Consultation

Office for Students

Consultation on new free speech conditions of registration

This consultation runs from 17 September 2026 to 23 November 2026.

Reference OfS 2026.46

Enquiries to regulation@officeforstudents.org.uk

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Contents

Executive summary

Freedom of speech and academic freedom are fundamental to the core mission of universities and colleges – the pursuit of knowledge. The robust exchange of ideas provides the essential underpinning for a high quality education. As the statutory regulator for higher education in England, the OfS will support institutions to protect these basic rights.

This consultation seeks views on how the Office for Students (OfS) should regulate new conditions relating to freedom of speech and academic freedom in English higher education. These conditions come into force on 1 April 2027. The conditions are required by law, so the consultation focuses on the supporting guidance and the OfS's approach to assessing compliance.

Deadline for responses: 23 November 2026

How to respond: Please use the online survey

Who should respond:

- anyone with an interest in English higher education
- students, staff, academics and leaders at higher education providers
- schools and further education colleges
- employers, third sector organisations
- policy bodies

Enquiries: regulation@officeforstudents.org.uk

If you require this document in an **alternative format**, or you need assistance with the online form, contact regulation@officeforstudents.org.uk. (**Please note:** this email address should **not** be used for submitting your consultation response.)

Reasons for this consultation

In August 2025 new duties relating to freedom of speech in higher education came into force under the Higher Education (Freedom of Speech) Act 2023 (HEFSA).[1] These apply to higher education provision in England only. They do not require registered providers or their constituent institutions to take steps to secure freedom of speech in respect of their activities outside England.

On 20 April 2026 the government announced the commencement of new powers for the OfS to enforce compliance with these duties.[2] It also announced the new free speech complaints scheme, which opened on 1 September.[3]

[1] See Changes to regulation - Office for Students.

[2] See New powers to protect vital free speech at universities - GOV.UK.

[3] See Free speech complaints - Office for Students.

The Higher Education and Research Act 2017 (HERA), as amended by HEFSA, will require us to introduce new conditions of registration to ensure providers safeguard freedom of speech and academic freedom for their students, staff, members, applicants to academic posts and visiting speakers.

One of the new conditions relates to higher education providers' governing documents (E11.1) and to their management and governance arrangements for freedom of speech (E11.2). This will apply when a provider registers and while it remains registered. Together these are 'initial' and 'ongoing' condition E11.

A second new condition covers provider compliance with the new free speech duties (A1 to A3 of HERA).[4] This is ongoing condition E12 and will apply while a provider remains registered.

These new conditions will be effective from **1 April 2027** and will apply to all providers on the OfS register and those seeking to register to deliver higher education in England after that date.

What we want to achieve

We want to ensure that:

- providers comply with the free speech duties
- their governing documents are consistent with compliance
- their management and governance arrangements are adequate and effective to secure compliance.

Our intention is that the new requirements are not unnecessarily burdensome and that (in relation to registration) they should not unnecessarily extend registration timescales or make the process unnecessarily onerous for providers or the OfS.

For further education colleges without or not seeking degree awarding powers (DAPs)

In July we simplified our requirements for further education colleges without or not seeking DAPs to minimise regulatory burden,[5] including the disapplication of initial condition E7 (a set of governing documents and business plans) and E2 (management and governance). Rather than reapplying conditions E7 and E2 to regulate compliance with free speech duties, we are proposing to take an approach that will put less of a burden on these colleges.

At the point of registration, for the purposes of condition E11.1, we will require these providers to submit all governing documents they have that fall within the defined set of governing documents and to confirm that all of their governing documents are consistent with compliance with their free speech duties. For the purposes of initial condition E11.2, we will require them to submit a self-assessment of their governance arrangements, including, for example:

[4] See Higher Education and Research Act 2017- GOV.UK.

[5] See OfS simplifies its requirements for further education colleges to minimise regulatory burden - Office for Students.

- how they will assess risks relating to freedom of speech
- how they ensure board members have the skills and knowledge to comply with the free speech duties
- how they will handle free speech complaints
- what resources they have for free speech compliance.

What do we want your views on?

New initial and ongoing condition on providers' governing documents and their management and governance arrangements for freedom of speech (E11)

We are seeking views on:

- proposed guidance on how providers can comply with the requirements of the new condition E11 and how we will assess provider compliance.

This condition relates to a provider's governing documents and its management and governance arrangements for securing compliance with its free speech duties. This guidance aims to help providers and their governing bodies understand how they can comply with the condition. It also sets out how we plan to assess provider compliance in a clear, risk-based and proportionate way both at registration and on an ongoing basis.

New ongoing condition on compliance with the free speech duties (E12)

We are seeking views on:

- proposed guidance on how we will assess compliance with the free speech duties as required by condition E12.
- proposed new sections to the existing free speech guidance (Regulatory advice 24)[6] in relation to the duties to:
  - secure freedom of speech under HERA section A1;
  - maintain, and secure compliance with, a code of practice under section A2; and
  - promote the importance of freedom of speech under section A3.[7]

The new guidance and expanded Regulatory advice 24 aim to help registered providers and their constituent institutions:

- comply with the requirements of the duties
- understand what information we may consider
- understand how the free speech complaints scheme may inform our regulatory work.

[6] See Regulatory advice 24: Guidance related to freedom of speech - Office for Students.

[7] See Higher Education and Research Act 2017 - GOV.UK - Section A1; Higher Education and Research Act 2017 - GOV.UK - Section A2; and Higher Education and Research Act 2017 - GOV.UK - Section A3.

What we are not consulting on

We are **not** consulting on whether we introduce the new conditions because we will be required to do this by law. We are also **not** consulting on:

- the wording of the conditions as we have aligned this with the wording of the legislation
- the underlying free speech duties themselves
- the definition of 'governing documents' for the purposes of E11.1 as this is a statutory term (the definition of which is aligned with caselaw)
- moving Regulatory advice 24, free speech guidance, into the regulatory framework as new Annex D: Free speech guidance
- the three-step framework set out in Regulatory advice 24, free speech guidance (as we have already consulted on this). However, we are consulting on our proposal to use this to assess providers against E12 in relation to the A1 'secure' duty (as set out in our proposed E12 guidance)
- the content of our existing published Regulatory advice 24.

Who should respond to the online survey

We are particularly (but not only) interested in hearing from students, staff, students' union representatives and leaders at providers. We welcome views from all types and size of provider and students' unions. We welcome responses from:

- anyone with an interest in English higher education
- students, staff, academics and leaders at higher education providers
- schools and further education colleges
- employers, third sector organisations
- policy bodies.

You can respond via the online survey and you can find out more about our proposals and ask questions at one of our briefing events. Further details will be on the OfS website.

Next steps

The consultation will close on **23 November 2026**. We will then analyse and consider the responses and make decisions. We expect to publish our final decision in spring 2027 ahead of the conditions coming into effect on 1 April 2027.

We will also continue to engage with the sector. If providers or constituent institutions have free speech concerns, or need advice on any existing or contemplated policies or procedures in relation to freedom of speech, we would welcome an early conversation. They can get in touch at regulation@officeforstudents.org.uk.

Consultation questions

Question 1: Do you have any comments on our proposed guidance for condition E11?

Question 2a: Do you have any comments about the proposed amendments to Regulatory notice 7?

Question 2b: Do you have any comments about the proposed amendments to Regulatory notice 7 for further education colleges not seeking DAPs?

Question 3: Do you have any comments on our proposed guidance for condition E12?

Question 4: Do you have any comments on the proposed changes to Regulatory advice 24 (which will become Annex D of the regulatory framework)?

Question 5: Are there aspects of the proposals you found unclear? If so, please specify which, and tell us why.

Question 6: In your view, are there ways in which the objectives of this consultation could be delivered more efficiently, more effectively and/or with less burden than proposed here?

Question 7: Do you have any comments about the potential impact of these proposals on groups or individuals sharing relevant protected characteristics under equality legislation?

Question 8: Do you have any comments about any unintended consequences of these proposals, for example, for particular types of provider, constituent institution or relevant students' union or for any specific groups of students?

Proposal 1: Guidance on 'governing documents' and 'adequate and effective management and governance arrangements'

Summary

Context: Under new condition of registration E11, a provider must have governing documents that are 'consistent with compliance' with its free speech duties, and adequate and effective management and governance arrangements to secure its compliance with those duties.[8]

Proposal: We are proposing guidance on what the requirements of this condition mean in practice, how providers can comply, and how we will assess compliance both at registration and on an ongoing basis.

Effect of the proposal: This guidance helps providers understand how they can comply with the condition and makes transparent how the OfS plans to assess provider compliance in a clear, risk-based and proportionate way.

Key points

- Our new condition E11 relates to a provider's governing documents and its management and governance arrangements for securing compliance with the free speech duties (at sections A1, A2 and A3 of HERA).[9]
- Condition E11 will apply when a provider registers and while it remains registered (it is an 'initial' and 'ongoing' condition).
- We are seeking feedback on the proposed guidance for condition E11, which explains:
  - the requirements of the condition
  - compliant and non-compliant behaviours
  - how we will monitor and assess provider compliance with the condition.
- We are seeking feedback on our proposed guidance on what it means for governing documents to be 'consistent with compliance'.
- We are seeking feedback on our proposed guidance that, for a provider's management and governance arrangements to be 'adequate and effective', the provider should have the capacity and resources to deliver compliance in practice.

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[8] We have published the draft text of condition E11 in Annex A. Sections A1, A2, and A3 of the Higher Education and Research Act 2017 (HERA) describe the duties to protect freedom of speech. See Higher Education and Research Act 2017 - GOV.UK.

[9] See Higher Education and Research Act 2017 - GOV.UK - Section A1; Higher Education and Research Act 2017 - GOV.UK - Section A2; and Higher Education and Research Act 2017 - GOV.UK - Section A3.

- We are not seeking feedback on introducing the new condition because we are required by law to introduce it and its wording is the same as in legislation.
- We are not seeking feedback on the definition of 'governing documents' for the purposes of E11.1 as this is a statutory term (the definition of which is aligned with caselaw).

Explanation

1. We will have a statutory duty to introduce new mandatory conditions of registration under HERA. The first of these (condition E11) will cover two areas: a provider's governing documents and its management and governance arrangements. E11.1 focuses on a provider's governing documents. E11.2 focuses on a provider's management and governance arrangements.

2. We have intentionally aligned the wording in the condition with the language in the statute/legislation.[10] We are **not** seeking views on the specific wording of the condition requirements as part of this consultation because we must introduce them by law. We think this is the least burdensome approach to introducing the new mandatory conditions because it does not depart from what is required by statute and it does not introduce any additional requirements.

3. In light of the judgment in the University of Sussex v the Office for Students, we have adopted a definition of 'governing documents' to mean 'governing documents that have some governing effect, which goes to the constitution or governance of the higher education provider'.[11] We are **not** consulting on this definition of governing documents as part of this consultation because this is a matter of statutory interpretation.

4. In the guidance, we explain our approach to assessing compliance with condition E11 at registration and as an ongoing condition of registration. The guidance explains:

   - what providers must do
   - how providers can meet the requirements
   - how we will check and monitor compliance.

   It also explains what action we may take if a provider does not comply. We are seeking views on this guidance as part of this consultation.

5. The condition will apply to providers that apply to register after 1 April 2027 and to all registered providers from that date. Introducing the new initial condition means we will also have to make changes to Regulatory notice 7 to reflect our proposed guidance. Those changes are set out at Annex D and Annex E.

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[10] See Higher Education (Freedom of Speech) Act 2023- GOV.UK - Section 6.

[11] See The University of Sussex -v- The Office for Students - Courts and Tribunals Judiciary.

6. We recognise the diversity in providers' sizes, shapes, legal structures, kinds of provision and risk profiles. We propose, therefore, that the way we assess all parts of the new condition should take this into account.

7. In the case of governing documents, we recognise that what is consistent with compliance may look different for different providers. We therefore do **not** propose that all providers should adopt the same kinds of governing documents or a single form of wording. Instead, we would ask providers to consider their governing documents in their own contexts, while being clear that the documents must not prevent compliance with the relevant statutory duties.

8. In the same way, 'adequate and effective management and governance arrangements' may look different from provider to provider. For instance, it is likely that a smaller provider with a simple organisational model would have simpler management and governance arrangements than a larger, more complex provider.

Governing documents

9. E11.1 requires that a provider's governing documents are 'consistent with compliance' by its governing body with its free speech duties. We propose that this means the documents must not include anything that prevents the provider from meeting those duties. In the guidance, we explain what this means and provide examples that illustrate how elements of a governing document might prevent compliance with the duties.

