clause 1, page 1, line 18, after the first “the” insert “sole”

Member’s explanatory statement

This amendment, with Amendment 82, relates to use of the premises of a registered higher education provider, stating they can be provided and will not be denied on the basis of the grounds referred to in subsection (4).

Matt Western

52

Clause 1, page 1, line 18, after “premises” insert “or online platforms”

Member’s explanatory statement

This amendment expands the objective of securing freedom of speech within the law for staff, members, students and visiting speakers to include securing the use of online platforms.

Matt Western

31

Clause 1, page 1, line 18, after the second “of” insert “or occupied by”

Member’s explanatory statement

This amendment expands the duty on higher education providers to not deny the use of any premises, including premises occupied by the provider, to the staff of the provider, the members of the provider, the students of the provider and visiting speakers.

Emma Hardy

82

☆ Clause 1, page 2, leave out lines 1 and 2

Member’s explanatory statement

This amendment is linked to Amendment 81.

Sir John Hayes

71

Clause 1, page 2, line 2, at end insert—

“(3A) Any conduct that would otherwise constitute conduct having the effect of harassment in accordance with section 26(1) of the Equality Act 2010 shall, notwithstanding any provision to the contrary in that Act, constitute freedom of speech within the law for the purposes of subsection (2), provided the conduct constitutes, or forms part of, discussion of an academic or scientific matter in a higher education setting.”

Matt Western 53

Clause 1, page 2, line 6, at end insert—

“(c) The financial cost of providing physical security for any individual or body, except where such a cost would be greatly disproportionate.

(4A) In circumstances where subsection (c) applies, the provider must ensure that an online platform can be used as an alternative.”

Member’s explanatory statement

This amendment would ensure that the use of premises and the terms on which those premises are used are not limited by financial security costs, save where the costs would be disproportionate. In the event the costs are disproportionate, an alternative online platform has to be found by the provider.

Matt Western 55

Clause 1, page 2, line 7, at end insert “members and visiting academic speakers”

Member’s explanatory statement

This amendment would ensure that the objective of securing freedom of speech within the law includes securing the academic freedom of members and visiting academic speakers.

Fiona Bruce 59

Clause 1, page 2, line 9, after “staff” insert “and students”

Member’s explanatory statement

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Sir John Hayes 80

Clause 1, page 2, leave out lines 9 to 14 and insert—

(6) “In this Part, “academic freedom”, in relation to academic staff at a registered higher education provider, includes their freedom within the law—

- (a) to question and test received wisdom,
- (b) to put forward new ideas and controversial or unpopular opinions, and
- (c) to design and deliver their own teaching, notwithstanding direction as to the topic or occasion of their teaching,”

Member’s explanatory statement

This amendment affirms the freedom of academic staff to exercise their professional judgment in the design and delivery of their teaching. It allows that Departments may nonetheless direct academic staff as to the topic on which they should teach, and when.

Fiona Bruce

28

Clause 1, page 2, line 10, leave out from “provider” to the end of line 16 and insert “includes freedom—

- (a) to question and test received wisdom,
- (b) to put forward new ideas and controversial or unpopular opinions, and
- (c) to express opinions about a registered higher education provider, including without limitation opinions concerning its curricula, governance, affiliations and the teaching and research conducted at the provider,

without unlawful interference, and without being adversely affected (or being placed at risk of being adversely affected) in any of the ways described in subsection (7).”

Member’s explanatory statement

This amendment would enshrine the protections afforded to academics under ECHR case law (Article 10) to speak about their institution without unlawful interference.

Fiona Bruce

27

Clause 1, page 2, line 11, leave out “within their field of expertise”

Member’s explanatory statement

This amendment aims to ensure that the definition of “academic freedom” is not restricted by a requirement for it to be exercised within an academic staff’s “field of expertise”.

Matt Western
John McDonnell

45

Clause 1, page 2, line 13, after “new ideas” insert “, innovative research”

Member’s explanatory statement

This amendment would expand the definition of academic freedom to encompass innovative research carried out by academics.

