



Training and tests regarding behaviour and attitudes

Free speech requirements and risks for English universities

IMPORTANT – THIS STATEMENT WILL BE REVISED from time to time as the law, guidance and knowledge develop. IT MAY BE OUT OF DATE: see its publication date and also the important notice at page 22.

Introduction

Best Free Speech Practice (“**BFSP**”) is a non-partisan campaign to clarify and publicly share the actual legal requirements for protecting free speech and academic freedom at UK universities and other higher educational institutions (“**HEIs**”) and their implications in practice. These requirements are generally much more demanding than HEIs appear to appreciate.

Most (if not all) English HEIs have courses, training and (sometimes) tests, which are often mandatory, for staff and students about behaviour, language and attitudes regarding matters such as diversity, race, gender and sexual matters, and wider social/political programmes/agendas. Such training is often associated with equality, diversity and inclusion (“**EDI**”) agendas. This is usually part of formal induction and matriculation processes for staff and students, and can also be part of general staff training, both for academics and for administrators. We refer to these courses, training and tests as “**Relevant Training**”.

Aspects of Relevant Training have become controversial, particularly where certain viewpoints are required to be agreed with in order to have successfully completed training or to “pass” tests. This often appears to be a consequence of HEIs acquiring courses or modules from external organisations whose objectives are both to promote a particular viewpoint about contested issues and, sometimes, to suppress other lawful views.

BFSP is a free speech campaign, so it is not concerned about Relevant Training or its aims or contents other than the extent to which it operates so as to suppress free speech: we are seeking to secure that any Relevant Training is legally and regulatorily compliant. This statement provides information about the legal and regulatory requirements for securing free speech as they apply in respect of Relevant Training. While, in the experience of free speech campaigners, Relevant Training is all too often not structured and focused so as to be defensible as legally required or justified, with appropriate focus and discipline, certain Relevant Training can be designed so as to comply with all of an HEI's relevant legal

obligations and legally justifiable objectives, including the Relevant FS Requirements. What often appears to be lacking is the will to ensure such compliance, rather than the means.

A limited range of training is legally justifiable (as opposed to effectively voluntary on the HEI's part); whether training is or is not thus affects the analysis in Part 2 below. Most relevant examples are training about harassment and discrimination, which are core legal concepts underlying the Equality Act 2010 (the "**Equality Act**"); anti-bullying training does not have these origins but is analytically similar for the purposes of the discussion below.

BFSP's associated campaign, Alumni for Free Speech ("**AFFS**"), will be monitoring and liaising with HEIs to ensure that any Relevant Training is free speech compliant. In the meantime, it asks anyone who has first-hand experience of Relevant Training which may not be compliant to contact AFFS at info@affs.uk.

Part 1: Relevant law and regulation

BFSP has provided detailed information about the relevant legal and regulatory requirements for the protection of free speech and their implications in its Statements *Free speech protection at English universities: the law and requirements in practice* (the "**Principal Statement**") and *Protected viewpoints under the Equality Act: Risks and necessary actions for employers and others* (the "**BFSP Equality Act Statement**"), which can be found at <https://bfsp.uk/universities-and-free-speech>.

The requirements under the Higher Education and Research Act 2017 ("**HERA**"), the Equality Act, the Human Rights Act 1998 (the "**HRA**"), and the conditions of registration of HEIs are together referred to in this statement as the "**Relevant FS Requirements**".

HERA and related guidance

Secure Duty: Sub-sections A1(1)-(2) of HERA¹ require the governing body of an English HEI to take "the steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take" to secure freedom of speech (within the law) for the staff, members and students ("**Participants**") at, and visiting speakers to, HEIs. This is often referred to as the "**Secure Duty**".

This a demanding requirement and requires active, positive steps to be taken: paying lip service to the importance of free speech is not enough. It is stated in objective terms, giving little material discretion to HEIs as to what steps they need to take.² Free speech obligations override other considerations, subject only to two limitations: that the relevant speech must lawful; and that the relevant step must be one which is, objectively viewed, a reasonably

¹ As introduced by the Higher Education (Freedom of Speech) Act 2023 ("**HEFSA**") with effect from 1st August 2025.

² Consistent with this, paragraph 134 of the OfS Guidance (referred to further below) states: "Where a step is reasonably practicable for an [HEI], it must be taken."

practicable one for the HEI to take. (See the Principal Statement for detailed discussion of these concepts.)

The fact that an HEI may have policies, programmes and requirements which may be thought to conflict with the free speech obligations in HERA will not mean that steps required to secure free speech are not reasonably practicable unless those policies etc. are themselves required by law or otherwise legally justifiable in the context of the Secure Duty.³ This is a matter of compliance with an objective legal requirement, and the conflicting subjective views, values, and priorities of HEIs (or their relevant departments or functions) are likely to have little relevance in this context.⁴ Furthermore, the duty to act under HERA will usually override “process” duties such as the duty to “have regard to” certain matters under the PSED (see below). Interpreting potentially contrary laws and requirements correctly is going to be vital at English HEIs, as over-interpretation creates major risks for them. Detailed information about the necessary approach in order to resolve such perceived conflicts appropriately is set out in the Appendix to the Principal Statement.

In practice, the HEI policies and requirements which can legitimately restrict speech compliantly with the Secure Duty are anti-harassment policies which are written so as to be consistent with the requirements in the Equality Act, and anti-bullying requirements which are written in “normal” terms and restrict free speech to no greater extent than is genuinely necessary to achieve the legitimate ends of an anti-bullying policy.⁵ Getting this right, and applying these requirements so as not to restrict speech more than is necessary to achieve those aims, are risk areas for HEIs.

Academic freedom: Sub-sections A1(5)-(7) of HERA provide that academic staff must be free (within the law) to question and test received wisdom and put forward new ideas and controversial or unpopular opinions, without facing the risk of losing their jobs or privileges at the HEI or the likelihood of their securing promotion or different jobs at the HEI being reduced.

Free speech codes and related rules: HEIs must maintain a free speech code of practice (“**FS Code**”) and must have rules to ensure compliance with their free speech obligations⁶. FS Codes (save where rules for staff behaviour address this issue) must be written so as to make clear that actions (including by staff) which inappropriately restrict free speech are prohibited.

³ This includes policies etc. created by an HEI itself to the extent that they reflect its legal obligations or are necessary to secure a legitimate end (and are “*proportionate*” in their application) and otherwise compliant in accordance with the principles under the HRA discussed below. This is a narrow category in practice.