10. Our proposed guidance explains how we will assess compliance with the condition at registration. We propose to focus our review on a provider's foundational documents and the documents outlined in initial condition E7 (as described in paragraph 7 of the guidance). In our assessment, we will check whether anything in that set of governing documents prevents compliance with its free speech duties. In the event that a provider has a governing document that does not fall within that set, it will be required to check that document for compliance and to notify us of any concerns (as detailed in our proposed amendments to Regulatory notice 7 in Annex D and Annex E of this document). We have set out an adjusted approach for further education colleges not seeking DAPs above (page 4) and in the guidance. Our approach aims to avoid unnecessary duplication of assessment and to limit the burden on applicants and registered providers.

11. For monitoring and assessing compliance after a provider has registered with us, we propose to adopt our general risk-based approach to monitoring and intervention as specified in the regulatory framework. In the guidance, we include a non-exhaustive list of information we may review as part of our assessment and also note that we may request further information from a provider to understand the full context. We think this approach is the least burdensome on providers because they are familiar with this practice and it is in line with how we monitor and assess compliance across all other conditions of registration. There is further information about our approach in the proposed guidance text in Annex A.

12. Our proposed guidance explains that all registered providers should check whether their governing documents are consistent with compliance with their free speech duties before the condition comes into effect on 1 April 2027. In doing so, the provider should consider its specific context, including any possible interaction with other regulatory and legal requirements (if applicable). Given the diversity of providers delivering higher education, we expect compliance to look different across providers and that they will know how their

contexts impact what compliance looks like. To help providers in their review, our guidance proposes some key questions they might consider. We also identify specific behaviours that could indicate compliance and non-compliance with the condition.

Adequate and effective management and governance arrangements

13. E11.2 requires a provider to have adequate and effective management and governance arrangements to secure compliance with the free speech duties. In our proposed guidance, we set out at paragraph 21 that an arrangement is ‘adequate’ if it can achieve compliance, and ‘effective’ if it delivers compliance in practice. We explain that we would expect that for a provider’s management and governance arrangements to be both adequate and effective, it should have the capacity and resources to deliver its compliance in practice. In our proposed guidance we set out at paragraph 24 a non-exhaustive list of things that ‘capacity and resources’ includes for the purposes of this condition.

14. Providers are usually best placed to understand their specific context and so will know what shape their arrangements should take to secure compliance with their duties. In our proposed guidance, we list at paragraph 26 the things that we would expect a provider to consider when it determines whether its arrangements are adequate and effective, including (for instance) in relation to understanding of the duties, training, escalation and the identification of risk. Our proposed guidance also recognises that risks may change over time, particularly as a provider’s activities, policies and procedures develop. Providers should consider how to appropriately adapt and balance their capacity and resources across the organisation as risks change and new risks emerge.

15. In our proposed guidance, we explain that we require a provider to submit its free speech code of practice (‘the code’) at registration. Our assessment of the code in relation to E11.2 will focus on whether it meets all the legal requirements, but it will also provide insight into a provider’s management and governance arrangements for securing compliance with the duties. We believe this is a less burdensome approach than requiring a provider to submit another document that would duplicate information found in the code.

16. We also understand that the code may not be an exhaustive document of all the arrangements a provider might have in place to secure compliance with its duties. To get a holistic view of a provider’s arrangements, we also propose to assess whether the arrangements are adequate and effective by using information a provider is already required to submit in relation to conditions E7 and D. We may require these providers to complete a self-assessment where management and governance arrangements for the purpose of E11.2 are not clearly set out in these documents. Our assessment may also consider other relevant information that is submitted as part of the registration application or that we already hold, such as third-party notifications, the outcome of any OfS quality assessment, data submitted by the provider, and information received from other public bodies. We propose this approach to reduce the burden on providers wishing to register and to ensure that timelines for registration are not extended.

17. Earlier this year, we disapplied a number of conditions of registration in the areas of financial health, and management and governance for further education colleges that do not have or are not seeking DAPs.[12]

18. We do not propose to reapply those conditions to regulate compliance with free speech duties. Instead, we propose a lower-burden approach. These providers would submit all the governing documents they hold that fall within the defined set of governing documents (see paragraph 7 of the condition E11 proposed guidance). These providers would also submit a self-assessment of their management and governance arrangements as part of a registration application using the template at Annex G. Where condition D on financial sustainability does not apply, these providers would use the template at Annex F to tell us whether they have been subject to any Department for Education intervention about financial health, financial management or other controls.

19. For ongoing compliance, we explain in the guidance that we propose to adopt our general approach to monitoring and intervention of compliance with this condition (as we do with all other conditions of registration).[13] Where we identify increased risk, we will engage with the provider over our concerns and may seek further information to understand the full context of a provider's compliance with E11. This also includes reviewing any relevant information that we hold, including (but not limited to) a provider's financial information, any third-party notifications and reportable events, any free speech complaints or any data submitted to the us as part of monitoring of any other condition of registration.

20. Similar to our proposal above (paragraph 18) where a provider is not required to comply with condition D, we explain in the guidance that we may need to request financial information from the provider if we are unable to get the information via other means. We will aim to do so in the least burdensome way, including by requesting this information directly from Department for Education (DfE) where appropriate.

21. We explain in the guidance that providers should be able to demonstrate what arrangements they have in place to secure compliance with their duties. Because of this, providers should consider how best to record what management and governance arrangements they have in place. We will not routinely request sight of this record but instead suggest it as a matter of good practice.

22. We think this approach is proportionate because it focuses our assessment on the information most closely linked to the arrangements a provider has in place to secure compliance with the free speech duties. This approach aims to help us identify significant risks to, or gaps in, compliance without asking providers to submit every policy or operational document that may relate to freedom of speech. As such we think this approach is aligned with how we regulate all other conditions of registration.

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[12] See OfS simplifies its requirements for further education colleges to minimise regulatory burden - Office for Students.

[13] See Regulatory advice 15: Monitoring and intervention.

Question 1:

Do you have any comments on our proposed guidance for condition E11?

Question 2a:

Do you have any comments about the proposed amendments to Regulatory notice 7?

Question 2b:

Do you have any comments about the proposed amendments to Regulatory notice 7 for further education colleges not seeking DAPs?

Proposal 2: Guidance on compliance with the free speech duties

Summary

Context: Under new condition of registration E12, a provider must comply with its duties under sections A1, A2 and A3 of HERA.

Proposal: We are proposing how we will assess compliance with the free speech duties, what information we may consider and how the free speech complaints scheme may inform our regulatory work.

Effect of the proposal: The proposal would set out what providers need to do to comply with the condition, while allowing the OfS to respond proportionately where there is evidence of a breach or an increased risk of one.

Key points

- The free speech duties require providers to take reasonably practicable steps to secure freedom of speech within the law (A1), to maintain a code of practice (A2) and to promote the importance of freedom of speech and academic freedom in the provision of higher education (A3).

- We are not seeking feedback on introducing the new condition or its wording because we are required by law to introduce it and its wording is the same as in legislation.

- We have already consulted on guidance to the A1 and A2 duties when consulting on Regulatory advice 24.[14] We will not be re-consulting on that guidance.

- While we are **not** consulting on the three-step framework set out in our published guidance on freedom of speech, we propose to use this in assessing providers against E12 in relation to the 'secure' duty.[15]

- We would assess providers against E12 in relation to the 'code' duty by considering whether they maintain a code of practice that covers the required matters and take reasonably practicable steps to secure compliance with their code.

- We would assess providers against E12 in relation to the 'promote' duty by considering whether and how providers have promoted the importance of freedom of speech and academic freedom in higher education.

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[14] See Regulatory advice 24: Guidance related to freedom of speech - Office for Students.

[15] See Section 2: Framework for assessment – Regulatory advice 24: Guidance related to freedom of speech - Office for Students.

- Information from the OfS free speech complaints scheme may inform our assessment of E12 compliance, but a complaints outcome will not, by itself, determine regulatory action in relation to E12.

- Because condition E12 requires providers to comply with duties A1, A2 and A3, we propose that its guidance explains that the descriptions and illustrations in Annex D: Free speech guidance (see Proposal 3) are non-exhaustive examples of behaviour suggesting compliance or non-compliance with E12.

Assessment

23. We have a statutory duty to introduce condition E12 as an ongoing condition of registration. The condition itself will require the governing body of each registered provider to comply with its duties under sections A1, A2 and A3 of HERA.[16] The guidance that we are proposing to accompany the condition sets out how we would expect to assess, monitor and, where necessary, enforce compliance with those duties.

24. Our approach aims to make clear that E12 is not only about whether a provider has relevant policies in place. It is about whether the governing body complies with the statutory duties in practice. These include:

    - the duty to take steps to secure freedom of speech

    - the duty to maintain, and secure compliance with, a code of practice

    - the duty to promote the importance of freedom of speech and academic freedom.

25. For assessing ongoing compliance with condition E12, the OfS would use its general risk-based approach to monitoring and intervention.[17] Where the OfS identifies increased risk, it may seek further information to understand the provider context and specific circumstances of any potential risk factor.

    a. **For the A1 'secure' duty**, we would use the three-step framework set out in our existing free speech guidance, Annex D (currently Regulatory advice 24[18]) to assess compliance with the condition. In our assessment we will also consider how a provider has made decisions that may be relevant to our risk assessment of its ongoing compliance with E12 (and/or condition E11.2).

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[16] See Higher Education and Research Act 2017 - GOV.UK - Section A1; Higher Education and Research Act 2017 - GOV.UK - Section A2; and Higher Education and Research Act 2017 - GOV.UK - Section A3.

[17] See Regulatory advice 15: Monitoring and intervention - Office for Students.

[18] See Regulatory advice 24: Guidance related to freedom of speech - Office for Students.

b. **For the A2 'code' duty**, we would consider whether the provider, with a view to facilitating compliance with its A1 duty:

   i. maintains a code of practice that covers the required content

   ii. takes reasonably practicable steps secure compliance with that code

   iii. brings it to the attention of its students at least once a year.

c. **For the A3 'promote' duty**, we would consider the actions a provider has taken to promote the importance of freedom of speech within the law and academic freedom for academic staff in the provision of higher education. When assessing compliance, the OfS may look at evidence of the steps a provider has taken to promote the importance of both principles. We would also look at other information we already have or that we have sought, to decide whether the provider is meeting the duty, has breached it or is at risk of breaching it.

26. The OfS free speech complaints scheme will be one source of regulatory information that we propose to use as a part of our general monitoring and assessment of compliance with the conditions of registration. Our proposed E12 guidance explains at paragraphs 18 to 22 how we propose to use information from the complaints scheme when we assess whether a provider is complying with condition E12.

27. We have included this guidance here because a complaint may contain information about a provider's policies, decisions, actions or failures to act that would help us decide whether it has complied with its duties. Providers should understand that information from the complaints scheme may be relevant to any general monitoring and assessment of compliance with the free speech conditions (E11 and E12), as well as any other condition of registration. Where appropriate, we propose to use information from the complaints scheme to inform our view of risk across all conditions of registration. This does not differ from our approach to other forms of intelligence we receive. However, it is important to note that a justified or partly justified free speech complaint would be considered indicative of a breach of condition E12.

28. We are proposing this approach to be transparent with providers on how we may use information received via the complaints scheme in our regulatory function. The proposed approach maintains a clear separation between the complaints function and the regulatory function, while allowing relevant complaints information to inform our assessment of risk and compliance across all conditions of registration. We consider this is an appropriate and proportionate stance that allows us to take a risk-based approach. We expect our guidance on this to help providers understand how complaints outcomes can contribute to regulatory information without replacing the OfS's wider assessment of compliance, particularly with regard to condition E12.

Question 3

Do you have any comments on our proposed guidance for condition E12?

Proposal 3: Annex D guidance on the free speech duties

Summary

- **Context**: We introduced Regulatory advice 24 to help providers understand and comply with their duties to take reasonably practicable steps to secure lawful freedom of speech and academic freedom (A1) and maintain a free speech code of practice (A2), and we have now decided to make this Annex D of our regulatory framework.[19]
- **Proposal**: We are proposing to include in Annex D: additional guidance on parts of the 'secure' duty (A1) and the 'code' duty (A2), and new guidance on the duty to promote the importance of freedom of speech (A3).
- **Effect of the proposal**: New Annex D to the regulatory framework will act as the guidance for the purpose of helping registered providers to comply with the A1, A2 and A3 duties and to help providers comply with condition E12.