Matt Western
John McDonnell

46

Clause 1, page 2, line 14, at end insert—

- “(c) to freely pursue chosen topics for teaching and research without government or institutional interference, and
- (d) to express their opinions in relation to higher education providers, including that at which they are employed,”

Member's explanatory statement

This amendment would expand the definition of academic freedom to encompass an academic's ability to freely pursue chosen topics for teaching and research, free from external interference, and express an opinion in relation to a higher education provider.

Matt Western

49

Clause 1, page 2, line 14, at end insert—

- “(c) to criticise or otherwise express opinions about—
 - (i) the governance of the higher education institution, and
 - (ii) decisions taken by the higher education institution, including decisions about affiliations with other bodies,”

Member's explanatory statement

This amendment would provide protection to academics, under the auspices of academic freedom, to express opinions about the governance, decisions and affiliations of higher education institutions.

Matt Western

47

John McDonnell

Clause 1, page 2, line 20, after “the provider” insert “or other providers”

Member's explanatory statement

This amendment seeks to expand the ways in which an academic cannot be adversely affected due to an exercise of their academic freedom, to include loss of their job or privileges at any other provider.

Matt Western

48

John McDonnell

Clause 1, page 2, line 20, at end insert—

- “(c) the denial of a just and open path for career development, including fair procedures for appointment”

Member's explanatory statement

This amendment seeks to expand the ways in which an academic cannot be adversely affected due to an exercise of their academic freedom to include the denial of a just and open path for career development.

Fiona Bruce 60

Clause 1, page 2, line 20, at end insert—

“and

(c) adverse impact on educational progress.”

Member’s explanatory statement

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Charlotte Nichols 32

Clause 1, page 2, line 20, at end insert—

“(7A)The objective under subsection (2) does not apply to any person or body that—

- (a) has made any statement in public that amounts to the denial of genocide; or
- (b) intends to make any statement that amounts to the denial of genocide within the premises of the provider or to any students of the provider.”

Member’s explanatory statement

This amendment ensures that the objective of securing freedom of speech within the law does not cover those who make statements that amount to a denial of genocide.

Fiona Bruce 57

Clause 1, page 2, line 28, leave out “and within their field of expertise”

Member’s explanatory statement

This amendment is consequential on Amendment 27.

Fiona Bruce 29

Clause 1, page 2, line 36, at end insert—

“references to “members of the provider” include any affiliated academics and any other person holding an academic position at the provider;”

Member’s explanatory statement

This amendment widens the definition of academic members to include affiliated academics and other individuals holding academic positions at higher education providers.

Matt Western 56

Clause 1, page 2, line 36, at end insert—

““visiting academic speaker” shall mean any individual who is an academic member of another registered education provider or equivalent institution or organisation.”

Member’s explanatory statement

This amendment defines academic visiting speaker.

Matt Western 69

Clause 1, page 2, line 36, at end insert—

““denial of genocide” means the malicious condoning, denying or trivialising of an act of genocide;

“genocide” has the meaning set out in Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.”

Member’s explanatory statement

This amendment defines genocide denial against Article II of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide Amendment 54.

Sir John Hayes 72

Clause 1, page 2, line 36, at end insert—

“(11) The governing body of a registered Higher Education Provider must present to the OfS, at least once a quarter, a report detailing the steps their organisation has undertaken to fulfil its positive duties under subsection (2).”

Matt Western 75
John McDonnell

Clause 1, page 3, line 9, at end insert—

“(e) the procedures to be adopted for consulting by ballot staff and students of the provider in making decision about whether to allow the use of premises, and on what terms, for events.”

Member’s explanatory statement

This amendment would provide the governing body with a democratic procedure for inviting or withholding invitations to speakers.

Matt Western 76
John McDonnell

Clause 1, page 3, line 9, at end insert—

“(2A)The provider must have particular regard to the result of a consultative ballot of its staff and students in making decisions about whether to allow the use of premises and on what terms.”