⁴ Documents such as an HEI’s “mission statement” are also highly unlikely to justify derogations from the Secure Duty. For more information, see the Principal Statement, Part 2A and E.

⁵ See the OfS Guidance (as defined above), paragraphs 64, 64A and 99.

⁶ HERA Section A2, effect in practice.

OfS Guidance: The Office for Students (“OfS”) has issued guidance (“OfS Guidance”) about the legal requirements in HERA.⁷ The OfS Guidance includes specific provisions relevant to Relevant Training.

Most relevantly, the OfS Guidance specifically states:

“212. Providers and constituent institutions should not require training or induction that imposes a requirement on the person completing the training actively to endorse any viewpoint or value judgement. The preceding sentence and the associated example 53 relate 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.”⁸

We consider that – so far as it goes – this is a correct reflection of the requirements in HERA, but importantly it does not address training which, even if Participants are not required to assent, expects that they do not dissent or is otherwise likely to give rise to free speech problems and unlawfulness as discussed below. The delivery of training with such an expectation is likely to create a chilling effect on dissenting views, may contribute to the development of a hostile atmosphere for those views, and will create a risk, depending on the nature of the expectation, of unlawfulness under HERA.

Regulatory “conditions of registration” are also imposed pursuant to HERA: these are discussed below.

Equality Act

As is now clearly established in case law, various viewpoints about currently contested issues are protected philosophical beliefs (“**Protected Viewpoints**”) under the Equality Act.⁹

Employers and education providers must avoid discrimination against and harassment¹⁰ of people with Protected Viewpoints in certain contexts, including employment and further and higher education.

⁷ I.e. the OfS’ *Regulatory advice 24: Guidance related to freedom of speech*.

⁸ OfS Guidance, paragraph 212. This is well illustrated in the OfS Guidance by Example 53. See also paragraph 147: “Providers and constituent institutions should not require holders of any academic position to commit (or give evidence of commitment) to a particular viewpoint.” It is important to note that this requirement applies more widely, so as to include both students and staff other than holders of academic positions.

⁹ “Religion or belief” is identified as a “protected characteristic” under Sections 4 and 10 of the Equality Act. Sub-section 10(2) states that: “Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.”

¹⁰ Which includes creating a hostile environment.

Protected Viewpoints include (but are by no means limited to) so-called "gender-critical" beliefs, anti-Zionist beliefs, viewpoints which contest aspects of so-called "critical race theory", and views critical of Islam.¹¹ In a significant 2026 case, it was found that "hereditarian" and "anti-woke" beliefs (as defined in the judgment) are protected.¹²

The law in this area is still evolving. If they wish to avoid finding themselves in breach of the law, HEIs need to work on the basis that advocacy for free speech and other human rights, and opinions (whether religiously or philosophically based) in respect of other currently contested areas, must logically also be treated as Protected Viewpoints in appropriate circumstances and will, in time, be confirmed as such. Such obviously contested areas would include, for example, other aspects of critical race theory, the co-called "decolonisation" of the school and university curricula, views in relation to religions and their effects, and views in relation Israel and Palestine.

Given the case law discussed above, it is clear that opposition to (and non-belief in) various component agendas and ideas which are advanced under the "EDI" umbrella is already protected under the Equality Act. Where the relevant facts fit the necessary criteria¹³, there is a strong likelihood that other such views would themselves be ruled to be protected under the Equality Act were this ever to be litigated. Moreover, it is likely that opposition to (and non-belief in) "EDI" itself, as an umbrella under which many controversial viewpoints (opposition to which is protected under the Equality Act) are promoted and enforced, will itself be ruled to be a protected belief under the Equality Act. This is explained in more detail in BFSP's statement [*Opposition to EDI and Aspects Protected under the Equality Act*](#) (the "EDI Opposition Protected Statement").

Employers are liable for discrimination and harassment committed by their employees in the course of their employment, unless they can establish the defence provided under Sub-section 109(4) by proving that they took all reasonable steps to prevent this happening ("**the Section 109 Defence**"). This has given rise to some now well-known embarrassments and liabilities on the part of employers for failing to take sufficient steps to prevent harassment of their

¹¹ Per the decision of the Employment Appeal Tribunal in *Grainger plc v. Nicholson* [2010] IRLR 4, the essential criteria for protection are that a belief must be genuinely held and relating to a weighty and substantial aspect of human life and behaviour, and must be "worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with the fundamental rights of others". The threshold for satisfying the "worthy of respect" test is not a high one. Case law makes clear that only extreme views (e.g. belief in totalitarianism) would not satisfy it. See further discussion in the BFSP Equality Act Statement.

¹² *Dr Nathan Cofnas of Faculty of Philosophy v The Master, Fellows and Scholars of Emmanuel College in the University of Cambridge*, January 2026 (Claim no:L04CL172). See BFSP's [EDI Oppo statement] referred to above for more detail.

¹³ Given the nature of the *Grainger* test (see footnote 11 above), one must keep in mind that each case is fact sensitive and personal to the particular claimant: for an example, see <https://thecritic.co.uk/being-anti-woke-as-a-protected-philosophical-belief/>.

employees by their colleagues because of their Protected Viewpoints. See the BFSP Equality Act Statement for detailed discussion of this.

HEIs have very limited duties under the Equality Act in respect of the behaviour of Participants *acting in capacities which do not give rise to such responsibilities on the HEI's part*¹⁴. Opinions expressed by the HEI's staff via their private social media are not, therefore, normally the HEI's problem or concern under the Equality Act. In general, HEIs are also not responsible under the Equality Act for the behaviour of their students. See the Principal Statement for more detail about this aspect.

Subject to those limitations, however, HEIs should act on the basis that they have a legal obligation to protect the freedom of speech of people in respect of a wide range of opinions held, not held or expressed by them. Given that many people hold Protected Viewpoints about a wide range of currently controversial issues, the Equality Act creates a major risk area for HEIs. Relevant Training needs to be structured and conducted in ways which do not discriminate against or harass Participants who hold Protected Viewpoints.