Key points

- To give providers guidance to help them comply with their free speech duties (and therefore comply with condition E12), we will make the existing guidance in Regulatory advice 24 part of the regulatory framework as new Annex D.
- We will not be consulting on the content of that published guidance as we have already done so.
- We are seeking feedback on our proposed additional guidance for Annex D: Free speech guidance on parts of the 'secure' duty (A1) and the 'code' duty (A2), and new guidance on the duty to promote the importance of freedom of speech (A3).

Explanation

29. We published our current free speech guidance (Regulatory advice 24) in June 2025 to help registered providers and their constituent institutions understand their legal duties to secure freedom of speech and to have a code of practice. This guidance was originally consulted on in March 2024.

30. We will add the current guidance to the regulatory framework as new Annex D. This is because we are required by law to provide guidance in the regulatory framework on how providers can comply with their A1, A2 and A3 duties as part of condition E12. The guidance to condition E12 would direct registered providers to new Annex D. Including the guidance as an annex will also allow us to:

    a. avoid duplicating guidance on the A1, A2 and A3 duties that registered providers need to follow, i.e. avoid maintaining existing guidance Regulatory advice 24 and substantively replicating this in new E12 guidance for the regulatory framework

[19] See Regulatory advice 24: Guidance related to freedom of speech - Office for Students.

b. minimise burden to registered providers as many of them have been using this guidance already to help them comply with their duties (for over a year) and are therefore familiar with it

c. continue to provide guidance to constituent institutions and users of the complaints scheme on their legal duties and rights without their having to disentangle this from matters that are relevant only to registered providers in condition E12.

31. We are not seeking feedback on the decision to add the current guidance to the regulatory framework as Annex D because, as outlined in paragraph 30, we are required by law to provide guidance in the regulatory framework on compliance with E12 and therefore the underlying duties A1-A3. We are also not seeking feedback on the existing content of the current guidance as we previously consulted on this.

32. We are seeking feedback on our proposals to include extra guidance to the 'secure' duty and the 'code' duty, and new guidance on the 'promote' duty. This is set out in further detail below.

Including extra guidance on 'secure' and 'code' duties

Code of practice requirements

33. Under the A2 'code' duty, providers must explain in their free speech code of practice what procedures apply to specified meetings or other specified activities held on their premises, and what conduct is expected from the people involved. Governing bodies must also take reasonably practicable steps to make sure the code of practice is followed. We propose to add new paragraphs 188A and 188B to our current guidance to set out these requirements.

34. These changes will help provide clarity on the duties under A2.

Further advice on governance

35. We propose to add new paragraphs to our guidance about the parts of the 'secure' duty that relate to governance. These paragraphs will explain what transparency and oversight could look like, including possible reporting to governing bodies. We propose to include this new advice as new paragraphs 193A-193F, contained in Annex C of this document.

36. These new paragraphs show how providers and their constituent institutions could oversee free speech matters effectively. They aim to help providers and institutions meet the A1 duty and to comply with the new conditions. The examples are illustrative only, and they may not apply to every provider or institution. For example, if a provider does not have, and does not expect to have, international partnerships, it would not need to consider oversight of freedom of speech in that area. Therefore, we would not expect all of these arrangements necessarily to be in place at all providers.

Non-disclosure agreements

37. The A1 'secure' duty includes requirements that prohibit the use of non-disclosure agreements for complaints concerning sexual abuse, sexual harassment or sexual misconduct, and any other bullying and harassment complaints that do not fall under these categories. We propose to update our free speech guidance with information about these

requirements by introducing new paragraphs 193G and 193H contained in Annex C of this document.

38. These changes will help provide clarity on the duties under A1.

New A3 ‘promote’ duty guidance

39. We are also required by law to provide guidance on the A3 ‘promote’ duty as condition E12 requires compliance with this duty alongside the ‘secure’ and ‘code’ duties. We therefore propose to add new guidance to Regulatory advice 24 (which will be Annex D: Free speech guidance in the Regulatory framework) to help providers comply with the A3 duty. Inclusion of ‘promote’ guidance will also support constituent institutions to meet the corresponding statutory duty on them.

40. We propose that the guidance would explain that this duty is a proactive duty. It requires registered providers and their constituent institutions to carry out activities that promote the importance of:

- freedom of speech within the law
- academic freedom for academic staff

in the provision of higher education.

41. Our guidance would cover a non-exhaustive range of examples of activities that may, depending on the circumstances, help providers and constituent institutions meet their promote duty. This includes areas such as information and events, teaching and research, training and orientation and other activities.

42. We are proposing to frame these examples as suggestions rather than requirements. This is because we think that providers and constituent institutions are best placed to think about what approaches may work best. We want providers and their constituent institutions to have the chance to try new approaches. These could have a deeper and longer-lasting impact by helping to create and improve environments where freedom of speech thrives and that support a better student experience. We propose to add new paragraphs 214-231 to Regulatory advice 24 (future Annex D: Free speech guidance) as our guidance on the ‘promote’ duty.

43. We think this approach to guidance on the ‘promote’ duty sets a clear minimum standard for compliance without being too detailed or restrictive.

Minor amendments

44. We also propose to make minor amendments to Regulatory advice 24 as a consequence of the additional text (for instance, to change footnotes to reflect that A3 guidance is in Regulatory advice 24). Only relatively major changes are listed in Annex C of this consultation document.

Question 4

Do you have comments on the proposed changes to Regulatory advice 24 (which will become Annex D of the regulatory framework)?

General consultation questions

Question 5: Are there aspects of the proposals you found unclear? If so, please specify which, and tell us why.

Question 6: In your view, are there ways in which the objectives of this consultation could be delivered more efficiently, more effectively and/or with less burden than proposed here?

Question 7: Do you have any comments about the potential impact of these proposals on groups or individuals sharing relevant protected characteristics under equality legislation?

Question 8: Do you have any comments about any unintended consequences of these proposals, for example, for particular types of provider, constituent institution or relevant students' union or for any specific groups of students?

Abbreviations

DAPs	degree awarding powers
HERA	Higher Education and Research Act 2017
HEFSA	Higher Education (Freedom of Speech) Act 2023
OfS	Office for Students
TNE	transnational education

Annex A: Condition E11: Freedom of speech: management and governance

Condition E11.1: A provider's governing documents must be consistent with compliance by the governing body of the institution with its duties under sections A1, A2 and A3 of the Higher Education and Research Act 2017.

Condition E.11.2: A provider must have in place adequate and effective management and governance arrangements to secure compliance by the governing body of the institution with those duties.

Summary

Applies to: all providers seeking registration and all registered providers

Initial or ongoing condition: initial and ongoing condition

Legal basis: Section 8A(1) of the Higher Education and Research Act 2017.

Scope

1. This condition:

   a. covers subject matter related to freedom of speech and academic freedom

   b. applies in relation to matters involving students, staff, members and visiting speakers.

2. The Higher Education (Freedom of Speech) Act 2023 ('the Act') amends the Higher Education and Research Act 2017 ('HERA') to strengthen the legal requirements placed on universities and colleges relating to freedom of speech and academic freedom.

3. The Act imposes duties on a provider or constituent institution including to:

   a. take steps to secure freedom of speech (the A1 'secure' duty)

   b. maintain a free speech code of practice (the A2 'code' duty)

   c. promote the importance of freedom of speech and academic freedom (the A3 'promote' duty).

4. Providers should refer to the statutory provisions as the primary source of what the duties require. Providers should refer to Annex D: Free speech guidance for further guidance on how they might comply with those duties.

Condition E11.1: Guidance

5. For the purposes of this condition, the Office for Students (OfS) considers 'governing documents' to be 'documents that have some governing effect, which goes to the constitution or governance of the higher education provider'. Governing documents include, but are not

limited to, a provider's foundational documents and the documents outlined in initial condition of registration E7 at E7.2.

6. In relation to condition E11, a provider's overarching obligation is to ensure that all of its governing documents are consistent with compliance with its section A1, A2, and A3 duties ('the duties'). 'Consistent with compliance by the governing body of the institution with its duties under sections A1, A2 and A3' means that nothing in the governing documents prevents compliance with those duties.

7. As stated in condition E7, in registering with the OfS the provider must have a set of documents that enables the effective governance of the provider in practice. For the purposes of condition E11, all provider documents that could be considered 'governing documents' according to paragraph 5 must be consistent with compliance with the duties. This includes, but is not limited to, the same governing documents as set out under E7.2, listed below:

    a. documents which establish the provider as an institution, including (where applicable to the provider's legal form) its Royal Charter, memorandum and articles of association or trust deed

    b. documents which set out the following information in relation to the provider's governing body:

        i. its purposes or objectives

        ii. the number of governing body members and the roles of each of its members

        iii. processes for appointing members

        iv. roles and responsibilities of the body

        v. procedures for its decision making

        vi. arrangements for meeting of the body (including meeting frequency)

        vii. arrangements for reviewing the body's effectiveness or performance

    c. risk and audit documents

    d. decision-making documents

    e. a conflicts of interest policy

    f. any other documents (including shareholder agreements) which contain rules which govern the operation of the provider's governing body.

8. The OfS expects providers to review their governing documents for consistency with compliance with the duties prior to this condition coming into effect on 1 April 2027. If a provider introduces new governing documents or makes changes to existing governing documents, the provider should consider whether the change is material to its ability to comply with this condition.

9. When considering whether a provider's governing documents are consistent with compliance with the A1, A2 and A3 duties, a provider should consider its specific context (for instance, its shape, size and legal structure). What is consistent with compliance may look different from provider to provider depending on the specific context.

10. The provider should also consider the following questions as part of its review of each governing document or provision within it:

    a. Does the governing document and/or provision relate to, or have consequences for, freedom of speech and/or academic freedom?

    b. If so, is there anything within the governing document that does or could reasonably be considered to prevent compliance with the duties?

11. If a provider determines that its governing documents prevent compliance, it must change its documents to ensure that they are consistent with compliance with the relevant duty/duties.

12. Where the OfS has concerns that a provider's governing documents may prevent compliance, the OfS will engage with the provider to understand how it has assessed its governing documents. As part of this engagement, the OfS may request sight of any review a provider has undertaken of its documents. Where the OfS has concerns that a governing document may not be consistent with compliance and the provider disagrees, it will expect the provider to explain how the governing document is consistent with compliance. Any engagement with the provider over this condition will be in line with the OfS's general approach to monitoring and intervention.

Example 1: Governing body appointments

University A's governing document related to governing body appointments includes Clause B. This clause **states that members of the governing body are prohibited from expressing views that are 'unnecessarily critical' of the university.**

Clause B is likely to be inconsistent with compliance with the A1 duty and therefore in breach of Condition E11.1.

Example 2: Foreign influence

University A is based in foreign country X, which is a one-party state. It opens a branch campus B in England that is registered with the OfS. The governing documents of B specifically prohibit the teaching of views that contest, or are otherwise incompatible with, the values of the ruling party of foreign country X.

By excluding the teaching of a range of lawful political views, these governing documents are likely to be inconsistent with the provider's compliance with its A1 duty and therefore in breach of Condition E11.1. (See Annex D: Free speech guidance paragraph 207 and example 51.)

Condition E11.1: Assessment of initial condition

13. In assessing compliance with initial condition E11.1, the OfS will consider whether:

    a. the provider has submitted the set of governing documents required under condition E7.2 where that condition applies

    b. where condition E7.2 does not apply, the provider has submitted all governing documents it holds that fall within the set listed at paragraph 7 and has confirmed that all its governing documents are consistent with compliance with the duties

    c. the provisions in a provider's governing documents are consistent with compliance with the duties.

14. As part of the registration process, a provider must inform the OfS where it has concerns that any of its governing documents (whether or not submitted under paragraph 13(a) or (b)) are or may be inconsistent with compliance with its duties. When notifying the OfS of concerns, the provider should follow the steps set out in Regulatory notice 7.

15. The OfS will review the governing documents that the provider is required to submit under Regulatory notice 7 for the purposes of condition E11.1. If the OfS determines that any of a provider's governing documents (whether or not submitted under paragraph 13(a) or (b)) prevent compliance with its duties, the OfS may refuse the provider's application for registration

Condition E11.1: Assessment of ongoing condition

16. In assessing ongoing compliance with condition E11.1, the OfS will consider whether a provider's governing documents prevent compliance with any of its duties. As part of this assessment, the OfS will consider relevant information for determining whether the governing documents prevent compliance with the specific duties in question, including any contextual information submitted by the provider. Where needed, we may request additional information from the provider including, for example, where a governing document incorporates an internal policy.