Member’s explanatory statement

This amendment would provide the governing body with a democratic procedure for inviting or withholding invitations to speakers.

Matt Western
John McDonnell

74

Clause 1, page 3, line 20, at end insert—

- “(6) The Code of Practice shall include procedures to be followed to ensure the right of peaceful protest by staff, students and other interested parties.
- (7) The Code of Practice shall include procedures for consulting recognised staff unions and student unions on amendments to the code of practice.”

Member’s explanatory statement

This amendment would ensure that university authorities set out procedures to facilitate peaceful protest on campus, and to engage with campus stakeholders on amendments to the code.

Fiona Bruce

61

Clause 1, page 3, line 26, after “staff” insert “and students”

Member’s explanatory statement

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Michelle Donelan

1

Clause 1, page 3, line 27, after “providers” insert “and their constituent institutions”

Member’s explanatory statement

This amendment is consequential on NC1.

Matt Western

44

Clause 1, page 3, line 28, after “education” insert “and in the conduct of research”

Member’s explanatory statement

This amendment would ensure that higher education providers must promote the importance of academic freedom in the conduct of academic research as well as teaching.

Matt Western 33

Clause 1, page 3, line 28, at end insert—

“(2) For the purposes of this section, “freedom of speech” and “academic freedom” do not extend to any statement that amounts to the denial of genocide.”

Member’s explanatory statement

This amendment ensures that the objective of securing freedom of speech and academic freedom do not cover those who make statements that amount to a denial of genocide.

Michelle Donelan 2

Clause 2, page 3, leave out lines 43 and 44 and insert—

“(d) staff and members of the provider and of its constituent institutions, and”

Member’s explanatory statement

This amendment extends the free speech duties of students’ unions to staff and members of constituent institutions of registered higher education providers.

Emma Hardy 83

☆ Clause 2, page 4, line 3, after the first “the” insert “sole”

Member’s explanatory statement

This amendment, with Amendment 84, relates to use of the premises of a registered student union, stating that they can be provided and will not be denied on the basis of the grounds referred to in subsection (4).

Emma Hardy 84

☆ Clause 2, page 4, leave out lines 6 and 7

Member’s explanatory statement

This amendment is linked to Amendment 83.

Matt Western 34

Clause 2, page 4, line 13, at end insert—

“(4B)The objective under subsection (2) does not apply to any person or body that—

- (a) has made any statement in public that amounts to the denial of genocide; or
- (b) intends to make any statement that amounts to the denial of genocide within the premises of the students' union or to any members of the students' union."

Member's explanatory statement

This amendment ensures that the duty on students' unions to secure freedom of speech within the law does not cover those who make statements that amount to a denial of genocide.

Michelle Donelan

3

Clause 2, page 4, line 27, at end insert—

"(6) In this Part, references to a students' union for students at a registered higher education provider that is eligible for financial support do not include a students' union for students at a constituent institution of such a provider."

Member's explanatory statement

This amendment is to make clear that the duties on students' unions relating to freedom of speech do not apply to students' unions of colleges and other constituent institutions.

Michelle Donelan

4

Clause 3, page 5, line 21, at end insert—

"(aa) a constituent institution of a registered higher education provider, in respect of a breach by the governing body of the institution of any of its duties under section A1, or"

Member's explanatory statement

This amendment is consequential on NC1.

Matt Western

30

Page 5, line 13, leave out Clause 3

Member's explanatory statement

This amendment would have the effect of removing the statutory tort.

Fiona Bruce 62

Clause 4, page 5, line 31, after “staff” insert “and students”

Member’s explanatory statement

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Fiona Bruce 63

Clause 4, page 6, line 1, after “staff” insert “and students”

Member’s explanatory statement

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Michelle Donelan 5

Clause 4, page 6, line 2, after “providers” insert “and their constituent institutions”

Member’s explanatory statement

This amendment and the Minister’s other amendments to clause 4 make clear that the OfS’s new functions relating to freedom of speech extend to constituent institutions of registered higher education providers.