Reindorf opinion: An example analogous to the potential legal issues which arise in relation to Relevant Training can be found in a detailed opinion by the specialist barrister Akua Reindorf KC¹⁵ commissioned by the Sex Matters campaign in response to King's College London's requirement that applicants for promotion demonstrate their support of that university's "equality, diversity and inclusion ambitions". Ms Reindorf found that this requirement was likely to be unlawful discrimination against individuals with protected philosophical beliefs. This was because the university's approach to equality, diversity, and inclusion in part "actively contradicts the law" and is "partisan and ideological in nature". Any Relevant Training which requires students or staff to demonstrate their agreement with contested views endorsed by HEIs (or their EDI departments) is highly likely to be similarly unlawful. In particular, Relevant Training which requires staff or students, in order to have "completed" their training, or as a condition of starting their job or course of study, to provide "correct" answers to tests or not to dissent from certain views, especially where the training goes beyond what is legally justified (as discussed below), is also likely constitute unlawful discrimination under the Equality Act.¹⁶ Relevantly, Ms Reindorf KC advised about the consequence of crafting internal policies with the aims or agendas of external groups in mind.¹⁷

¹⁴ Other than limited duties under parts of the PSED as discussed below.

¹⁵ <https://sex-matters.org/wp-content/uploads/2024/04/KCL-advice-for-publication.pdf>.

¹⁶ The case of [*Mr S Isherwood v West Midlands Trains Limited*](#) (not formally reported) illustrates the legal risks of forcing employees not to dissent from views presented in training. Mr Isherwood was fired by West Midlands Trains after strongly criticising a training session on "white privilege". A subsequent Employment Tribunal found that West Midlands Trains had unlawfully discriminated against Mr Isherwood.

¹⁷ In paragraph 70, she stated: "A consequence of crafting internal policies with the aim of satisfying the ideological preferences of single-interest accreditation schemes is that it carries a risk of disturbing

PSED: HEIs are subject to the Public Sector Equality Duty (“PSED”) imposed under **Section 149** of the Equality Act. The PSED requires HEIs “to have due regard to” the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The words “have due regard to” mean that the PSED is a duty to consider and not a duty to take any particular action. It has been described as a “a duty of process and not outcome”¹⁸. Positive duties to take action (including both those now included in HERA and the need to avoid discriminating against or harassing people with protected viewpoints under the Equality Act) are, therefore, likely to override the PSED. The PSED is very specifically worded. It does not require or justify consideration of factors wider than the specific needs stated in the PSED when HEIs devise their programmes and agendas, EDI-related ones in particular. All of the above is discussed in detail in the BFSP Equality Act Statement.

Human Rights Act

Given that most (if not all) HEIs are “public authorities”, the fact that the freedom of thought and expression of Participants and visiting speakers are specifically protected under the **European Convention on Human Rights** (the “**Convention**”)¹⁹, as enacted in the UK by the HRA, is an obviously relevant consideration in ascertaining whether any Relevant Training at HEIs is lawful. Again, further detail about the relevance of the HRA in the HEI context is to be found in the Principal Statement.

The free speech rights protected under the HRA include the freedom to offend, shock and disturb. Compelled thought and speech are unlawful. Political expression (in a wide sense rather than a narrow party-political one) attracts the highest degree of protection, as does

the balance of rights which the [Equality Act] seeks to achieve. Of relevance in the current context, it is likely to result in a conflict between the employer’s policy aims and the rights of employees who hold protected philosophical beliefs which conflict with those of the accreditation schemes in question. For example, any requirement placed by KCL upon members of staff to demonstrate support of the gender identity belief is plainly likely to place people with gender critical beliefs at a disadvantage, particularly if it is accompanied by a penalty for failure to demonstrate such support.” <https://sex-matters.org/wp-content/uploads/2024/04/KCL-advice-for-publication.pdf>

¹⁸ *R (Bridges) v Chief Constable of South Wales Police* [2020] EWCA Civ 1058; [2020] 1 WLR 5037.

¹⁹ Under **Article 9** (Freedom of thought, conscience and religion) and **Article 10** (Freedom of expression).

academic freedom. Any interference by an HEI with the expression of opinions and academic freedom of its academics and students will require exceptional justification.

Unlike the right to freedom of thought, the right to free expression is subject to the qualification that the “exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society” for various specified purposes, including for the protection of the rights of others. This qualification is, though, itself subject to a requirement that such restrictions be accessible, clear and precise, and to a “proportionality” test. Contrary laws and legal obligations can thus operate to restrict free speech rights, to a limited extent. In practical terms, and while there is no direct legal precedent to confirm this, we consider that some HEI policies/requirements which, while one cannot point to a particular legal requirement justifying them, are securing a legitimate aim, are proportionate (including being no more restrictive than is necessary to achieve that aim) and are enforced proportionately, and otherwise compliant with the HRA, will operate so as to limit obligations to protect free speech justifiably for the purposes of the HRA. The range of such restrictions will, however be extremely narrow in practice. The principal examples (the only ones we are aware of that could be relevant to this context) are appropriate anti-harassment and bullying rules. These, though, would need to be very carefully drafted so as to be compliant. Assertions of “offence” are not on their own sufficient in this context.

Academic freedom protections extend “to the academics’ freedom to express freely their views and opinions, even if controversial or unpopular, in the areas of their research, professional expertise and competence”²⁰ and to “extramural” speech “which embraces not only academics’ mutual exchange (in various forms) of opinions on matters of academic interest, but also their addresses to the general public”.²¹ Any sanction imposed on an academic in relation to the exercise of academic freedom is likely to be a breach of Article 10, since, however minimal, such sanction is liable to impact relevant rights of free expression and have a “chilling effect in that regard”.²² Mere censure of an academic for expressing views (even without any form of sanction) was recently found to be a breach of Article 10.²³ It follows that any attempt to justify restrictions on, or impose sanctions in respect of, otherwise lawful statements made in an academic setting is likely to be unsuccessful.

While the Convention rights enshrined in the HRA are primarily worded as negative obligations, i.e. not to interfere with freedom of thought or expression unless that is justified, HEIs are also under positive obligations to “create a favourable environment for participation in public debates for all concerned, allowing them to express their opinions and ideas without

²⁰ See: *Erdoğan v. Turkey*, App. nos. 346/04 and 39779/04 (2014), paragraph 40.

²¹ *Ibid*, concurring judgements paragraph 3.

²² See: *Kula v. Turkey*, App. no. 20233/09 (2018).