17. In assessing a provider's ongoing compliance with E11.1, the OfS may consider any regulatory information and intelligence it holds. This may include, but is not limited to:

    a. third-party notifications

    b. reportable events

    c. a provider's governing documents

    d. a provider's operational policies and procedures, where a governing document incorporates those policies or procedures

    e. any free speech complaint received as part of the OfS free speech complaints scheme

    f. actions taken or not taken by a provider in response to a free speech complaint

    g. the outcomes of any OfS investigation or improvement work with the provider

    h. any OfS quality assessment

    i. any data audit

    j. any data submitted to the OfS by a provider (for example, data submitted to the OfS as part of the review of a complaint submitted to the OfS free speech complaint scheme or as part of the Prevent accountability and data return)

    k. any information from other relevant regulatory or public bodies, such as the Office of the Independent Adjudicator for Higher Education (OIA) or the Department for Education (DfE).

18. Where the OfS considers that a provider is at risk of breaching this condition, it may request additional evidence and/or information. This may include, but is not limited to:

    a. any record related to a provider's risk and audit function (for example, internal audit plans and annual report, risk register or event risk assessments)

    b. a provider's conflicts of interest register

    c. any record of decisions in relation to a provider's governing documents that involve taking steps to secure freedom of speech and academic freedom

    d. any record of any proportionality analysis undertaken by the provider when determining whether a governing document is consistent with compliance with the A1 duty

    e. information to provide transparency of inter-relationships between companies and other organisations, including relationships with foreign partners.

Condition E11.1: Behaviours

19. The following are non-exhaustive examples of behaviours that may indicate non-compliance with condition E11.1. The provider's governing documents may indicate non-compliance if they:

    a. prohibit or discourage the expression of lawful viewpoints

    b. impose belief requirements on staff, students, members or visiting speakers

    c. do not include obligations imposed by external bodies, such as foreign states or political parties, as potential conflicts of interest requiring declaration and mitigation where appropriate

    d. are not consistent with the governance arrangements set out at paragraphs 189-193F of Annex D: Free speech guidance.

Condition E11.2: Guidance

20. E11.2 requires a provider to have in place adequate and effective management and governance arrangements to secure compliance with the duties.

21. For the purposes of E11.2, an arrangement is 'adequate' if it is capable of delivering its stated or implied objective. An arrangement is 'effective' if it delivers compliance in practice.

22. In practice, this means that for a provider's management and governance arrangement to be both adequate and effective, the arrangements must secure compliance with the duties. The OfS would expect that for an arrangement to be both adequate and effective a provider must have the capacity and resources to deliver compliance in practice.

23. For the purposes of condition E11.2, 'capacity and resources' includes, but is not limited to:

    a. the financial resources of the provider

    b. the number, expertise, and experience of a provider's staff, contractors and members of the governing body

    c. the resources deployed by the provider to secure compliance with the duties, including to:

        i. take steps to secure freedom of speech

        ii. publish and maintain a free speech code of practice

        iii. promote the importance of freedom of speech within the law and academic freedom.

24. For example, the OfS would usually expect the above to include, but not be limited to, capacity and resources to:

    a. undertake investigations, respond to complaints and/or make decisions in relation to freedom of speech and academic freedom

b. take steps to secure the freedom of expression of students and staff who are at risk of harassment, intimidation or coercion for their exercise of freedom of speech and academic freedom

c. establish and maintain control and oversight by the governing body of the provider's duties, including oversight of risks and decisions taken in relation to freedom of speech and academic freedom.

25. Given the diversity of providers in the higher education sector, 'adequate and effective management and governance arrangements to secure compliance with the duties' will be different from provider to provider depending on its size, shape, legal structure and kind of provision. A provider should consider what arrangements are appropriate for its context. For instance, a smaller provider may be likely to have simpler management and governance arrangements and may have fewer staff, contractors and members of the governing body than a larger, more complex provider. The OfS would expect the resources allocated to the duties to be appropriate given the specific context of the provider but to be sufficiently sizeable to enable the provider to meet its duties in full.

26. When determining whether a provider has adequate and effective management and governance arrangements, the OfS would expect a provider to consider the following:

a. what arrangements are necessary for the provider to understand the legal requirements of the free speech duties

b. what arrangements are in place to ensure that staff have the necessary training, support and expertise to facilitate compliance with the duties

c. what arrangements are in place for risks to be escalated to senior staff, managers and/or the governing body, where appropriate

d. whether a provider's arrangements appropriately identify, record and mitigate risks related to freedom of speech and academic freedom

e. whether a provider's arrangements promote a culture where staff are encouraged to raise risks early without fear of retribution

f. how a provider's arrangements enable the provider to respond flexibly to new risks that emerge related to freedom of speech and academic freedom

g. how a provider's arrangements may impact the student experience

h. whether the arrangements are capable of securing, and secure in practice, compliance with the A1, A2 and A3 duties in HERA.

27. Each provider should determine how best to deliver governing body oversight, for example whether the governing body should maintain direct oversight of matters related to freedom of speech and academic freedom or if it can be delegated to relevant committee(s) and/or individual(s). A provider should also determine how its leadership team will manage accountability for these issues on a day-to-day basis. However, the governing body retains

responsibility for securing compliance with its duties and the OfS expects the governing body to be properly engaged on the risks to securing compliance with its duties.

28. The OfS recognises that risks related to freedom of speech and academic freedom may evolve and change over time, particularly as the creation and amendment of policies and procedures may give rise to questions of compliance with the duties. Providers should consider how to appropriately adapt and balance their capacity and resources across the organisation as risks change and new risks emerge. As a non-exhaustive example, a provider who has historically not recruited international students, may not have had to consider and respond to risks related to foreign influence. As it starts recruiting international students, the provider should understand the new risks that may emerge related to freedom of speech and academic freedom and determine whether it needs to make changes to its management and governance arrangements to appropriately capture and respond to such risks.

29. As noted in paragraph 26g, providers should consider how their arrangements may impact students' experiences. A provider's arrangements to secure freedom of speech and academic freedom should, where possible, avoid placing unnecessary burden on students and students' unions. The following are non-exhaustive examples:

    a. a provider's free speech code of practice should provide clear guidance to students (and students' unions) on procedures to be followed in connection with the organisation of meetings and other activities, including invited speakers

    b. a provider's rules for the approval of research projects or dissertations should not be overly complex, onerous or restrictive.

    Providers should consider carefully how complex and overly onerous forms and risk assessments may contribute to discouraging ('chilling') lawful speech.

30. Where higher education is delivered through a subcontractual arrangement and the delivery partner is not registered with the OfS, the registered lead provider would be responsible for having adequate and effective management and governance arrangements to secure compliance with the duties for all of its students, whether they are being taught directly by the institution or by a delivery partner.

Condition E11.2: Assessment at point of registration

31. As part of a registration application all providers are required to submit a free speech code of practice, as defined under section A2 of HERA. As part of the assessment of condition E11.2 the OfS will consider whether:

    a. a free speech code of practice has been submitted

    b. the free speech code of practice sets out the required content with a view to facilitating compliance with the provider's duties under A1(1) and A1(10).

32. Providers must notify the OfS of amendments made to the free speech code of practice during the registration process via the portal, within 28 working days.

33. For providers to which condition E7 applies, the OfS will consider the information submitted under condition E7 as part of the assessment of whether management and governance arrangements are adequate and effective for the purposes of condition E11.2. The OfS may require these providers to complete a self-assessment where management and governance arrangements for the purpose of E11.2 are not clearly set out in these documents.

34. For providers to which conditions D and E7 apply, the OfS will consider the financial information submitted by those providers as part of the assessment of capacity and resources, alongside the capacity and resources considerations under condition E7.6a.

35. Providers that are not required to comply with initial condition E7 are not required to ensure their governing documents meet the requirements of condition E7.3 or to submit a business plan. This means that the OfS may require additional information from these providers to assess whether their management and governance arrangements meet the requirements of condition E11.2. To support this assessment, these providers are required to submit a self-assessment setting out how their management and governance arrangements are adequate and effective to secure compliance with the duties. The OfS will review the arrangements set out in the provider’s self-assessment to determine whether they are adequate and effective for the purposes of condition E11.2.

36. The self-assessment may deal with other matters but must set out the following:

    a. how the governing body appointment procedure ensures sufficient skills and expertise in relation to freedom of speech

    b. the provider’s procedures for making decisions in relation to freedom of speech, including delegated decision-making arrangements

    c. how the provider makes decisions about the allocation of resources to meet free speech duties

    d. the resources the provider has currently allocated to meet its duties

    e. how the provider identifies and manages free speech risks

    f. the risks currently identified by the provider in relation to freedom of speech and the plans for managing these

    g. how complaints or concerns relating to freedom of speech or academic freedom are raised and dealt with

    h. how the provider reviews free speech governance arrangements

    i. arrangements for identifying and managing any actual or potential conflicts of interests in relation to individuals responsible for the management and governance of the provider where they are making decisions about freedom of speech on behalf of the provider.

37. Where the set of governing documents submitted under initial condition E11.1 includes this information, providers may refer to the relevant paragraphs of those documents in the self-assessment.

38. For those providers not required to comply with condition D, the OfS will use the following to support the assessment of capacity and resources:

  a. information about DfE interventions

  b. published audited accounts

  c. the element of the self-assessment that sets out how decisions are made about the allocation of resources to meet the duties.

39. To support our understanding of the financial resources of the provider, those providers not required to comply with condition D must submit a declaration of interventions by the DfE relating to:

  a. financial health

  b. financial management and other controls

  c. failure to make progress on resolving an issue/s of concern in relation to a. or b.

40. The OfS may also review publicly available information for these providers, including financial statements published by the provider. The OfS may engage with the provider where there are concerns in relation to capacity and resources. This may include seeking contextual information including any mitigating factors. The OfS may also request financial information from a provider where this is necessary for the assessment of capacity and resources. Where possible, the OfS will aim to do so in the least burdensome way. For instance, if needed it may request financial information from the DfE as the primary regulator of further education colleges.

41. In assessing whether a provider's management and governance arrangements are adequate for the purposes of initial condition E11.2, the OfS may have regard to information submitted as part of a registration application, including:

  a. the provider's business plan, which must sufficiently address risks to freedom of speech

  b. information relating to corporate structure and ownership

  c. declarations of directorships or trusteeships submitted in application materials in respect of individuals holding named roles

  d. the provider's conflicts of interest policy

  e. details of any third-party financial support.

42. In assessing whether a provider's management and governance arrangements are effective for the purposes of initial condition E11.2, the OfS may have regard to information available to it, including but not limited to:

  a. third-party notifications

  b. the outcomes of any OfS quality assessment activity

c. data submitted to the OfS by the provider

d. information received from other regulators or relevant public bodies.

43. The OfS is likely to draw on evidence submitted by a provider as part of its application for registration to make a judgement about whether the provider has the capacity and resources necessary to deliver compliance in practice. For example, evidence submitted in relation to a provider's financial viability and sustainability, or its management and governance arrangements, is likely to be relevant. Where providers are required to comply with condition E9, the OfS may also seek to interview applicants for registration to assess whether the key individuals have sufficient knowledge and expertise to enable the provider to comply with the ongoing conditions of registration applicable to it (if registered) and to deliver, in practice, its business plan, governing documents and fraud and public money arrangements. When doing so, it may seek to test the provider's understanding of the free speech duties and its capacity to ensure compliance with these duties following registration.

44. Where a provider is not delivering higher education courses at the point of registration, the OfS will assess the adequacy of the proposed arrangements and the likelihood that those arrangements will be effective in practice.

45. For providers involved in subcontractual arrangements, where a delivery partner applies for registration with the OfS and delivers higher education courses on behalf of a lead provider, the delivery partner is responsible for compliance with the initial condition of registration.

Condition E11.2: Assessment of ongoing compliance

46. In assessing a provider's ongoing compliance with E11.2, the OfS may consider any regulatory information and intelligence it holds. This may include, but is not limited to:

a. third-party notifications

b. reportable events

c. a provider's free speech code of practice

d. a provider's governing documents, where relevant

e. a provider's operational policies and procedures or relevant contractual arrangements

f. financial information submitted via a provider's annual financial return or, in the case of further education colleges, the DfE financial health dashboards

g. any free speech complaint received as part of the OfS free speech complaints scheme

h. actions taken or not taken by a provider in response to a free speech complaint

i. the outcomes of any OfS investigation or improvement work with the provider

j. any data or information submitted to the OfS by a provider (for example data or information submitted to the OfS as part of the review of a complaint submitted to the OfS free speech complaints scheme or as part of the Prevent accountability and data return)

k. any information from other relevant regulatory or public bodies, such as the Office of the Independent Adjudicator for Higher Education (OIA) or the DfE.