Michelle Donelan 6

Clause 4, page 6, line 3, after “providers” insert “and their constituent institutions”

Member’s explanatory statement

See explanatory statement to Amendment 5.

Michelle Donelan 7

Clause 4, page 6, line 8, after “providers” insert “and their constituent institutions”

Member’s explanatory statement

See explanatory statement to Amendment 5.

Sir John Hayes 73

Clause 4, page 6, line 8, at end insert—

“(2A) The OfS will compile an annual review of registered higher education providers, ranking their compliance with their duties under sections A1 to

A3; to be made publicly available by such means as the OfS considers appropriate.”

Matt Western

54

Clause 5, page 6, line 39, at end insert—

“(4) The OfS must ensure that the ongoing registration conditions of each registered higher education provider that is eligible for financial support include a condition requiring the governing body of the provider to report to the OfS each year on the number of events that have been cancelled following a complaint about the opinions held by a person due to speak at the event.”

Member’s explanatory statement

This amendment would require higher education providers to report to the OfS each year the number of events that have been cancelled following a complaint about the opinions of the speaker, as part of OfS registration conditions.

Matt Western
John McDonnell

77

Clause 6, page 7, line 10, at end insert—

(3A) Any monetary penalty will be limited to a maximum amount set out by the Office for Students decided in consultation with representative bodies of universities and of students’ unions.”

Member’s explanatory statement

This amendment would ensure that there is a limit on the penalty to be paid by an individual or institution as a result of this legislation.

Michelle Donelan 8

Clause 7, page 7, line 41, after “providers” insert “, their constituent institutions”

Member’s explanatory statement

This amendment and the Minister’s amendments to Schedule 7 secure that the free speech complaints scheme applies to constituent institutions of a registered higher education provider.

Michelle Donelan 9

Clause 7, page 8, line 15, after “provider” insert “or of a constituent institution of such a provider”

Member’s explanatory statement

See explanatory statement to Amendment 8.

Matt Western 35

Clause 7, page 8, line 20, leave out “or was”

Member’s explanatory statement

See the explanatory statement for Amendment 37.

Michelle Donelan 10

Clause 7, page 8, line 21, after “provider” insert “or constituent institution (as the case may be)”

Member’s explanatory statement

See explanatory statement to Amendment 8.

Michelle Donelan 11

Clause 7, page 8, line 23, after “provider” insert “or constituent institution (as the case may be)”

Member’s explanatory statement

See explanatory statement to Amendment 8.

Matt Western 36

Clause 7, page 8, line 24, leave out “at any time”

Member’s explanatory statement

See the explanatory statement for Amendment 37.

Matt Western 37

Clause 7, page 8, line 25, at end insert—

“(2A)An eligible person specified under sub-paragraph (2) may not make a complaint if more than five years has elapsed since the date to which the claim relates.”

Member’s explanatory statement

This amendment narrows the eligibility requirements for the free speech complaints scheme so that an eligible person may not make a claim if more than five years has elapsed since the date to which the claim relates.

Michelle Donelan 12

Clause 7, page 8, leave out lines 40 to 42 and insert—

- “(ii) a student of the provider, or
- (iii) a member or member of staff of the provider or of any of its constituent institutions, or”

Member’s explanatory statement

See explanatory statement to Amendment 8.

Michelle Donelan 13

Clause 7, page 9, line 6, after “provider” insert “or constituent institution”

Member’s explanatory statement

See explanatory statement to Amendment 8.

Michelle Donelan 14

Clause 7, page 9, line 18, after “provider” insert “, constituent institution”

Member’s explanatory statement

See explanatory statement to Amendment 8.

Matt Western 38

Clause 7, page 9, line 27, at end insert—

- “(e) A free speech complaint is not to be referred to the OfS under the scheme if a complaint relating to the same subject-matter is being, or has been, dealt with by the Office of the Independent Adjudicator.”