²³ See: *Torres v. Spain*, App no. 74729/17 (2022).

fear, even if these opinions and ideas are contrary to those defended by the official authorities or by a large part of public opinion, or even if those opinions and ideas are irritating or offensive to the public”.²⁴ The nature and extent of these positive obligations are, however, unclear. They must include making it clear that Participants are expected not to take actions which materially interfere with other Participants' free speech rights, training them appropriately and ensuring that its own policies and requirements are not such as restrict Participants' free speech rights (this is discussed in detail elsewhere).

Requirements consequent on charitable status

As educational charities, most HEIs must beware that, while charity law defines the purpose of “advancing education” broadly, an intention to promote or an attempt to inculcate a particular view or political orientation – i.e. propaganda – is not educational for the purposes of charity law. This is very relevant to situations where, for instance, an HEI has policies or practices (such as training) which are provided by external activist organisations.

Dandridge review: HEI culture, EDI as a source of free speech problems and institutional neutrality

The Dandridge Review²⁵ is a report, published in September 2024, following an independent investigation commissioned by the Open University (“OU”) into its failure to manage disputes and prevent unlawful harassment of Professor Jo Phoenix over her views.²⁶ The Review cited numerous ways in which EDI requirements and agendas cause problems for free speech. Some key relevant findings of the Review included the following.

- There is a culture at the OU that there are “right” ways of viewing things, which can lead to dissenting views being suppressed and individuals self-censoring (as referred to by several witnesses) and an imbalance between EDI and free speech requirements and agendas. Clearly, this has major implications for Relevant Training: HEIs should not be implementing training in a way which creates, permits or supports such a culture.
- The Review showed that the OU’s policies were not sufficiently clear about the boundary between lawful free speech and harassment, and were not adequately communicated to staff. If a university’s policies on harassment are unclear, or actively restrict lawful speech

²⁴ See: *Dink v. Turkey*, judgement of 14 September 2010 in French only, at 137.

²⁵ See: <https://www.open.ac.uk/blogs/news/wp-content/uploads/2024/10/Independent-Review-N-Dandridge-09.09.24.pdf>. See BFSP’s detailed analysis of the Review at <https://bfsp.uk/universities-and-free-speech>.

²⁶ Those failings were identified in a damning judgment of the relevant employment tribunal for unfair and wrongful dismissal and harassment and discrimination under the Equality Act: <https://www.judiciary.uk/wp-content/uploads/2024/01/Joanna-Phoenix-v-The-Open-University-Employment-Tribunal-Reserved-Judgment.pdf>.

beyond the limited range of legal justification, then training on harassment which makes use of or references those policies is likely to restrict speech, and to be unlawful.²⁷

- The Review also recommended an “underpinning principle” headed “[...] the OU should adopt a policy of institutional neutrality in relation to contentious issues (unless relevant to the OU’s strategy)”. While the detailed text explaining this proposal has a number of defects, this is still highly significant, and is consistent with AFFS having urged for some time that institutional neutrality is the only effective way to avoid legal and compliance failures such as discrimination and harassment as a result of taking sides in contested matters. This means that Relevant Training must avoid taking sides in such a way.

All of the above are relevant to training as it concerns the general cultures and environments at HEIs. They are further relevant to training because a lot of, albeit not all, Relevant Training has origins in EDI and the EDI function, meaning that possible risks from this, and conflicts of interests, need to be carefully monitored and addressed.

Regulatory requirements: conditions of registration

English HEIs must comply with various “conditions of registration”, which are imposed pursuant to HERA. Compliance is overseen by the OfS, which has the power to fine or deregister (remove the degree awarding powers of) non-compliant HEIs. Two conditions of registration are particularly relevant in this context.

Condition E2: Condition E2 requires that an HEI has “in place adequate and effective management and governance arrangements to:

- operate in accordance with its governing documents;
- deliver, in practice, the public interest governance principles that are applicable to it.”²⁸

Condition E6: Condition E6 relates to harassment and sexual misconduct as regards students, but includes important free speech provisions. In particular, E6 requires an HEI’s policies on harassment to be consistent with:

- severe limits on the ability of HEIs to extend definitions of harassment beyond the law in ways which restrict lawful free speech; and

²⁷ See, for example, paragraphs 2.17, 2.33, and 2.35 - 2.36, and Recommendation 5 of the Review.

²⁸ The relevant “public interest governance principles” are of:

- Academic freedom: Academic staff at an English HEI have freedom within the law to question and test received wisdom; and to put forward new ideas and controversial or unpopular opinions; and
- Freedom of speech: The governing body takes such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.

- the need for HEIs to apply a rebuttable presumption to the effect that statements or views expressed in the course of teaching or research, and course content, are highly unlikely to constitute harassment.

Implications as regards Relevant Training: to be sure of compliance with these conditions, an HEI should ensure that its Relevant Training upholds academic freedom and free speech, and its training on harassment operates so as to restrict lawful speech no more than is legally justifiable and is consistent with the need for a rebuttable presumption described above and the other requirements of condition E6.

The key consequential general requirements of the Relevant FS Requirements

There is a large range of actions which are required or necessary as a consequence of the Relevant FS Requirements. These are discussed in detail in the Principal Statement. The most relevant are the following.

- **Having policies which comply:** HEIs must ensure that their policies are compliant with legal and regulatory obligations to protect free speech.
- **Having requirements for free speech protection:** HEIs must have in place appropriate policies and requirements to protect freedom of speech within the law. This would include rules prohibiting Participants from bullying, harassing, or discriminating against other Participants for their viewpoints. HEIs must act proactively to enforce these requirements, where appropriate, through disciplinary measures.
- **Having appropriate governance arrangements:** ensuring that the HEI has appropriate and sufficient free speech protection governance structures. This is likely to include having a designated officer who is responsible for free speech protection and having effective reporting and accountability structures for free speech failures.
- **Not enforcing controversial agendas:** In recent years, some HEIs have promoted certain viewpoints about areas which are the subject of debate or controversy. This gives rise to various free speech issues and concerns and, in order to avoid unlawful actions, HEIs and their representatives need to avoid enforcing controversial agendas, including via Relevant Training. This is discussed in detail in Part 2 below.
- **Not allowing its administrative, EDI and other functions to become instruments of free speech suppression:** For instance, by pursuing inappropriate (often unlawful) disciplinary processes relating to expressions of viewpoints. See the discussion of the implications of the Dandridge Review above.
- **Not require commitment to beliefs, ideas or values:** HEIs must, generally, not require Participants to commit or give evidence of commitment to any values, beliefs, or ideas, including EDI.²⁹

²⁹ See the OfS Guidance, paragraph 147. Note that the requirement extends to freedom of speech, and to all Participants.