47. Where the OfS considers that a provider is at risk of breaching this condition, it may request additional evidence and/or information, which may include but is not limited to:

a. records related to a provider's risk and audit function (for example, internal audit plans and annual report, risk register or event risk assessments)

b. a provider's conflicts of interest register

c. any record of any proportionality analysis undertaken by the provider when taking decisions related to freedom of speech

d. a provider's free speech code of practice

e. a record of a provider's registration with the Foreign Influence Registration Scheme (if applicable)

48. In subcontractual arrangements, where non-compliance arises from actions or omissions involving both the lead provider and the delivery partner, and both are registered, the OfS may determine that both parties have failed to comply with their respective regulatory obligations and may take regulatory action accordingly.

Condition E11.2: Behaviours

49. As condition E11.2 requires that a provider has adequate and effective management and governance arrangements to secure compliance with the duties, providers should refer to Annex D: Free speech guidance for guidance and examples of compliance with the duties. Specific examples of behaviours that may indicate compliance with E11.2, and whose absence may indicate non-compliance, include:

a. examples in relation to the provider's free speech code of practice (Annex D: Free speech guidance, paragraphs 167-188A)

b. examples in relation to governance arrangements (Annex D: Free speech guidance, paragraphs 189-193F).

Condition E11: Monitoring, assessment and enforcement of ongoing compliance

50. The OfS will use its general risk-based approach to monitoring and intervention as set out in the regulatory framework.

51. Where monitoring activity produces intelligence or evidence that suggests there may be compliance concerns for an individual provider, the OfS may adopt one or more of the following approaches (in any order):

a. engage with a provider to ensure it is aware of the issues

b. gather further information it considers relevant to the scope of the potential concerns, from a provider or from elsewhere on a voluntary basis, to facilitate an assessment of whether there is, or has been, a breach of one or more conditions

c. use its regulatory and/or investigatory powers where it is considered appropriate for any reason.

Definitions

52. Please see Annex D: Free speech guidance for a full list of definitions.

Annex B: Condition E12: Compliance with free speech duties

Condition E12: The governing body of a registered provider must comply with its duties under sections A1, A2 and A3 of the Higher Education and Research Act 2017.

Summary

Applies to: all registered providers

Initial or ongoing condition: ongoing condition

Legal basis: Section 8A(2) of the Higher Education and Research Act 2017 – mandatory.

Scope and background

1. This condition:

    a. covers subject matter related to freedom of speech and academic freedom

    b. applies in relation to matters involving students, staff, members and visiting speakers.

2. The Higher Education (Freedom of Speech) Act 2023 ('the Act') amends the Higher Education and Research Act 2017 ('HERA') to strengthen the legal requirements placed on universities and colleges relating to freedom of speech and academic freedom.

3. The Act imposes duties on a provider or constituent institution to:

    a. take steps to secure freedom of speech (the A1 'secure' duty)

    b. maintain a free speech code of practice (the A2 'code' duty)

    c. promote the importance of freedom of speech and academic freedom (the A3 'promote' duty).

4. Providers should refer to the statutory provisions as the primary source of what the duties require. Providers should refer to Annex D: Free speech guidance for further guidance on how they might comply with those duties.

Guidance

5. Condition E12 requires the governing bodies of providers to comply with their duties under sections A1, A2 and A3 of HERA. Constituent institutions of registered providers are also subject to these statutory duties, although condition E12 does not apply directly to them, unless they are registered in their own right.

6. In summary, the duties under section A1 of HERA[20] require the governing body of a provider:

[20] See Higher Education and Research Act 2017 - GOV.UK - Section A1.

a. to take steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take in order to secure freedom of speech within the law for its staff, members, students and visiting speakers, including securing:

    i. that the use of premises is not denied based on an individual's ideas or opinions or a body's policy or objectives, or the ideas or opinions of any of its members.

    ii. that the terms on which premises are provided are not based on an individual's ideas or opinions, or a body's policy or objectives, or the ideas or opinions of any of its members.

    iii. academic freedom for its academic staff. Academic freedom is the freedom within the law for academic staff to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without being at risk of loss of their jobs or privileges, or reduction of their likelihood of securing promotion or a different job at the provider

b. to take steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take in order to secure that a person applying to become a member of academic staff is not adversely affected in relation that their application because they have exercised their freedom to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions

c. to secure that, apart from in exceptional circumstances, an individual or body is not required to bear some or all of the costs of security relating to use of provider premises

d. to secure that the provider does not enter into non-disclosure agreements with its staff, members, students or visiting speakers in relation to misconduct or alleged misconduct involving sexual abuse, sexual harassment, sexual misconduct, bullying or harassment.

7. In summary, the duties under section A2 of HERA[21] require the governing body of a provider to:

   a. Maintain a free speech code of practice setting out:

      i. the provider's values relating to freedom of speech and an explanation of how those values uphold freedom of speech;

      ii. the procedures staff, students, and any students' union of the provider will follow in organising meetings or activities to be held on its premises that fall within any class of meeting or activity specified in the code of practice;

      iii. the conduct required of staff, students, and students' unions in connection with any such meeting or activity; and

      iv. the criteria the provider will use in making decisions about whether to allow the use of premises and on what terms

   b. Take the steps that are reasonably practicable for it to take in order to secure compliance with its code of practice

   c. Bring the provisions of section A1 and its code of practice to the attention of all of its students at least once a year.

8. In summary, the duty under section A3 of HERA[22] requires the governing body of a provider to promote the importance of freedom of speech within the law and academic freedom for academic staff of registered higher education providers and their constituent institutions in the provision of higher education.

9. The OfS has set out further guidance in Annex D for providers on the meaning and content of their duties under sections A1, A2 and A3 of HERA, including definitions of statutory terms. This includes guidance to help determine whether providers are complying with their free speech duties, and therefore with condition E12.

Monitoring, assessment and enforcement of ongoing compliance

10. To comply with E12, a provider must comply with their A1, A2 and A3 duties. The OfS has provided guidance on how providers can achieve compliance in Annex D: Free speech guidance.

11. The OfS will use its general risk-based approach to monitoring as set out in the regulatory framework.

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[21] See Higher Education and Research Act 2017 - GOV.UK - Section A2.

[22] See Higher Education and Research Act 2017 - GOV.UK - Section A3.

12. Where monitoring activity produces intelligence or evidence that suggests there may be compliance concerns for an individual provider, the OfS may adopt one or more of the following approaches (in any order):

   a. Engage with a provider to ensure it is aware of the issues

   b. Gather further information it considers relevant to the scope of the potential concerns, from a provider or from elsewhere on a voluntary basis, to facilitate an assessment of whether there is, or has been, a breach of one or more conditions

   c. Use its regulatory and/or investigatory powers where it is considered appropriate for any reason.

Assessment and monitoring

13. In assessing ongoing compliance with condition E12, the OfS will assess whether a provider is breaching, has breached or is at risk of breaching any of its A1, A2 or A3 duties.

14. In assessing whether a provider has complied with its A1 duty, the OfS will adopt the three-step approach set out in Annex D: Free speech guidance. in relation to any arrangement, policy or decision that may affect speech.

   - Step 1: Is the speech 'within the law'? If yes, go to step 2. If no, the duty to 'secure' speech does not apply.

   - Step 2: Are there any 'reasonably practicable steps' to secure the speech? If yes, take those steps. Secure the speech. If you are interfering with the speech in any way, go to step 3.

   - Step 3: Are any interferences 'prescribed by law' and proportionate under the European Convention on Human Rights? Facts that are relevant at step 3 may also be relevant at step 2.

15. When determining whether a step is 'reasonably practicable' for the provider to take to secure speech, the OfS will consider the relevant factors set out in Annex D: Free speech guidance (see paragraph 24 of Annex D: Free speech guidance and the infographic that follows it).

16. In assessing a provider's ongoing compliance with E12, the OfS may consider any regulatory information and intelligence it holds on the provider. This may include, but is not limited to:

   a. third-party notifications

   b. reportable events

   c. a provider's code of practice

   d. a provider's operational policies and procedures or relevant contractual arrangements

   e. any free speech complaint received as part of the OfS free speech complaints scheme (see paragraphs 18 to 22 for further explanation)

   f. actions taken or not taken by a provider in response to a free speech complaint

g. the outcomes of any OfS investigation or improvement work with the provider

h. any OfS quality assessment

i. any data audit

j. any data submitted to the OfS by a provider (for example, data submitted to the OfS as part of the review of a complaint submitted to the OfS free speech complaints scheme or as part of the Prevent accountability and data return)

k. any information from other relevant regulatory or public bodies, such as the Office of the Independent Adjudicator for Higher Education (OIA) or the Department for Education.

17. Where the OfS considers that a provider is at risk of breaching this condition, it may request additional evidence and/or information. This may include, but is not limited to:

a. any record related to a provider's risk and audit functions (for example, internal audit plans and annual report, risk register or event risk assessments)

b. a provider's conflicts of interest register

c. any record of any proportionality analysis undertaken by the provider when taking decisions related to restricting speech and academic freedom

d. a provider's free speech code of practice

e. a record of a provider's, or individual or entity within a provider's, registration with the Foreign Influence Registration Scheme (if applicable).

The OfS free speech complaints scheme and E12 assessment of compliance

18. The OfS may consider a range of information and intelligence when making assessments about any aspect of this condition, including those set out in paragraphs 16 and 17. One of those sources of intelligence is the free speech complaints scheme.

19. In line with the OfS's general approach to monitoring and intervention, it may decide to investigate or take other regulatory action about information it has received. The free speech complaints scheme does not affect the OfS's ability to investigate or take regulatory action if a provider does not comply with any condition of registration or other regulatory requirement. Information provided to us in a free speech complaint may identify areas of concern in relation to any of the OfS's regulatory requirements.

20. A finding that a complaint is justified or partly justified is indicative of a breach of condition E12, but that is not the same as a regulatory decision that a provider has breached, or is breaching, a condition of registration. This is because our role in reviewing complaints is separate from our role in assessing providers against our conditions of registration. When deciding whether to take regulatory action, the OfS will also consider whether the provider has followed any recommendations made after we find a complaint justified or partly justified. If a provider does not follow the recommendations, the OfS will engage with it as a part of our work to assess compliance with the conditions of registration. This may escalate to regulatory action where appropriate and proportionate.

21. A provider's compliance with condition E12 does not depend solely on the outcome of a complaint. Other information and intelligence that the OfS holds, including other information arising from the complaint, may also be relevant to compliance. This includes the content of the complaint as well as its outcome, including whether it was settled, withdrawn, justified, partly justified or not justified. It also includes the provider's response to any information requests, and (as indicated above) whether the provider has taken actions to improve (for instance) relevant policies or procedures following a recommendation that the OfS has made after a justified or partly justified complaint.

22. In considering this information and its relevance to compliance, the OfS will use its general risk-based approach to monitoring as set out in the regulatory framework.

Behaviours that suggest compliance or non-compliance with E12

23. Annex D contains guidance on the A1, A2 and A3 duties, and what they require. Contained in that guidance are descriptions and illustrations of how a provider might meet the requirements of these duties, and how it might be in breach of them.

24. As condition E12 requires providers to comply with their A1, A2 and A3 duties, these descriptions and illustrations therefore contain non-exhaustive examples of behaviours that suggest compliance or non-compliance with E12.

Definitions

25. Please see Annex D: Free speech guidance for a full list of definitions.

Annex C: Proposed additions and amendments to Regulatory advice 24 / Annex D of the regulatory framework

We are planning to move Regulatory advice 24: Guidance related to freedom of speech into an annex of our regulatory framework.[23] This will be Annex D: Free speech guidance. When this move happens, we are proposing to add some new text to Regulatory advice 24. This annex sets out the proposed additional text.

1: Additional introductory material and minor amendments

[Note: We will add this guidance to Regulatory advice 24 in the introductory sections, after paragraph 6 and at paragraph 12c. We have not included below any minor amendments to Regulatory advice 24 that we would make as a consequence of the proposed additional text (for instance, the deletion of 'and' at the end of paragraph 12a).]

To add to paragraph 1:

c. Promoting the importance of freedom of speech and academic freedom (the 'promote' duty)

To add to paragraph 2:

It also includes examples of steps that may assist providers to meet their 'promote' duty.

Paragraph 3 to read: This guidance is in four main sections.

6A. **Section 4** gives guidance on the duty to promote the importance of freedom of speech within the law and academic freedom in the provision of higher education.