Matt Western 39

Clause 7, page 9, line 37, at end insert—

“(1A) In reaching a decision under subsection (1)(a), the OfS must consider the other legal duties of governing bodies and students’ unions, such as but not limited to those under the Equalities Act 2010 and section 26 of the Counter-Terrorism and Security Act 2015.”

Member’s explanatory statement

This amendment would require the OfS to consider other legal duties incumbent on higher education providers and students’ unions when reaching a decision as to the extent to which a free speech complaint is justified.

Matt Western 40

Clause 7, page 9, line 42, after “may” insert “issue guidance, give a warning or”

Member’s explanatory statement

This amendment would allow the OfS to issue guidance or give a warning, instead of a recommendation, to governing bodies or students’ unions against which a complaint has been upheld.

Michelle Donelan 15

Clause 7, page 10, line 29, after “provider” insert “, a constituent institution of such a provider”

Member’s explanatory statement

See explanatory statement to Amendment 8.

Michelle Donelan 16

Clause 7, page 10, line 32, after “provider” insert “, a constituent institution”

Member’s explanatory statement

See explanatory statement to Amendment 8.

Matt Western 41

Clause 7, page 10, line 2, at end insert—

“(2A) In assessing whether to issue guidance, give a warning or make a recommendation, the OfS must consider the seriousness of the free speech complaint and whether the governing body or students’ union to which the complaint relates has repeatedly breached its freedom of speech duty.”

Member's explanatory statement

This amendment would require the OfS to gradate the penalty it issues to a governing body or students' union according to the seriousness of the complaint that has been upheld against it.

Matt Western

42

Clause 7, page 10, line 21, at end insert—

“(8A) The scheme must provide an appeals process for governing bodies and students' unions that have had free speech complaints upheld against them.”

Member's explanatory statement

This amendment would require the free speech complaints scheme to have an appeals process for higher education providers and students' unions.

Matt Western
John McDonnell

78

Clause 8, page 11, line 22, after “OfS” insert “and an advisory board consisting of sector bodies”

Member's explanatory statement

This amendment would ensure that there is the involvement of relevant sector bodies in the sector.

Matt Western
John McDonnell

79

Clause 8, page 11, line 23, at end insert—

“(d) providing an annual update made available to students' unions and higher education institutions on—

- (i) the number and nature of complaints made to OfS regarding freedom of speech; and
- (ii) examples of what OfS believes to constitute unacceptable infringements of freedom of speech as set out in this Act.”

Member's explanatory statement

This amendment would help monitor this impact of the legislation and assist student unions and higher education institutions to stay within the law as set out in the Act by providing examples of bad practice.

Fiona Bruce 64

Schedule, page 13, line 8, after "staff" insert "and students"

Member's explanatory statement

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Michelle Donelan 17

Schedule, page 13, line 25, leave out from "subsection (1)," to end of line and insert "for "a provider" substitute "a registered higher education provider, or a students' union,""

Member's explanatory statement

This amendment is consequential on Amendment 18.

Michelle Donelan 18

Schedule, page 13, line 27, leave out "provider," and insert "registered higher education provider or of a constituent institution of such a provider,"

Member's explanatory statement

This enables costs recovery from constituent institutions in connection with the complaints scheme.

Michelle Donelan 19

Schedule, page 14, line 6, after "provider" insert ", constituent institution"

Member's explanatory statement

This amendment is consequential on Amendment 18.

Fiona Bruce 65

Schedule, page 14, line 9, after "staff" insert "and students"

Member's explanatory statement

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Fiona Bruce 66

Schedule, page 14, line 36, after “staff” insert “and students”

Member’s explanatory statement

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Michelle Donelan 20

Schedule, page 14, line 43, at end insert—

“(aa) after the definition of “a fee limit condition” insert—

““constituent institution”, in relation to a registered higher education provider, has the same meaning as in Part A1 (see section A3A(4));”;

Member’s explanatory statement

This defines “constituent institution” for the purposes of Part 1 of the Higher Education and Research Act 2017.