- **Avoiding and reducing an oppressive atmosphere:** Given that the existence of an atmosphere in which Participants feel intimidated about expressing their opinions gives rise to obvious risks of self-censorship and very harmful effects on free speech at HEIs, HEIs are required by the Secure Duty to take all reasonably practicable steps which might stop such an atmosphere developing in the first place or persisting if it already has. Qualifying for the Section 109(4) Defence under the Equality Act can also require this. BFSP recognises that this is not easy to address, but HEIs need to give this careful thought and take available action. The HRA places positive obligations on HEIs to create an atmosphere where individuals can “express their ideas and opinions without fear... even if these opinions and ideas are contrary to those defended by the official [university] authorities”.³⁰
- **Maintaining sufficient institutional neutrality:** This is discussed in detail in Part 2 below.
- **Avoiding or restructuring any association or relationship** with any organisation where that relationship requires it to take sides in relation to contested issues or requires or encourages it to suppress the expression of views which dissent from the agenda being promoted by any such organisation. This is discussed in detail in Part 2 below.
- **Ensuring that Participants have adequate induction and training** about protection of free speech, and that they understand the nature of the requirements to protect free speech.³¹ This will likely be particularly important and extensive for staff who are involved in functions which could create free speech risks or have free speech implications.

Constituent institutions and students’ unions

Very similar duties apply to colleges, halls, and other “constituent institutions” of HEIs to those imposed on HEIs themselves under HERA. This was a major change, introduced in August 2025 by HEFSA. The Equality Act applies to constituent institutions and also, with the exception of the PSED, to students’ unions. Whether the HRA applies in respect of constituent institutions which are separate legal entities will depend on the nature, functions and activities of the relevant CIs and the nature of the relevant events. Oxbridge colleges are separate legal entities and are viewed as subject to the HRA³². The HRA does not apply to students’ unions.

AFFS’s recent [Recruitment Report](#) shows how requirements to endorse disputed ideas and values, through widespread requirements to support EDI, in the application processes to academic positions at UK Russell Group universities, risk unlawfulness.

³⁰ *Dink V Turkey*, judgement of 14 September 2010 in French only, at 137.

³¹ The OfS Guidance contains detailed requirements in this regard, which are discussed in the Principal Statement.

³² Oxbridge colleges are currently analysed as ‘hybrid public authorities’ for the purposes of the HRA ([Aston Cantlow v Wallbank \[2003\] UKHL 37](#), Lord Nicholls), and Convention rights do not extend to

The Secure Duty requires HEIs to take their own steps, to the extent reasonably practicable given the nature of the relevant structures and relationships, to ensure compliance by their constituent institutions and students' unions, as regards the HEI's Participants. This is a complex area which is discussed in detail in Part 3 of the Principal Statement. This would extend to securing that Relevant Training is compliant.

Part 2: What the law requires in practice re Relevant Training

An HEI must not design, adopt, conduct or permit on its behalf Relevant Training to the extent that this, or its contents or materials, contravene the Relevant FS Requirements or its own FS Codes or related requirements.

There is a key distinction between:

- the limited types of Relevant Training which are necessary or justifiable pursuant to legal obligations or other restrictions on speech which are recognised as justifiable, as discussed below; and
- other Relevant Training, which is effectively voluntary.

This distinction is particularly important where such training reflects programmes, agendas or ideologies which are wider than what is required in connection with (for instance) the specifically worded requirements of the Equality Act. If HEIs, despite considerations of institutional neutrality, offer (or permit) such training, it is crucial that the distinction between what is legally justifiable and what is not is kept firmly in view. This is explored below.

Legally justifiable Relevant Training: harassment and bullying

Relevant Training pursuant to legal obligations and for other limited purposes

Certain types of training (which are often associated with "EDI") can be required to be undertaken by relevant staff in order for an HEI to comply with its legal obligations. For example, HEIs might require relevant staff to undergo training so as to ensure compliance with their obligations under the Equality Act to avoid or prevent unlawful discrimination or harassment.³³

situations where the act in question is of a "private" rather than a "public" nature. This is a complex area.

³³ Such training might be necessary in order for an HEI to avail itself of the Section 109(4) Defence referred to above. This is recognised in the OfS Guidance (paragraphs 64 and, more explicitly, 99) as legitimately restricting obligations under the Secure Duty. Training might also be considered necessary pursuant to the PSED albeit that, as already noted, this "have due regard" duty is likely to be overridden by the positive obligations under HERA. HEIs have limited obligations under the Equality Act in respect of the behaviour of students (as opposed to employees), but note condition of registration E6 regarding harassment and that the OfS recognises that such training is legitimate in practice, as discussed below.

It is legitimate, in the context of free speech protection, to have anti-bullying and anti-harassment rules which go beyond the strict terms of the Equality Act (for instance because they apply to students) or the Protection from Harassment Act 1997, provided this is proportionate and in line with OfS guidance³⁴. It is logical that training about such requirements can also be justifiable in the context of the Secure Duty to the extent it is focused exclusively on such concerns.

All such training needs to be carefully constructed so as to restrict free speech to the minimum extent necessary for the relevant goal as discussed in Part 1 above, and below. Note that what is “proportionate” is not at HEIs’ discretion, it is a legal concept: they will need to construct and focus any relevant rules with extreme care.

Where Relevant Training is imposed for ends which are justifiable as discussed above, it is unlikely (so long as carefully designed – see further below) to be regarded as inconsistent with HEIs’ obligations to protect free speech.

To the extent that the nature and extent of Relevant Training goes beyond what is strictly necessary to deliver justifiable ends as discussed above, it is voluntary on the part of the HEI and needs to be considered under the second category discussed below: Relevant Training which is not legally justifiable.

Identifying the scope of legally justifiable Relevant Training

In order to count as legally justifiable (and be made compulsory on that basis), the nature and extent of Relevant Training will need to be such as are required to achieve the justifiable objectives, and no more. The following are some relevant requirements and factors.

- HEIs will need to properly understand the actual legal requirements of the Equality Act or any other relevant law, so that it is interpreted and applied correctly. In particular, HEIs must not over-interpret the scope and application of the concepts of discrimination, harassment and “proportionality” as very specifically defined in the legislation and interpreted by the courts (see the discussion of this subject in the Principal Statement) so as, for instance, to create “risks” or “requirements” which do not in fact arise under the relevant law. Condition of registration E6 will be significant in this regard. See the further discussion of this below.