12. c. to promote the importance of—

i. freedom of speech within the law, and

ii. academic freedom for academic staff of registered higher education providers and their constituent institutions,

in the provision of higher education (section A3 and section A4 of Part A1 of HERA) (the 'promote' duty).

[23] See Regulatory advice 24: Guidance related to freedom of speech - Office for Students.

2: Additional guidance on free speech code of practice

[Note: We will add this guidance to Regulatory advice 24 in the section on free speech code of practice, starting with a new paragraph 188A.]

Students' unions

188A. HERA requires that the code of practice sets out the procedures to be followed by any students' union of the provider or a constituent institution in connection with the organisation of:

a. meetings which are to be held on the provider's or constituent institution's premises and which fall within any class of meeting specified in the code, and

b. other activities which are to take place on those premises and which fall within any class of activity so specified.

It also requires that the code of practice sets out the conduct required of such persons in connection with any such meeting or activity.[24]

188B. HERA also sets out that the governing body of a provider or a constituent institution must take the steps that are reasonably practicable for it to take (including where appropriate the initiation of disciplinary measures) to secure compliance with its code of practice.[25] See example 49.

3: Additional guidance on governance

Current text on 'Governance' in Regulatory advice 24

Please note that the text in this box is for information only and is not being consulted on.

189. The following may be reasonably practicable steps for a provider or constituent institution to take in connection with governance.

190. Providers and constituent institutions should record all decisions that are likely to have a substantial (positive or negative) effect on freedom of speech within the law. These records should demonstrate how the provider or constituent institution has had particular regard for the importance of freedom of speech within the law. Wherever reasonably practicable, records should be kept for as long as necessary to be available for external review (for instance, through judicial review, a regulatory investigation or a relevant complaints process).

191. Providers and constituent institutions should put in place and follow delegation arrangements setting out clearly and explicitly which committees or individuals are

[24] See Higher Education and Research Act 2017 - GOV.UK - Section A2 (2)(b) and (c).

[25] See Higher Education and Research Act 2017 - GOV.UK - Section A2(4).

authorised to make decisions that are likely to have a substantial (positive or negative) effect on compliance with any free speech duties.

192. Providers and constituent institutions should ensure that terms of reference, of all committees that could affect compliance with free speech duties, expressly provide for consideration of this impact. This includes committees responsible for any of the following matters:

a. admission, appointment, reappointment and promotion processes

b. disciplinary processes

c. employment contracts (that may include conditions on speech)

d. processes and policies relating to equality or equity, diversity and inclusion, including the PSED

e. fitness to practise

f. harassment and bullying policies

g. IT policies and processes, including acceptable use policies and surveillance of social media use

h. Prevent duty

i. principles of curricular design

j. research ethics

k. speaker events

l. staff and student codes of conduct.

193. Providers and (where relevant) constituent institutions should ensure that decisions about the curriculum and the way it is delivered:

a. safeguard the autonomy of individual academics to teach and communicate lawful ideas that may be controversial or unpopular or that some (or many) find offensive; and

b. do not restrict the exposure to students of such ideas because they are controversial or unpopular or because some (or many) find them offensive.

[Note: This guidance is to be added to Regulatory advice 24 in the section on governance, starting with new paragraph 193A.]

193A. The following is a non-exhaustive set of examples of steps related to governance that may, depending on the circumstances, be likely to assist providers and constituent institutions to meet their ‘secure’ duty.

Transparency and oversight

193B. Depending on their size and structure, it may assist providers and constituent institutions to appoint a suitably senior person or body, reporting for instance to the governing body, to oversee and report on its work on academic freedom and freedom of speech. Their activities and role could, for example, include:

a. acting as an internal source of information / point of contact on academic freedom and freedom of speech

b. oversight of internal processes and activities relating to freedom of speech

c. reporting on risks to freedom of speech and proposing mitigations.

193C. It may assist providers and constituent institutions to meet their 'secure' duty for their governing bodies to receive, annually or more frequently, a report on freedom of speech and academic freedom. This report could include both qualitative information and data (e.g. management information) on any matters that are relevant to freedom of speech and academic freedom. This could, for example, include:

a. an evaluation of the impact of the steps that the provider has taken to promote the importance of freedom of speech and academic freedom

b. the average timescales and other aggregate data of any internal free speech or academic freedom complaints process

c. any decision to reject or rescind an invitation to an external speaker; or a decision to reject a proposal for an event or to cancel an event, where these are relevant to freedom of speech

d. any decision to pass on the security costs for an event to a speaker or host

e. any complaints from staff, members, students and visiting speakers that are upheld in full or in part by the provider, the OfS or the OIA, relating to freedom of speech

f. any application for a court order to limit or restrict any form of expression by staff or students

g. any member of governing body or a person with significant control, or member of the senior management team at the provider or constituent institution, who has registered activity under the Foreign Influence Registration Scheme (FIRS)

h. any selection or appointments process for academic staff at the provider, or any selection or admissions process for students at the provider (for instance, a scholarship selection process) that is managed or partly managed by the provider, involving an ideological test imposed by the provider or by a partner.

193D. It may assist providers and constituent institutions to meet their 'secure' duty to have in place the following arrangements:

a. suitable confidential reporting routes for students and staff to escalate concerns about coercion, monitoring and harassment in relation to their freedom of speech

b. transparency with students and staff about risks to their freedom of speech and academic freedom, including (but not limited to):

    i. the existence of obligations or expectations on individuals or institutions within the provider, for instance, because of their affiliation with a foreign political party or government, to monitor and/or report on lawful expression on campus

    ii. any funding agreements, donations etc. that may create risks to freedom of speech or academic freedom for staff or students

c. provision to support students or staff who are at risk of coercion, monitoring or harassment for the exercise of their freedom of speech or academic freedom, including through the use of strategic litigation against public participation (SLAPPs) and targeted visa denial

d. suitable protocols for the escalation of concerns about foreign interference to the OfS, the police or other state agencies or bodies as appropriate

e. where governing body members or senior managers are based in a foreign state, effective arrangements where possible to prevent monitoring by that state of the provider's internal communications or decisions where this threatens freedom of speech or academic freedom in England, or to mitigate its effects on freedom of speech or academic freedom in England

f. adequate resources and arrangements to assess and communicate risks to freedom of speech and academic freedom, including through geopolitical risk; and having these risks suitably reflected on its risk register

g. processes in place to identify and address risks to freedom of speech and academic freedom that might arise in relation to contractual arrangements, including:

    i. appropriate due diligence, including human rights due diligence, before entering into contractual arrangements, at contract review points and as a result of relevant legal or geopolitical changes

    ii. translation of foreign-language versions of contracts with foreign parties

    iii. where the contractual partner has an influence on academic appointments or the curriculum, contractual assurance of full transparency about any of its process to ensure the provider or constituent institution can achieve compliance with its A1, A2 and A3 duties.

Decision making

193E. It may assist providers and constituent institutions to meet their ‘secure’ duty for their scheme of delegation to require that serious or far-reaching **negative** decisions relating to speech always be escalated to a suitably senior level. This could, for example, include decisions:

a. to cancel a speaker event or seminar because of the viewpoints of the speaker or expressed in their speech;

b. to limit an academic’s freedom to teach or to conduct research because of the viewpoint they express or the conclusions that the teaching or research might support

c. to dismiss an academic wholly or partly because of their lawful speech.

193F. It may assist providers and constituent institutions to meet their ‘secure’ duty that in circumstances where a decision may risk an interference with freedom of expression they ensure that decision makers assess:

a. whether their decision does interfere with the freedom of expression of staff, students, members, or visiting speakers; and

b. the proportionality of any interference with freedom of speech (see paragraphs 124-131 and examples 24 and 24A).

4: Additional guidance on non-disclosure agreements

[Note: This guidance is to be added to Regulatory advice 24 in a new section on ‘Non-disclosure agreements’, starting with new paragraph 193G.]

Non-disclosure agreements

193G. HERA requires that, to achieve the objective of securing freedom of speech within the law, the governing body of a provider or constituent institution secures that the provider or constituent institution does not enter into a non-disclosure agreement with:

a. its staff,

b. its members,

c. its students, or

d. visiting speakers

in relation to a complaint made to the provider by that person, relating to:

a. sexual abuse, sexual harassment or sexual misconduct, or

b. bullying or harassment not falling within a.

by any person. If such a non-disclosure agreement is entered into it is void.[26]

193H. In this context, a 'non-disclosure agreement' is an agreement which purports to any extent to preclude the person from—

a. publishing information about the complaint, or

b. disclosing information about the relevant complaint to any one or more other persons.[27]

5: Guidance on the 'promote' duty

[Note: This guidance is to be added to Regulatory advice 24 as 'Section 4' starting with new paragraph 214.]

Section 4: The 'promote' duty

214. Section A3 of HERA places a duty on registered higher education providers and their constituent institutions[28] to promote the importance of:

a. freedom of speech within the law; and

b. academic freedom for academic staff of registered higher education providers and their constituent institutions

in the provision of higher education (the 'promote' duty). This duty is distinct from the 'secure' and 'code' duties set out in sections A1 and A2 of HERA.

215. The 'promote' duty is proactive in character. This means that it is not merely a duty on providers and constituent institutions, while they are doing other things, to 'have regard' to the importance of 214a and 214b above in the provision of higher education. Rather, it is a duty on providers and constituent institutions to take active steps to promote the importance

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[26] See Higher Education and Research Act 2017 - GOV.UK - Section A1 (11) and (12).

[27] See Higher Education and Research Act 2017 - GOV.UK - Section A1 (12).

[28] Section A4 of HERA extends the duty under section A3 to constituent institutions.

of 214a and 214b in that setting. In particular, compliance with the A3 duty may be likely to result in an environment in which:

a. students and staff have the confidence to express, debate, teach and research a very wide range of lawful ideas and approaches, including those that some may find shocking, disturbing or offensive;

b. students and staff are fully exposed to the idea that freedom of speech and academic freedom, both for themselves and for others of differing views, are of fundamental importance to higher education; and

c. this importance is reflected in the way the provider or constituent institution operates on a day-to-day level. For providers this will be in the context of governance structures and internal processes that operate in accordance with E11 (see regulatory framework, paragraphs [TBC]).

216. The OfS's initial approach is that, given the variety of institutions in the higher education sector, it expects institutions to be well placed to consider what steps are appropriate in relation to fostering an environment as set out in 215a to 215c.

217. This section provides a non-exhaustive set of examples of steps that may, depending on the circumstances, be likely to assist providers and constituent institutions to meet their 'promote' duty. These examples are suggestions rather than requirements.

218. These activities are suggestions that governing bodies may wish to consider alongside compliance with their A1 'secure' and A2 'code' duties. They are not substitutes for, or alternatives to, meeting these two duties.

Information and events

219. It may, depending on the circumstances, be likely to assist providers and constituent institutions to meet their 'promote' duty for providers to include a single web page consolidating or linking to all information for students and staff that may be relevant to freedom of speech and academic freedom at the provider.

220. Governing bodies may also wish to consider the introduction of additional events or activities on freedom of speech during student induction as a way to engage students' interest. Where appropriate, this may include lectures or panel events open to new students and/or a stand at any freshers' fair advertising this activity, as well as any relevant training, and giving students access to the institution's statutory free speech code of practice.

Teaching and research

221. It may, depending on the circumstances, be likely to assist providers and constituent institutions to meet their 'promote' duty to consider actively supporting and modelling classroom discussion of difficult or controversial topics. Relevant activities could include:

a. offering short training or courses and publishing guidance for academics and students to help them to discuss difficult topics from a dispassionate and intellectually open perspective

b. organising and promoting a series of topical events at which speakers and students from different sides are encouraged to take part in open and tolerant dialogue, moderated by expert facilitators who offer models for peaceful and constructive communication (see example 7)

c. giving students opportunities to write essays or give presentations defending controversial positions that they reject, or attacking positions that they defend.

222. It may, depending on the circumstances, be likely to assist providers and constituent institutions to meet their 'promote' duty for institutions to consider the physical settings in which debate takes place (such as classroom layout). For instance, seating people in small groups around tables rather than in lecture-theatre style seating.

