



# Higher Education (Freedom of Speech) Act 2023

## 2023 CHAPTER 16

### *Duties to protect freedom of speech*

PROSPECTIVE

#### **3 Duties of students' unions**

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

#### *“Duties of students' unions*

##### **A5 Duty to take steps to secure freedom of speech**

- (1) A students' union for students at a registered higher education provider that is eligible for financial support must take the steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take in order to achieve the objective in subsection (2).
- (2) That objective is securing freedom of speech within the law for—
  - (a) members of the students' union,
  - (b) students of the provider,
  - (c) staff of the students' union,
  - (d) staff and members of the provider and of its constituent institutions, and
  - (e) visiting speakers.
- (3) The objective in subsection (2) includes securing that—
  - (a) the use of any premises occupied by the students' union is not denied to any individual or body on grounds specified in subsection (4),

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- (b) the terms on which such premises are provided are not to any extent based on such grounds, and
  - (c) affiliation to the students' union is not denied to any student society on grounds specified in subsection (4)(b).
- (4) The grounds referred to in subsection (3) are—
- (a) in relation to an individual, their ideas or opinions;
  - (b) in relation to a society or other body, its policy or objectives or the ideas or opinions of any of its members.
- (5) In order to achieve the objective in subsection (2), a students' union for students at a registered higher education provider that is eligible for financial support must secure that, apart from in exceptional circumstances, use by any individual or body of premises occupied by the students' union is not on terms that require the individual or body to bear some or all of the costs of security relating to their use of the premises.
- (6) In this Part—
- “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;
  - “registered higher education provider that is eligible for financial support” means a registered higher education provider that is an eligible higher education provider for the purposes of section 39;
  - “students' union”, in relation to any institution, has the same meaning as it has in Part 2 of the Education Act 1994 in relation to establishments to which that Part applies (see section 20 of that Act).
- (7) 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.

### **A6 Code of practice**

- (1) A students' union to which section A5 applies must, with a view to facilitating the discharge of its duties under that section, maintain a code of practice setting out the matters referred to in subsection (2).
- (2) Those matters are—
- (a) the students' union's values relating to freedom of speech and an explanation of how those values uphold freedom of speech,
  - (b) the procedures to be followed by its staff and its members who are students of the registered higher education provider referred to in section A5(1) in connection with the organisation of—
    - (i) meetings which are to be held on the premises occupied by the students' union and which fall within any class of meeting specified in the code, and
    - (ii) other activities which are to take place on those premises and which fall within any class of activity so specified,

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- (c) the conduct required of such persons in connection with any such meeting or activity, and
- (d) the criteria to be used by the students' union in making decisions about—
  - (i) the union's support and funding for events and activities to which the duties in section A5 are relevant, and
  - (ii) whether to allow the use of premises and on what terms (which must include its criteria for determining whether there are exceptional circumstances for the purposes of section A5(5)).
- (3) The code of practice may deal with such other matters as the students' union considers appropriate.
- (4) A students' union to which section A5 applies must take the steps that are reasonably practicable for it to take (including where appropriate the initiation of disciplinary measures) in order to secure compliance with its code of practice.
- (5) A students' union to which section A5 applies must, at least once a year, bring—
  - (a) the provisions of section A5, and
  - (b) its code of practice under this section,to the attention of all of its members who are students of the provider.”

#### **Commencement Information**

**II** S. 3 not in force at Royal Assent, see [s. 13\(3\)](#)

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**Changes to legislation:**

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