³⁴ The OfS Guidance (paragraph 99) recognises that anti-harassment and -bullying requirements can legitimately restrict obligations under the Secure Duty, and states that “institutions must ensure that these policies are carefully worded and implemented in a way that respects and upholds their free speech obligations. In doing so, particular regard and significant weight must be given to the importance of free speech.” See also the OfS guidance on condition of registration E6 re harassment, available at: <https://www.officeforstudents.org.uk/for-providers/student-protection-and-support/harassment-and-sexual-misconduct/condition-e6-harassment-and-sexual-misconduct/>. That guidance envisages harassment rules extending beyond the Equality Act and Protection from Harassment Act but includes various important protections for freedom of speech.

- HEIs will need to be especially careful when constructing training on bullying, where relevant requirements have limited or uncertain bases in law. The purpose and nature of the training will need to be sufficient to justify restricting free speech under the Relevant FS Requirements.
- It will be important to keep the Relevant FS Requirements in mind and ensure that the interaction of the Relevant Training and the Relevant FS Requirements is properly understood and managed successfully. HEIs will need to act to minimise any negatives for free speech while delivering any Relevant Training required to achieve the justifiable objectives.
- The PSED might be relevant to decision-making processes as to what is included in Relevant Training. As already noted, however, the PSED is a duty to consider and does not create any positive obligation to take action and is, therefore, in cases of conflict usually overridden by positive duties to act (such as under the Secure Duty). In reaching decisions relating to Relevant Training, HEIs will be required to take account of the overriding duties to protect Participants' free speech and thought. Treating the PSED as somehow justifying compulsory Relevant Training would likely give rise to an immediate risk of contravening the Relevant FS Requirements.

Implications where Relevant Training is legally justified

Even where Relevant Training is justified as discussed above, the Relevant FS Requirements still apply, so the Relevant Training must only limit free speech to an extent that does not contravene the Relevant FS Requirements or charity law. If this is achieved, HEIs may be able, indeed required, to make such Relevant Training compulsory for relevant Participants; and they may legitimately test Participants' understanding of the information imparted and require confirmation of an intention to comply with the HEI's requirements as to behaviour.³⁵

HEIs must not, however:

- require expressions of support for, or impose negative consequences for lawful expressions of dissent from, aspects of what is being taught at the training;³⁶

³⁵ As is, in any event, commonly required under the terms of employment contracts between HEIs and their employees and/or student conduct rules.

See paragraph 213 of the OfS Guidance: "we do not intend to discourage institutions from offering or requiring training on sensitive subjects, including training that itself asserts positions with which some users may disagree." See also Example 54.

³⁶ Where EDI Training is legally justified, there must be a point at which dissent is expressed in a way which undermines the legitimate purpose of the training. This would include expressions in a way which materially disrupt the training, for instance by repeated interruptions and shouting. HEIs may restrict such disruptive expressions, but must permit forthright expressions of dissent. This is an area of difficulty and risk for HEIs.

- present views which lawfully disagree with aspects of what is being taught at the training in a negative light; or
- create or enhance a hostile environment for people with lawful views which are not “approved” or may be unpopular or contrary to the agendas, purposes being promoted or implemented through the training (chilling effect).

Before making Relevant Training compulsory, an HEI needs to have either itself ensured that the training is free speech compliant, or, in the case of training conducted by third party providers, done due diligence on the training and assured itself that that training will be compliant, or obtained assurances to that effect from the provider as described below.

Relevant Training which is not legally justifiable: compliance limitations

Most Relevant Training goes beyond what is legally justifiable as discussed above, so is effectively voluntary on the HEI’s part. That training must, however, be legally and regulatorily compliant.³⁷

All too often, Relevant Training (including some which is compulsory) is obviously non-complaint with the Relevant FS Requirements and charity law, as explained below. As a result, some HEIs appear to have been acting (and still to be acting) contrary to their legal obligations by doing (or not doing) some or all of the following.

Requiring expressions of support or tests to be passed, or penalising or preventing dissent

Requiring people taking the training to express support for, or acquiesce to, specific viewpoints or agendas in order to have “correctly” answered certain questions, or to have “passed” the training or any test; or to avoid having to retake a course or test (or to answer specific questions again) until they give the “right” answer or enough “right” answers:

- effectively disallows or suppresses opinions which are contrary to the agendas or viewpoints being promoted; and
- is likely to create or contribute to an intimidating or hostile environment (whether at the training or more generally) for those Participants who disagree with those viewpoints or aspects of them.

Relevant Training which does this will be contrary to some or all of the Relevant FS Requirements (and, very likely, to the HEI’s own FS Code or rules).³⁸

³⁷ The OfS Guidance (paragraph 213) states: “we do not intend to discourage institutions from offering or requiring training on sensitive subjects, including training that itself asserts positions with which some users may disagree”.

³⁸ OfS Guidance, paragraph 212, and Example 53. Similarly, requirements to endorse disputed ideas and values, through requirements to support EDI in the application processes to academic positions are likely unlawful, as shown by AFFS’s [Recruitment Report](#).

The same obviously applies in respect of:

- penalising, including creating, encouraging or allowing negative consequences for, dissent from the agendas or viewpoints being promoted or the contents of or materials for the training; and
- preventing, impeding or suppressing the expression of dissent from the agendas or viewpoints being promoted at the training. See more below.

Presenting particular programmes/agendas as the only legitimate view, and differing views in a negative light; discrimination or harassment

To the extent that Relevant Training which is not legally justified:

- presents the agendas or viewpoints referred to, or the ideas behind them, as the only legitimate way of seeing a subject;
- presents viewpoints which are contrary to those being put forward as part of the training as inappropriate or in a hostile or negative light;
- has the effect of sending a message to Participants that there are views which it is effectively compulsory to hold and express or visibly support, and unacceptable to dissent from; or
- creates or contributes towards an intimidating or hostile environment (whether at the training or more generally) for Participants who hold certain viewpoints,

it is highly likely to be contrary to some or all of the Relevant FS Requirements (and/or HEIs' own FS Codes or rules).