Fiona Bruce 67

Schedule, page 15, line 16, after “staff” insert “and students”

Member’s explanatory statement

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Fiona Bruce 58

Schedule, page 15, line 17, leave out “and within their field of expertise”

Member’s explanatory statement

This amendment is consequential on Amendment 27.

Fiona Bruce 68

Schedule, page 15, line 27, at end insert—

“and

(c) adverse impact on educational progress.”

Member’s explanatory statement

This amendment seeks to protect the right of academic freedom for students in addition to academic staff.

Michelle Donelan

21

Schedule, page 15, line 46, leave out sub-paragraphs (2) to (4) and insert—

“(2) In paragraph 1, for the words from “in relation” to the end substitute “where under section 73 the OfS imposes a requirement to pay costs on—

- (a) the governing body of a registered higher education provider,
- (b) the governing body of a constituent institution of a registered higher education provider, or
- (c) a students’ union.”

(3) In paragraph 2—

- (a) in sub-paragraph (1)—
 - (i) after “governing body” insert “or students’ union”;
 - (ii) for “73(1)” substitute “73”;
- (b) in sub-paragraphs (3) and (5), after “governing body” insert “or students’ union”.

(4) In paragraph 3(1) for “of a provider” substitute “or students’ union”.

Member’s explanatory statement

This amendment is consequential on Amendment 18.

Michelle Donelan

22

Schedule, page 16, line 15, at end insert—

“(1A) In subsection (1)—

- (a) in paragraph (b), omit the final “or”;
- (b) after paragraph (b) insert—
 - “(ba) a constituent college, school or hall or other institution in England or Wales of an institution within paragraph (b), or”.

Member’s explanatory statement

This amendment aligns section 31(1)(b) of the Counter-Terrorism and Security Act 2015 with the concepts used in the Higher Education and Research Act 2017, in order to facilitate the Minister’s other amendments to Part 2 of the Schedule.

Michelle Donelan

23

Schedule, page 17, line 4, leave out from “provider” to end of line 7 and insert “or a constituent institution of such a provider has the meaning given by section 85(6) of the Higher Education and Research Act 2017;”

Member’s explanatory statement

This amendment and the Minister’s remaining amendments to Part 2 of the Schedule clarify how section 31 of the Counter-Terrorism and Security Act 2015 applies in relation to constituent institutions of registered higher education providers.

Michelle Donelan 24

Schedule, page 17, line 13, at end insert—

““constituent institution”, in relation to a registered higher education provider, has the same meaning as in Part A1 of the Higher Education and Research Act 2017 (see section A3A(4) of that Act);”

Member’s explanatory statement

See the explanatory statement to Amendment 23.

Michelle Donelan 25

Schedule, page 17, line 22, leave out from “provider” to end of line 24 and insert—

“(aa) a constituent institution of such a provider, and”

Member’s explanatory statement

See the explanatory statement to Amendment 23.

Michelle Donelan 26

Schedule, page 17, line 28, at end insert—

“(e) after the definition of “qualifying institution” (inserted by paragraph (d)) insert—

““registered higher education provider” has the meaning given by section 3(10)(a) of the Higher Education and Research Act 2017.””

Member’s explanatory statement

See the explanatory statement to Amendment 23.

Sir John Hayes 70

Schedule , page 17, line 36, at end insert—

“14A After section 32, insert—

“32A Section 26(1) duty: exception for higher education providers

For the purposes of section 26(1) of this Act, the obligation to have due regard to the need to prevent people from being drawn into terrorism shall not apply to any decision made by a registered higher education provider that directly concerns:

- (a) the content or delivery of the curriculum;
 - (b) the provision of library or other teaching resources; or
 - (c) research carried out by academic staff.””
-

Michelle Donelan

NC1

To move the following Clause—

“Duties of constituent institutions

After section A3 of the Higher Education and Research Act 2017 (inserted by section 1) insert—