223. It may also, depending on the circumstances, be likely to assist providers and constituent institutions to meet their 'promote' duty for institutions to consider other aspects of the settings in which debate and teaching take place (including the debate format). The OfS's research suggests that steps that could be helpful in this respect may include:

a. staff explicitly stating that the class is a safe space to discuss various ideas

b. clear guidelines and boundaries discussed at the beginning of classes or lectures

c. strong safeguards against online harassment and bullying

d. more student-led debate and discussion spaces

e. a consistent approach to, and consequences or repercussions for anyone who violates, the guidelines (i.e. whatever their point of view)

f. more training for staff, for instance on the code of practice or how to handle contentious discussions

g. more university or college-led debating events or discussion spaces

h. smaller class sizes, e.g. moderated seminars.[29]

224. Additional steps in relation to the setting and format of debate and discussion may include:

a. the Chatham house rule for discussion (participants can share the content of discussions with others, but they must not attribute any of those comments to a specific person or organisation)

b. offering discussion sessions/Q&A in lectures that are **not** recorded

c. in discussions following a lecture or presentation, giving more junior audience members/participants the first opportunity to comment or ask questions.

225. It may also, depending on the circumstances, be likely to assist providers and constituent institutions to meet their 'promote' duty for them to give careful consideration to the freedom

[29] See Students' perceptions of freedom of speech: Student insight report - Office for Students.

of speech rights of those who share protected characteristics (for instance, race and disability) and to consider taking additional steps to address barriers that may be faced by those groups. Some of these steps may already be among those that providers are taking in compliance with the Public Sector Equality Duty and/or condition E6.

Training and orientation

226. It may, depending on the circumstances, be likely to assist providers and constituent institutions to meet their 'promote' duty for governing bodies to include training or instruction on freedom of speech prominently in induction programmes for incoming students and for new members of staff. It will be for governing bodies to decide on the content of any training or instructional materials. However, they may wish to consider including discussions of the importance of freedom of speech and academic freedom. It may also be good practice for the institution to refresh training for students and members of staff on an annual or more frequent basis.

227. This training and orientation may be of special importance for visiting scholars and incoming students from countries where principles of academic freedom are not recognised. In the case of international students and scholars, it may also be good practice to make key orientation content available in their first languages.

228. It may also be helpful for any such training and instruction to include completely clear and unambiguous warnings of robust internal disciplinary processes for students or staff who harmfully disclose the lawful speech of other international students or staff (for instance, by passing on the political speech of a student in class to diplomats from the embassy of that student's home country). See example 25.

229. The training suggested here is additional to the training that may be offered to students or staff, or required for relevant decision makers, under the 'secure' duty. See paragraphs 208-213. In accordance with those paragraphs of the guidance, the training suggested here should not impose a requirement on the person completing the training actively to endorse any viewpoint or value judgement. This relates to compelled speech within training: training that cannot be completed unless the user actively assents to a particular viewpoint or value judgement that they may reject. See examples 53 and 54.

Other steps

230. It may, depending on the circumstances, be likely to assist providers and constituent institutions to meet their 'promote' duty for their most senior or visible leaders (for instance, the chancellor, the vice-chancellor and the chair) to affirm frequently, unequivocally and both publicly and internally, the importance of freedom of speech and academic freedom. They could also reassure staff and students, expressly including the most junior and/or precariously employed academic staff, that the institution will protect their freedom as scholars and students to discuss, teach and research the widest possible range of ideas within the law. It is also likely to be helpful to include prominent statements to this effect on internally and externally facing websites. See also paragraphs 143-4 and Examples 28 and 29.

231. It may, depending on the circumstances, be likely to assist providers and constituent institutions to meet their 'promote' duty for governing bodies to adopt and to state publicly a position of institutional neutrality. For instance, this could be that the institution will not make

organisational comments on national or global events or support political causes or campaigns that are outside the legitimate sphere of its educational remit and (in the case of a charity) where this does not support delivery of its charitable purpose. Adopting such a stance may reduce the probability of discouragement (or 'chilling') of lawful speech by students and staff, especially junior or precariously employed staff.

Annex D: Proposed additions to the applications requirements notice (Regulatory notice 7)

Schedule 1 part A

Element of registration	Providers this is applicable to	Specified information	Specified time	Manner specified
E11.1	All providers	Where a provider has identified that a provision in its governing documents, including but not limited to the set of governing documents submitted as part of its registration application, may be inconsistent with compliance with its free speech duties, it must provide: • the relevant governing document(s); • an explanation of the potential inconsistency identified; • any governance review, or other assessment undertaken in relation to the issue (where available); and • details of any steps taken, or proposed to be taken, to amend the relevant document(s) and the anticipated timescale for doing so.	To be submitted with application	Via the OfS portal
E11.2	All providers	A free speech code of practice, which may deal with other matters but must set out the following: • the provider's values relating to freedom of speech and an	To be submitted with application	Via the OfS portal

Element of registration	Providers this is applicable to	Specified information	Specified time	Manner specified
		explanation of how those values uphold freedom of speech, • the procedures to be followed by staff and students of the provider and any students' union for students at the provider in connection with the organisation of— – meetings which are to be held on the provider's premises and which fall within any class of meeting specified in the code, and – other activities which are to take place on those premises and which fall within any class of activity so specified, • the conduct required of such persons in connection with any such meeting or activity, and • the criteria to be used by the provider in making decisions about 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		

Element of registration	Providers this is applicable to	Specified information	Specified time	Manner specified
		purposes of section A1(10) of HERA). A completed free speech management and governance self-assessment template at Annex [TBC] of Regulatory advice 3.	This information may be requested by the OfS where further information is required to assess management and governance arrangements for the purpose of condition E11.2. The OfS will write to the provider if this is required. This information is to be submitted within 20 working days of the OfS's request.	

Schedule 1 Part B

Providers this is applicable to	Specified information	Specified time	Manner specified
All providers	r. Amendments to the free speech code of practice submitted by the provider in connection with its registration application s. Where a provider has identified that a provision in its governing documents, including but not limited to the set of governing documents submitted as part of its registration application, may be inconsistent with compliance with its free speech duties, it must provide: • the relevant governing document(s); • an explanation of the potential inconsistency identified; • any governance review, or other assessment undertaken in relation to the issue (where available); and • details of any steps taken, or proposed to be taken, to amend the relevant document(s) and the anticipated timescale for doing so.	After submission of the provider's registration application and prior to the OfS making a final decision about the provider's registration application, and within 28 working days of the provider becoming aware of the specified information	Via the OfS portal

Annex E: Proposed additions to Regulatory notice 7 for further education colleges not seeking DAPs

Schedule 1 part A

Element of registration	Providers this is applicable to	Specified information	Specified time	Manner specified
E11.1	All providers	All documents held by the provider that form part of the following set of governing documents: i. documents which establish the provider as an institution, including (where applicable to the provider's legal form) its Royal Charter, memorandum and articles of association or trust deed ii. governing body documents iii. risk and audit documents iv. decision making documents v. conflicts of interest policy vi. any other documents (including shareholder agreements) which contain rules which govern the operation of the provider's governing body. Where a provider has identified that a provision in its governing documents, including but not limited to the set of governing documents submitted as part of its registration application, may be inconsistent with compliance with its free speech duties, it must provide: • the relevant governing document(s); • an explanation of the potential inconsistency identified; • any governance review, or other assessment undertaken in relation to the issue (where available); and • details of any steps taken, or proposed to be taken, to amend	To be submitted with application	Via the OfS portal

Element of registration	Providers this is applicable to	Specified information	Specified time	Manner specified
		the relevant document(s) and the anticipated timescale for doing so • confirmation, in the free speech management and governance self-assessment form at Annex [TBC] of Regulatory advice 3, that all governing documents have been reviewed by the provider, and are consistent with compliance with its free speech duties.		
E11.2		A free speech code of practice, which may deal with other matters but must set out the following: • the provider's values relating to freedom of speech and an explanation of how those values uphold freedom of speech, • the procedures to be followed by staff and students of the provider and any students' union for students at the provider in connection with the organisation of— – meetings which are to be held on the provider's premises and which fall within any class of meeting specified in the code, and – other activities which are to take place on those premises and which fall within any class of activity so specified, • the conduct required of such persons in connection with any such meeting or activity, and • the criteria to be used by the provider in making decisions about whether to allow the use of premises and on what terms		

Element of registration	Providers this is applicable to	Specified information	Specified time	Manner specified
		(which must include its criteria for determining whether there are exceptional circumstances for the purposes of section A1(10) of HERA). • a completed interventions declaration form at Annex [TBC] of Regulatory advice 3. • a completed free speech management and governance self-assessment template at Annex [TBC] of Regulatory advice 3.		

Schedule 1 Part B

Providers this is applicable to	Specified information	Specified time	Manner specified
All providers	q. Amendments to the free speech code of practice submitted by the provider in connection with its registration application. r. Amendments to any governing documents submitted by the provider in connection with its registration application. s. Where a provider has identified a provision in its governing documents, including but not limited to the set of governing documents submitted as part of its registration application, may be inconsistent with compliance with its free speech duties, it must provide: • the relevant governing document(s); • an explanation of the potential inconsistency identified;	After submission of the provider's registration application and prior to the OfS making a final decision about the provider's registration application, and within 28 working days of the provider becoming aware of the Specified Information	Via the OfS portal

Providers this is applicable to	Specified information	Specified time	Manner specified
	• any governance review, or other assessment undertaken in relation to the issue (where available); and • details of any steps taken, or proposed to be taken, to amend the relevant document(s) and the anticipated timescale for doing so. t. A notification to the provider that it is subject to an intervention by or on behalf of, the Department for Education relating to: a. financial health b. financial management and other controls c. failure to make progress on resolving an issue/s of concern in relation to a. or b.		

Annex F: Proposed interventions declaration form for further education colleges not seeking DAPs

Department for Education interventions

In the 60 months preceding the date of the provider's OfS registration application, has your provider been subject to any intervention by or on behalf of the Department for Education in relation to:

- financial health;
- financial management and other controls; or

failure to make progress on resolving any issues of concern in relation to a. or b.

Please tick the appropriate box	
Yes	No

In the 60 months preceding the date of the provider's OfS registration application means:

- any intervention that was concluded within the 60 months preceding the date of the provider's OfS registration application (regardless of when it was opened)
- any intervention that began within the 60 months preceding the date of the provider's OfS registration application and is not yet concluded, that is, is ongoing or where the outcomes are still pending.

If you answered 'yes', provide the following information about each intervention involving the provider.

For each intervention, name the bodies involved and briefly explain its subject and scope, as notified to the provider. Also state which organisation carried it out and when.

For a concluded intervention, also describe its outcome or findings, including any requirements imposed and any action the provider took in response. Include the intervention even if there were no findings.

For an intervention that is still open or awaiting an outcome, briefly describe the bodies involved and its current status.

I, the nominated accountable officer, declare that the information provided above is true and correct to the best of my knowledge.

Name of provider:

Name of nominated accountable officer:

Signature:

Annex G: Proposed free speech management and governance self-assessment template

Please complete all sections of this self-assessment template. If any governing documents you have submitted with your registration application contain the information requested in this template, you may refer to the relevant paragraphs of those governing documents.

1. How does the governing body appointment procedure ensure sufficient skills and expertise in relation to freedom of speech?

2. What are your provider's procedures for making decisions in relation to freedom of speech, including delegated decision making arrangements?

3. How are decisions made about the allocation of resources to meet free speech duties at your provider?

4. What resources are currently allocated to meet free speech duties at your provider?

5. How are free speech risks identified and managed at your provider?

6. What are the risks currently identified by your provider in relation to freedom of speech and how do you plan to manage those risks?

7. How are complaints or concerns relating to freedom of speech or academic freedom raised and dealt with at your provider?

8. How are free speech governance arrangements reviewed at your provider?

9. What are your arrangements for identifying and managing any actual or potential conflicts of interests in relation to individuals responsible for management and governance of the provider, where they are making decisions about freedom of speech on behalf of the provider?

10. Has your provider reviewed all its governing documents and determined that they are consistent with compliance with the duties? Select one option:

Yes ☐

No ☐

I, the nominated accountable officer, declare that the information provided above is true and correct to the best of my knowledge.

Name of provider:

Name of nominated accountable officer:

Signature:

Annex H: Matters to which we have had regard

The OfS's general duties in relation to section 2(1)

1. In formulating these proposals, we have had regard to the matters set out in section 2(1) of HERA.[30] These are:

   a. the need to protect the institutional autonomy of English higher education providers,

   aa. the need to promote the importance of freedom of speech within the law in the provision of higher education by English higher education providers,

   ab. the need to protect the academic freedom of academic staff at English higher education providers,

   b. The need to promote quality, and greater choice and opportunities for students, in the provision of higher education by English higher education providers,

   c. The need to encourage competition between English higher education providers in connection with the provision of higher education where that competition is in the interests of students and employers, while also having regard to the benefits for students and employers resulting from collaboration between such providers,

   d. The need to promote value for money in the provision of higher education by English higher education providers,

   e. The need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers,

   f. The need to use the OfS's resources in an efficient, effective and economic way, and

   g. So far as relevant, the principles of best regulatory practice, including the principles that regulatory activities should be –

      i. Transparent, accountable, proportionate and consistent, and

      ii. Targeted only at cases in which action is needed.