Misrepresenting requirements which would limit what is legitimate speech, or ways in which that speech may be restricted

To the extent that Relevant Training misrepresents the law with respect to what is lawful speech, or the ways in which speech may be lawfully restricted (for instance by asserting or suggesting that a significantly more limited range of speech is lawful, or a significantly wider range of speech can be lawfully restricted, than is in fact the case), that is likely to lead Participants to not express views they would otherwise express; this is likely to contravene the Relevant FS Requirements. This is explained in detail below.

Mandatory training, or presenting non-attendance negatively

Compelling a person to undergo an attempt to make them think/speak in certain ways about what are often contested subjects, about which Participants are entitled lawfully to hold differing views, is both inappropriate in principle in a liberal democracy and itself a compliance risk (the compelled thought aspect creates a risk under the Equality Act and HRA if not the Secure Duty).

More specifically, if the Relevant Training is itself non-compliant, or at risk of being so, then compelling a person to attend that non-compliant training will itself be non-compliant, or at

risk of being so. Before making Relevant Training compulsory, an HEI needs to have either itself ensured that the training is free speech compliant, or, in the case of training conducted by third party providers, done due diligence on the training and assured itself that that training will be compliant, or obtained assurances to that effect from the provider as described below.

Further, to the extent that the mandatory nature of the Relevant Training (or the fact that non-attendance is presented negatively):

- has the effect of sending a message to Participants that there are views which it is effectively compulsory to hold and express, and unacceptable to dissent from; or
- is likely to create or contribute to an intimidating or hostile environment (whether at the training or more generally) for those Participants who disagree with those viewpoints or aspects of them,

such mandatory training must be likely to be contrary to some or all of the Relevant FS Requirements, including HEIs' own FS Codes or rules. HEIs that want to impose compulsory training – other than on matters for which this is legally justified (such as on harassment and bullying in ways that comply with Relevant FS Requirements) as discussed above – will need to design that training carefully and be very sure that that compulsion is compliant.

All training should make rights to free speech and thought (i.e. to dissent) clear

It is likely that the Secure Duty requires that HEIs should ensure that all Relevant Training, including that which is legally justifiable, refers to their FS Code and free speech complaints process; and to Participants' rights to hold (or not hold) and to express their beliefs and viewpoints (or lack of them) about the subject-matter of the training. The OfS Guidance is relevant in this respect.³⁹ This may also extend to informing Participants that the HEI has legal obligations to protect Participants' free speech, and that those obligations are supported by policies and complaints and disciplinary processes to which the Participants may resort if concerned about aspects of the training they are being required to undertake. This will in any event be best practice. This will also operate to reduce the risks from otherwise non-compliant, or borderline elements of training; and to demonstrate, were something to go wrong with the training as delivered, that the HEI takes free speech seriously, and help mitigate any apparent failures with the clarity that all participants' free speech rights are protected.

³⁹ See paragraph 169d, which states that: it would be good practice for a statement about an HEI's FS Code to be included prominently in any document stating or explaining any policy that may affect free speech, along with a statement that, in cases of uncertainty, the definitive and up-to-date statement of the institution's approach to freedom of speech is set out in the [institutions FS] code. This guidance applies explicitly to all policies relating to equality (or equity), diversity and inclusion, harassment and bullying and staff and student codes of conduct. While the OfS Guidance does not make express reference to training content or materials in this context, it will extend to training materials which state or explain any policy that may affect free speech. We consider that the OfS Guidance does not fully reflect the Secure Duty in this regard.

The above may also help HEIs demonstrate that they have done enough to qualify for the Section 109(4) Defence in respect of alleged discrimination against or harassment of Participants in respect of their Protected Viewpoints under the Equality Act.

Stating inappropriate requirements for Participant behaviour

HEIs must, as discussed above, ensure that their own requirements for Participants, particularly about on-campus behaviour and attitudes, are compliant with the Relevant FS Requirements. This is a complex matter, requiring them to restrict free speech no more than is necessary for a legitimate (legally justifiable) underlying purpose.

In designing Relevant Training (and any other courses and materials), HEIs must be confident that their policies and requirements are compliant in this way and that they are accurately reflected in that training, and not, for instance, exaggerated. This will ensure that they do not mislead Participants about the nature of the limitations on forms of expression which are available to them, which would lead to likely unlawfulness on their part.⁴⁰

Not misrepresenting or overstating the scope or effect of contrary laws and requirements; other misleading statements

Care is required in identifying accurately the scope of duties and laws which may conflict with or otherwise potentially affect the Relevant FS Requirements (for example, the anti-discrimination and anti-harassment provisions in the Equality Act).

HEIs need to be very careful to word any training and other materials so that they do not misstate or exaggerate the scope or effect of such duties and laws, or make other misleading statements, and thus have the effect of unlawfully restricting free speech, including by leading Participants to not express views they would otherwise express.

Common examples of false or misleading statements, which we have seen, include the following.

- That the Equality Act generally outlaws discrimination and harassment. In fact, however, that legislation only outlaws discrimination and harassment perpetrated by specified parties in specified contexts, such as employment and education, with respect to specified protected characteristics including certain protected viewpoints. It applies to actions of HEIs, and their employees in the course of their employment and their agents when performing functions for the HEI, but generally not to actions of students, or staff in other circumstances.

⁴⁰ For example, the University of Sussex stated in its “Trans and Non-Binary Equality Policy Statement” that “communications that could reasonably be expected to cause distress” “are serious disciplinary offences for staff and students and will be dealt with under the appropriate University procedures”. This did not reflect underlying legal requirements, so was likely to have restricted lawful speech without legal justification (it was subsequently amended). A similar passage in a training course would be likely to cause an HEI to breach the Relevant FS Requirements.

- That the PSED requires HEIs to take particular actions. This is untrue, as discussed in Part 1 above.
- That certain categories of viewpoints are restricted by law when they are not, an example being asserting that “hate speech” or “Islamophobia” is a crime, with the implication that views critical of aspects of Islam would not be protected speech, or that holding or expressing such views would be a criminal offence.
- That gender-critical views constitute “transphobia” or that opposition to aspects of Islam is “Islamophobia” (or equivalents, for other religions).⁴¹

These sorts of misstatements are likely to lead Participants not to express views they would otherwise express, or to lead to unlawful restrictions on speech being enforced, and thus either constitute or result in likely contraventions of the Relevant FS Requirements.