“Duties of constituent institutions

A3A Duties of constituent institutions

- (1) Sections A1 to A3 apply in relation to the governing body of a constituent institution of a registered higher education provider as they apply in relation to the governing body of the provider.
- (2) Accordingly, in the application of those sections by virtue of subsection (1), references to “the provider” are to be read as references to the constituent institution.
- (3) The duties of the governing body of a constituent institution of a registered higher education provider under sections A1 to A3 do not affect the application of any initial or ongoing registration conditions imposed on the provider under Part 1.
- (4) In this Part—

“constituent institution”, in relation to a registered higher education provider, means any constituent college, school, hall or other institution of the provider;

“governing body”, in relation to a constituent institution of a registered higher education provider, has the same meaning as in Part 1 of this Act.””

Member’s explanatory statement

This new clause secures that the new duties relating to freedom of speech apply to colleges and other constituent institutions of registered higher education providers in England.

Matt Western

NC2

To move the following Clause—

“Providers’ duty to ensure adequate resources for students’ unions

After section A5 of the Higher Education and Research Act 2017 (inserted by section 2) insert—

“A5A Resourcing of students’ unions

The provider must take steps to ensure that students’ unions have sufficient resources to carry out their duties under sections A4 and A5 of this Act.””

Matt Western

NC3

To move the following Clause—

“Select committee review

- (1) The Secretary of State must, at least once every calendar year, invite a select committee of the House of Commons to carry out a review into the effectiveness of the provisions of this Act.
- (2) The Secretary of State must invite the select committee to carry out its first review within one year of this Act being passed.”

Matt Western

NC4

To move the following Clause—

“Other student bodies

After section A4 of the Higher Education and Research Act 2017 (inserted by section 2) insert—

“A4A Application of students’ union provisions to other student bodies

- (1) In this Part, where a provision applies to a students’ union, it should also be taken to apply to any other student body.
- (2) For the purposes of this section “other student body” means—
 - (a) any Junior Common Room or Middle Common Room of a constituent institution; and
 - (b) any club or society made up of students at a higher education institution, whether or not the club or society is affiliated to the students’ union.””

Member’s explanatory statement

This amendment would expand the definition of a student body to include any Junior Common room or Middle Common room of a constituent institution or any club or society at a higher education institution, regardless of whether student union affiliation requirements have been complied with.

Fiona Bruce

NC5

To move the following Clause—

“Unfair dismissal

After section A6 of the Higher Education and Research Act 2017 (inserted by section 3) insert—

“A7 Unfair dismissal

An employee who is dismissed shall be regarded for the purposes of Part X of the Employment Rights Act 1996 as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is any act or omission which contravenes the duty in section A1.””

Member's explanatory statement

This new clause ensures that employment tribunals have jurisdiction to hear claims relating to the duty in section A1.

Matt Western
John McDonnell

NC6

To move the following Clause—

"Sunset clause

- (1) This Act expires at the end of the period of 3 years beginning with the day on which it is passed.
- (2) A Minister of the Crown may by regulations made by statutory instrument remove any of the provisions of this Act after one year from the day on which it is passed if he is not satisfied that the provision is working as intended.
- (3) Before three years from the day on which this Act is passed a Minister of the Crown must present to Parliament a written report on the effectiveness of the provisions of the Act.
- (4) A Minister of the Crown may by regulations made by statutory instrument renew this Act, subject to parliamentary approval in full or in part, or make transitional, transitory or saving provision in connection with the expiry of any provision of this Act.
- (5) Regulations under this section shall be subject to the affirmative procedure."

Member's explanatory statement

This new clause would mean the legislation would have to be renewed by Parliament after a period of three years.

Matt Western
John McDonnell

NC7

To move the following Clause—

"Independent Advisory Body to advise the Director and OfS on the operation of the scheme

- (1) Following the passing of this Act, the Secretary of State shall establish an independent advisory body (IAB) to give independent advice to the Director and OfS on the operation of the Act.
- (2) The independent advisory body shall comprise of representatives of Universities UK, the Universities and Colleges Union and the National Union of Students.
- (3) The advice of IAB shall be public except where mutually agreed by the Director and the IAB."