2. In formulating these proposals, we have given careful consideration to each of these matters. We consider that our general duties relating to institutional autonomy (a), freedom of speech (aa), academic freedom (ab), quality, choice and opportunity for students (b), equality of opportunity (e), efficient use of resources (f) and best regulatory practice (g) are the most relevant to our proposals within this consultation.

Institutional autonomy, freedom of speech and academic freedom

3. We have placed significant weight on our duties to protect institutional autonomy, promote the importance of freedom of speech within the law and protect academic freedom in developing these proposals.

[30] See Higher Education and Research Act 2017 - GOV.UK - section 2.

4. Part A1 of HERA imposes duties on registered higher education providers to secure, and promote the importance of, freedom of speech and academic freedom for their students, staff, members and visiting speakers.[31] Our proposals are designed to secure compliance with these duties for providers on the register and for new providers seeking to join our register. Section 8A of HERA will require us to introduce mandatory conditions of registration for this purpose.[32] We have adopted wording aligned with the statutory wording of these conditions and are not proposing any additional requirements to reduce additional burden on compliant providers.

5. We have taken care to design our proposed approach to regulation so that it is principles-based. The conditions of registration require providers to ensure that they are compliant with their free speech duties, that their governing documents are consistent with this compliance and that their management and governance arrangements are adequate and effective to secure it. However, we have been clear that what this means in practice may depend on the individual circumstances of the provider. This means that providers will be able to, and will need to, exercise judgement in how they achieve compliance with their free speech duties. We have balanced providers' autonomy to manage their affairs with our ability to intervene where providers have not complied with their duties.

Quality, greater choice and opportunities for students

6. We consider that students will not have a high quality education if that education is not grounded in freedom of speech. Students benefit from being able to engage with a wide range of lawful views, ideas and perspectives, including those that may be controversial or unpopular.

7. We consider that freedom of speech and academic freedom provide a necessary context for advancing new ideas, encouraging productive debate and challenging conventional wisdom, and that these are essential characteristics of quality higher education provision. We therefore consider that in securing freedom of speech and academic freedom, our proposals would contribute to the quality of higher education and to students' opportunities to learn, discuss and test ideas.

8. Higher education offers good value for money when it is of high quality. As we consider that the ability of students and staff to engage freely in lawful speech and open academic debate is a fundamental element of a high quality education, it follows that our proposals also promote value for money for students (relevant to our general duty (d)).

Equality of opportunity

9. We consider that students and staff should be able to participate fully in higher education regardless of their protected characteristics, beliefs or viewpoints. This may be especially important for those who could otherwise suffer harassment or discrimination on account of their protected characteristics, including their religious or philosophical beliefs. Our proposals support this objective by supporting a culture in which protected beliefs can be expressed through lawful speech and ensuring that we have a mechanism to take regulatory action,

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[31] See Higher Education and Research Act 2017 - GOV.UK - Section A1.

[32] See Higher Education (Freedom of Speech) Act 2023- GOV.UK - Section 6.

should registered providers not secure lawful freedom of speech in line with their statutory duties.

Efficient, effective and economic use of resources

10. We have had regard to the need to use the OfS's resources in an efficient, effective and economic way. Where possible in designing our proposals, we have aligned our approach with our existing regulatory systems, such as our approach to monitoring and enforcement. This will enable us to integrate our regulation in this space efficiently within our operations and prioritise our resources across our activities. We have also provided guidance and illustrative examples that we expect will improve the ability of providers to comply with the new conditions, enabling us to target our resources on areas of non-compliance.

11. We are moving Regulatory advice 24 into the regulatory framework as Annex D: Free speech guidance. This reduces the use of resources internally at the OfS and for providers by expanding on an existing and well-known resource. Moving Regulatory advice 24 into the regulatory framework reduces the complexity and length of conditions E11 and E12, and retains a sector-wide recognised resource independently available for providers, constituent institutions and users of the free speech complaints scheme.

Best regulatory practice

12. We have had regard, so far as relevant, to the principles of best regulatory practice in developing these proposals. This includes the principle that regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

    a. By providing guidance and illustrative examples within the condition guidance and annex we intend to help providers to navigate their free speech duties and improve the transparency and accountability of the OfS's regulation of those duties. Improved compliance across the sector may enable the OfS to target its activities more effectively at specific areas of non-compliance. In framing the proposed guidance and examples, we sought to provide an appropriate level of detail to provide transparency without prejudicing decisions that we will need to make on compliance with the conditions in individual cases.

    b. We have also been transparent in our approach to monitoring and enforcement of the conditions, applying our existing published approaches within our regulatory framework. In following this approach, we will provide clarity and transparency about what regulatory decisions we make, how we make them and the factors we consider to ensure consistency. This will support the sector's ability to comply.

    c. We have sought to ensure that our proposed guidance is proportionate and framed in a way that aligns with the existing statutory duties on registered providers. Our risk-based approach to monitoring and enforcement will ensure that our regulatory activities are targeted only at instances where we identify increased risk of non-compliance, without imposing significant additional burdens on compliant providers.

The Public Sector Equality Duty

13. We have had due regard to the aims of the Public Sector Equality Duty set out in section 149 of the Equality Act 2010.[33] This requires the OfS to have due regard to the need to eliminate unlawful discrimination, foster good relations between groups and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

14. The free speech duties (and the statutory conditions) are intended to ensure that individuals in English higher education both feel free, and are in fact free, to express their views within the law. Under existing legal and regulatory requirements, providers must comply with any relevant free speech duties and equality law duties, including the Public Sector Equality Duty where it applies. The free speech duties do not protect prohibited conduct under the Equality Act 2010 (e.g. unlawful discrimination or harassment), nor do they require providers to do something that is unlawful (including where securing speech would unlawfully interfere with a person's rights under the European Convention on Human Rights).

15. Some groups who share relevant protected characteristics may consider that they will be negatively affected by the lawful expression of views that they find offensive. On the other hand, the duties may support those or other groups to express their views (within the law). Some groups sharing relevant protected characteristics may be less likely to self-censor as a result.

16. The proposals on which we are consulting, namely the guidance to the statutory conditions of registration, do not change the underlying legal duties on providers. We consider that these proposals will support providers in complying with their legal duties towards their staff, students, members and visiting speakers, including those with relevant protected characteristics.

17. This consultation gives stakeholders an opportunity to inform the development of our proposals. Through this consultation we are seeking views on any unintended consequences of our proposals, for example on particular types of provider. We are also seeking views about the potential impact of our proposals on groups or individuals sharing relevant protected characteristics. Responses to this consultation will inform our assessment of the impact of our proposals on different groups.

The Regulators' Code

18. We have had regard to the Regulators' Code in developing these proposals.[34]

19. Provision 1 of the Code states that regulators should carry out their activities in a way that supports those they regulate to comply and grow. We have provided guidance on compliance with the free speech duties within our proposals (Annex D of the regulatory framework). The

[33] See Equality Act 2010 - GOV.UK - section 149.

[34] See Regulators' Code - GOV.UK.

proposed guidance is intended to support and enable providers to comply with both the conditions of registration and their underlying free speech duties.[35]

20. Provision 2 of the Code states that regulators should provide simple and straightforward ways to engage with those they regulate and hear their views. We have sought to explain both our proposals and our policy intentions throughout this consultation document. We will promote and run several consultation events during the consultation period to engage with potential respondents.

21. Provision 3 of the Code states that regulators should base their regulatory activities on risk. We are proposing using the same risk-based approach to monitoring the conditions of registration as we do for our wider regulatory framework. Generally, we will engage with providers, and consider whether any further regulatory action is necessary, only when intelligence suggests that they are breaching, or at increased risk of breaching, the conditions. While the statutory duties and the conditions apply to all registered providers, this approach will enable us to target activity at areas of greatest regulatory risk.

22. Provision 4 of the Code states that regulators should share information about compliance and risk. The detail of the proposed guidance contains information about potentially compliant and non-compliant behaviours.

23. Provision 5 of the Code states that regulators should ensure that clear information, guidance and advice are available to help those we regulate meet their responsibilities to comply. Our proposed guidance is intended to enable providers to comply with the conditions of registration. We have set out guidance (and are proposing to expand this guidance) about compliance with providers' statutory duties in proposed Annex D: Free speech guidance.

24. Provision 6 of the Code states that regulators should ensure that their approach to their regulatory activities is transparent. Our proposals provide transparency about our regulatory activities in this policy area by clearly setting out our regulatory approach and how we will make regulatory decisions. We have also set out how the new conditions are incorporated into our existing regulatory activities and provided guidance to help providers navigate the conditions and their free speech duties.

Deregulation Act 2015

25. We have also had regard to the duty in section 108 of the Deregulation Act 2015, and the statutory guidance on the growth duty issued by the Secretary of State in May 2024.[36] This Act requires regulators, when exercising applicable regulatory functions, to have regard to the desirability of promoting economic growth. In doing so, regulators must consider the importance of ensuring that regulatory action is taken only where needed and that any action taken is proportionate.

26. There is strong evidence that academic freedom contributes positively both to quantity and quality of innovation and to economic growth. Innovation drives economic growth and itself

[35] See Regulatory advice 21: Publication of information - Office for Students.

[36] See Deregulation Act 2015 - GOV.UK section 108; Statutory guidance: Growth duty - GOV.UK.

arises most vigorously in an atmosphere of unconstrained intellectual exploration.[37] For instance, one recent study of 157 countries over 116 years suggests that a one standard deviation increase in academic freedom increases the average number of patent applications two to five years later.[38] Another study, of up to 127 countries over 55 years, shows that there is a positive relationship between academic freedom and productivity growth in countries with high quality legal systems.[39]

27. In developing these proposals, we have been mindful of the important contribution that higher education providers make to economic growth through teaching, research, innovation, knowledge exchange and the development of a highly skilled workforce. Freedom of speech, and in particular academic freedom, play a fundamental role in this.

28. We have also designed our approach to be targeted and proportionate. Our proposed monitoring and enforcement approach relies as far as possible on our existing mechanisms and sources of regulatory intelligence. We consider that this design will ensure that we have the regulatory tools to safeguard freedom of speech and academic freedom where this is required, with minimal additional impact on providers who are already compliant with the statutory regime.

Guidance issued by the Secretary of State

29. We have a duty to have regard to statutory guidance issued by the Secretary of State under section 2(3) of HERA.[40] In developing these proposals, we have had regard to the guidance issued to the OfS on strategic priorities (published March 2022) and guidance on free speech commencement (published June 2025).[41]

30. In particular, the March 2022 letter set out the government's view that it is essential for the higher education sector to uphold freedom of speech and for the OfS to regulate in relation to free speech matters:

    'Freedom of speech and academic freedom are fundamental principles which underpin our HE sector. Without action to counter attempts to discourage or even silence unpopular views, intellectual life on campus for both staff and students may be unfairly narrowed and diminished.'

31. The June 2025 letter set out the government's plans to commence the provisions of the HEFSA in relation to the free speech duties for registered providers and the OfS's duty to promote freedom of speech and share best practice.

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[37] Aghion, P., Dewatripont, M. and Stein, J.C. (2008) 'Academic freedom, private-sector focus, and the process of innovation', The RAND Journal of Economics, 39: 617-635.

[38] Audretsch DB, Fisch C, Franzoni C, Momtaz PP, Vismara S (2024) 'Academic freedom and innovation.', PLoS ONE 19(6): e0304560. https://doi.org/10.1371/journal.pone.0304560.

[39] Berggren, N. and Bjørnskov, C. (2022) 'Academic freedom, institutions and productivity.' Southern Economic Journal, 88(4), 1313-1342. https://doi.org/10.1002/soej.12561.

[40] See Higher Education and Research Act 2017 - GOV.UK - Section 2.

[41] See Guidance from government - Office for Students.

32. The March 2022 guidance asked the OfS to find ways to communicate our expectations more clearly and ensure that regulatory burden is proportionate. Our proposed regulatory guidance gives registered providers and their constituent institutions clarity on:

a. the nature and importance of their legal duties relating to freedom of speech and academic freedom

b. how they may comply with these duties, highlighting different areas and scenarios they may need to consider, as well as discussing other legal duties alongside this e.g. the Equality Act 2010, the Prevent duty, and areas where HERA does not impose a duty to secure freedom of speech

c. how we will assess and monitor against the new conditions and take regulatory decisions.

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