HEIs responsible for contents and materials: risks of acquiring from external organisations

The policies or requirements – and training – of HEIs are sometimes written in ways which reflect the viewpoints or desired outcomes of campaign organisations, but which misrepresent or extend beyond relevant legal requirements and/or otherwise operate to suppress dissenting viewpoints. BFSP has consistently warned that acquiring courses and materials from (or otherwise designed or approved by) external organisations or campaign groups dramatically increases the risk of HEIs failing to comply with their free speech legal and regulatory obligations. An example in practice of this was a non-compliant behaviour policy which was adopted by the University of Sussex.⁴²

To avoid compliance failures, HEIs need either to design such policies, courses, training and materials themselves having regard to their free speech obligations, or only to rely on advice or to use materials from third party providers if they have:

- obtained formal assurances that the advice/materials have taken account of the impact of legal and regulatory requirements for free speech protection and that appropriate specialist advice has been taken about compliance; and that they are confirmed as being

⁴¹ Cases under the Equality Act have shown that this sort of negative stereotyping can be unlawful harassment (see for instance the *Meade* and *Phoenix* cases discussed in the BFSP Equality Act Statement).

⁴² In 2018, the University of Sussex created its “Trans and Non-Binary Equality Policy Statement” by using nearly verbatim a number of passages from a template provided by a predecessor of the organisation Advance HE. The OfS subsequently found that these passages restricted academic freedom and freedom of speech, and therefore caused the university to breach its conditions of registration and fined the university £585,000 in total.⁴² While this fine was overturned, primarily on the basis of it having used its powers inappropriately and bias in its approach to the case, relevant passages in the policy are likely to have been unlawful, and the University of Sussex subsequently accepted that they were inappropriate. The case provides a stark warning of the risks involved in the incautious use of third-party materials. The policies which gave rise to the non-compliance in the Sussex case were also adopted by a substantial number of other HEIs.

compliant with such laws and requirements (with, for maximum protection, an indemnity against losses caused by that assurance not being correct); and/or

- themselves done enough to ensure compliance. What that entails will depend on whether they have received the assurances referred to above. If they do not receive such assurances, they either need themselves to ensure compliance, or to use a different source.

HEIs should do early due diligence to ascertain whether training conducted by a relevant provider organisation would be likely to create free speech compliance risks, for instance because of the focus or priorities of the organisation.

Key underlying compliance need: not enforcing controversial agendas

In recent years, some HEIs have promoted certain viewpoints in respect of areas which are the subject of debate or controversy. This gives rise to various free speech issues and concerns.⁴³ Whenever promotion of controversial viewpoints requires or exerts (directly or indirectly) pressure for the endorsement of or acquiescence to those viewpoints, or suppresses the expression of lawful dissenting viewpoints, there will be a clear breach of the Secure Duty, subject to the limitations on that duty discussed above.⁴⁴ Such taking of sides also risks creating a hostile environment which constitutes harassment under the Equality Act and also risks a breach of free speech rights under the HRA. An institution's disapproval of a particular lawful viewpoint has already been held to be sufficient to constitute harassment.⁴⁵

Save to the extent that doing so is legally justified as discussed above, HEIs therefore need to avoid imposing or enforcing controversial programmes and agendas, and in particular must not require Participants to commit (or give evidence of commitment) to values, beliefs or ideas being promoted by them; this is reflected in the OfS Guidance as discussed above.

Key underlying compliance need: sufficient institutional neutrality

The above requirements and risks highlight another underlying issue of general importance: institutional neutrality. If an institution takes sides, in an area of passionate and polarised debate, with one contested position, it necessarily formally sets itself against the other position. This gives rise to a very obvious risk of disadvantaging or creating a hostile

⁴³ For example, the University of Sussex did this in relation to transgender matters in its "Trans and Non-Binary Equality Policy Statement", as discussed elsewhere. In another example, ADFS has documented in its [Recruitment Report](#) how requirements to endorse disputed ideas and values, through widespread requirements to evidence support for EDI in the application processes to academic positions at HEIs, risk unlawfulness.

⁴⁴ Examples 26, 29, 32, 34, 35, 45, 51, 52, and 53 in the OfS Guidance illustrate this well. The University of Sussex's requirement for "any materials within relevant courses and modules [to] positively represent trans people and trans lives" was found to breach the university's conditions of registration and contributed to the OfS imposing the fine referred to elsewhere.

⁴⁵ In the *Meade* case and also the *Fahmy* case (both described the BFSP Equality Act Statement).

environment for people who hold that other viewpoint, and creating or tolerating environments in which attacking people for their viewpoints is acceptable. A number of recent public failures (with unlawful harassment and discrimination found by tribunals) have largely arisen as a result of an underlying failure of objectivity and endorsing and enforcing (or not preventing the unlawful enforcement of) one side of a bitterly contested debate.⁴⁶

HEIs and, whenever representing the HEI as an institution, their relevant employees and other representatives, therefore need to maintain sufficient institutional neutrality on matters of polarised public debate. By this we mean that they should take care to avoid actions, statements and language which, by taking a side in relation to publicly contested issues, risks suppressing free speech at the HEI (and, in an extreme case risks breaching the HEIs legal obligations under HERA and the HRA and itself amounting to discrimination or harassment under the Equality Act). Achieving appropriate institutional neutrality on a piecemeal basis will be difficult. Such an approach will make compliance with the detailed legal requirements which will likely arise in relation to specific circumstances difficult. It will also involve risk and a lot of time from senior staff – and, perhaps inevitably, expensive legal advice. We therefore recommend that a general policy of institutional neutrality on controversial issues is the safest way forward for HEIs (this was recommended by the Dandridge Review in the case of the Open University, as discussed above), and indeed it is being adopted by various institutions.

Best Free Speech Practice

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Important: *This document:*

- *is a short summary of a complex area of law and its implications and does not purport to be complete or definitive. It is not (and may not be relied on as) legal or other advice: HEIs and others should consult their legal and other advisers in respect of all matters relating to free speech in connection with their institution, including those referred to in this document;*
- *does not seek to prescribe detailed specific policies, practices and requirements for particular HEIs, will have to be developed by HEIs themselves, in the context of their own particular circumstances;*
- *will be revised from time to time as the law, guidance and knowledge develop; and*
- ***MAY BE OUT OF DATE:*** *see its publication date above.*

⁴⁶ A failure of neutrality on contested issues was at the heart of the embarrassments that were the *Fahmy*, *Meade* and *Phoenix* cases, described in the BFSP Equality Act Statement. It also underlay the University of Sussex's failures which led to the fine by the OfS discussed elsewhere.