Member's explanatory statement

This new clause would establish an advisory body of representative bodies within the sector to advise the Director and the OfS.

Matt Western
John McDonnell

NC8

To move the following Clause—

"Guidance on making a complaint

- (1) Notwithstanding clause 11, this Act cannot come into force until the Secretary of State publishes guidance for students, university staff, and others setting out which complaint route each should pursue, through which regulatory bodies, and in which order, when making a complaint relating to freedom of speech."

Member's explanatory statement

This new clause would ensure that those engaging with universities knew which was the appropriate route to make complaints in the first instance, and how to escalate the process should that be necessary.

John McDonnell

NC9

☆ To move the following Clause—

"Appointment of the Director for Freedom of Speech and Academic Freedom

- (1) The appointment of the Director for Freedom of Speech and Academic Freedom shall be subject to a confirmatory resolution of the relevant Select Committee of the House of Commons.
- (2) The Secretary of State shall when appointing the Director for Freedom of Speech and Academic Freedom have regard to the views of an Independent Advisory Body."

Member's explanatory statement

This new clause would require the appointment of the Director for Freedom of Speech and Academic Freedom to be confirmed by the Education Select Committee, and for the Secretary of State to consult the Independent Advisory Body when appointing the Director for Freedom of Speech and Academic Freedom.

Order of the House

[12 July 2021]

That the following provisions shall apply to the Higher Education (Freedom of Speech) Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 23 September 2021.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and Third Reading

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.

Order of the Committee

[7 September 2021]

That—

1. the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 7 September) meet—
 - (a) at 2.00 pm on Tuesday 7 September;
 - (b) at 3.30 pm and 5.30pm on Monday 13 September;
 - (c) at 9.25 am and 2.00 pm on Wednesday 15 September;
 - (d) at 11.30 am and 2.00 pm on Thursday 16 September;
 - (e) at 3.30 pm and 5.30pm on Monday 20 September;
 - (f) at 9.25 am and 2.00 pm on Wednesday 22 September;

2. the Committee shall hear oral evidence in accordance with the following Table:

Date	Time	Witness
Tuesday 7 September	Until no later than 10.30 am	Professor Kathleen Stock OBE, Professor of Philosophy, University of Sussex; Dr Arif Ahmed, Reader in Philosophy, University of Cambridge and Fellow of Gonville and Caius College
Tuesday 7 September	Until no later than 11.25 am	Trevor Philips OBE; Professor Nigel Biggar, Regius Professor of Moral and Pastoral Theology at the University of Oxford
Tuesday 7 September	Until no later than 2.45 pm	Professor Stephen Whittle, Professor of Equalities Law, Manchester Metropolitan University
Tuesday 7 September	Until no later than 3.30 pm	Shakespeare Martineau
Tuesday 7 September	Until no later than 4.15 pm	Policy Exchange
Tuesday 7 September	Until no later than 5.00 pm	Free Speech Union
Monday 13 September	Until no later than 4.15 pm	Professor Eric Kaufmann, Professor of Politics, Birkbeck College, University of London; Professor Matthew Goodwin, Professor of Politics and International Relations, University of Kent and Director of the Centre for UK Prosperity at the Legatum Institute
Monday 13 September	Until no later than 4.45 pm	British Future
Monday 13 September	Until no later than 5.15 pm	Office for Students
Monday 13 September	Until no later than 6.00 pm	Jonathan Grant, Professor of Public Policy, King's College London; Paul Layzell, Principal, Royal Holloway, University of London
Monday 13 September	Until no later than 6.45 pm	Antisemitism Policy Trust; National Union of Students

3. proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 9; the Schedule; Clauses 10 to 12; new Clauses; new Schedules; remaining proceedings on the Bill;

4. the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 23 September.