
Committee Stage: Thursday 9 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 Any withdrawn amendments are listed at the end of the document.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.

★ New Amendments.

New Amendments: 27 to 29

Fiona Bruce

28

★ Clause 1, page 2, line 10, leave out from “provider” to the end of line 11 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”.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.
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