

Free Speech Code – checklist (under HERA)

(Checklist date: September 2025)

Name of HEP:

Date of review:

Introduction

- This checklist reflects the obligations on **English** Higher Education Providers (“**HEPs**”) under the Higher Education Research Act 2017 (“**HERA**”), as amended by the Higher Education (Freedom of Speech) Act 2023 (“**HEFSA**”) with effect from 1st August 2025.
- All the obligations under HERA strictly speaking fall on the governing body. For convenience, however, they are referred to in this checklist as obligations of the HEP, which in practice they are.
- This checklist refers to guidance issued by the Office for Students (“**OfS**”) (“**OfS Guidance**”) as to the requirements in practice for HEPs pursuant to HERA. The OfS issued this guidance as ***Regulatory advice 24 – Guidance relating to freedom of speech***. The guidance reflects both the requirements under HERA and what appears to be the OfS’ own expectations of HEP actions for compliance.
- Under Section A2 of HERA, HEPs are required to issue a code of practice (“**FS Code**”), with a view to facilitating the discharge of the duty imposed by Section A1 i.e. the duty to take such steps, having particular regard to the importance of freedom of speech, as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the HEP (“**Participants**”) and for visiting speakers. This duty, often referred to as the “Secure Duty”, is relevant to FS Codes and their contents and enforcement.
- HEPs are required by their condition of registration E1 to have governing documents that uphold the public interest governance principle of freedom of speech: i.e. that the governing body takes such steps as are reasonably practicable to ensure that freedom of speech within the law is secured by the HEP. The OfS monitors HEPs’ compliance with their conditions of registration and recently fined the University of Sussex £360,000 because one of its governing documents breached condition E1. The FS Code will be a governing document for these purposes. Given the broad range of steps which will be “reasonably

practicable” and which the FS Code should therefore contribute to upholding, and the significant penalties which apply to breaches of E1, the safest course for HEPs is to make their FS Codes as comprehensive as possible.

- Many of HEPs’ duties under HERA, for instance as regards prohibiting Participants from bullying other Participants for their viewpoints, do not cease to apply just because an action or event happens to take place within a constituent institution forming part of a larger HEP (such as a separate college) (“CI”) or on premises of a students’ union at an HEP (“SU”). HEPs therefore have duties to regulate the behaviour of their CIs and associated SUs, insofar as there are reasonably practicable steps to secure free speech that can be taken. This is discussed further below.
- The requirements under HERA and other relevant legal requirements are explained in detail in BFSP’s statement ***Free speech protection at English universities: The law and requirements in practice*** (the “Principal Statement”). See also more detailed information about the requirements relating to meetings in BFSP’s statements ***Meetings at English HEPs: Free speech requirements and risks*** (the “Meetings Statement”) and ***Protected viewpoints under the Equality Act: Risks and necessary actions for employers and others*** (the “BFSP Equality Act Statement”). These can be found at <https://bfsp.uk/universities-and-free-speech>.

Obligation/Best Practice	Complies?	Comments on compliance	Further information re requirements
General requirements pursuant to HERA, including key contents			
HEPs must issue a “code of practice” (HERA Section A2) and keep it up to date. As well as the detailed requirements explained below, an FS Code may “deal with such other matters as the governing body consider appropriate”. Is the FS Code up to date: when was it last revised?	[N/a]		Section A2. With the rapidly changing legal environment, FS Codes will need to be reviewed regularly for compliance.

<p>General contents about free speech and its importance:</p> <p>The FS Code should set out the HEP’s values relating to freedom of speech, together with an explanation of how those values uphold freedom of speech. The OfS states that HEPs may wish to consider including the following:</p> <ul style="list-style-type: none"> - a statement about the overarching value of freedom of speech within the law for the HEP; - an explanation of how the HEP’s values relating to freedom of speech uphold freedom of speech; - a statement emphasising the very high level of protection for the lawful expression of a viewpoint and for speech in an academic context; and - a statement that freedom of speech within the law may include speech that is shocking, disturbing, or offensive. 			<p>HERA Sub-section A2(2)(a). This is an explicit requirement.</p> <p>OfS Guidance, paragraphs 170 and 171.</p>
<p>Content pursuant to the “Promote” duty.</p> <p>HEPs have a duty under HERA “to promote the importance of freedom of speech and academic freedom”. The FS Code will be one of the principal available vehicles for doing so.</p> <p>Much of the content required to satisfy the “Promote” duty will overlap with what is in the immediately above section and elsewhere, but HEPs will need to consider carefully what additional promotional information (if any) should be contained in the FS Code.</p>			<p>The requirement in Section A3 of HERA.</p> <p>To promote the importance of free speech and academic freedom must be highly likely to require various forms of content in the FS Code, being the main vehicle for information about free speech.</p>

<p>An HEP must bring the provisions of Section A1 (the Secure Duty and related obligations) and FS Code to the attention of its students at least once a year.</p>			<p>Sub-section A2(5)(b). This is an explicit requirement.</p>
<p>Publicity and publication: FS Statements:</p> <p>The FS Code should be published in a prominent position, and easily accessible to the public on the HEP's website, without any form of password or security check.</p> <p>An HEP should have a clear and simple statement about the FS Code ("FS Statement"), which should:</p> <ul style="list-style-type: none"> - summarise the FS Code's contents and make clear how to access it; - bring together into one place, for ease of reference and comprehension, all free speech-related requirements and relevant information (some by reference to links to other documents); and— - inform Participants of the disciplinary consequences of failure s to comply with the parts of the HEP's relevant policies and requirements, including the terms of the FS Code. <p>The FS Statement should be:</p> <ul style="list-style-type: none"> - communicated to Participants <u>at least</u> annually; - provided (with the FS Code) to all students who are new to the HEP as an important part of the matriculation process; 			<p>The general duty under Section A1 must require that reasonably practicable steps are taken in terms of the publication and format of the FS Code so as to ensure its existence and contents are sufficiently communicated to all Participants.</p> <p>These steps are likely to be required pursuant to Section A1.</p> <p>The OfS Guidance, paragraphs 168–169, states that these steps would be good practice.</p> <p>Communicating the FS Statement thus should discharge the duty under Section A2(5)(b).</p> <p>The OfS Guidance, paragraph 169d, states that it would be good practice to include the FS Statement about the FS Code in all policies relating to:</p> <ul style="list-style-type: none"> - staff and student codes of conduct - speaker events

<ul style="list-style-type: none"> - contained in any prospectus and staff and student handbooks; and - prominently included, or prominently linked to, in any other document stating or explaining any policy that may affect free speech or academic freedom, 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 code. 			<ul style="list-style-type: none"> - admissions, appointments, reappointments and promotions - disciplinary matters - employment contracts (that may include conditions on speech) - equality or equity, diversity and inclusion, including the Public Sector Equality Duty - harassment and bullying - fitness to practice and related procedures - IT, including acceptable use policies and surveillance of social media use - the Prevent duty - principles of curricular design - research ethics
<p>Requirements re conduct: The FS Code must set out the conduct required of Participants in connection with any meeting or activity to which the FS Code applies.</p> <p>The content of this section should be consistent with the following principles:</p> <ul style="list-style-type: none"> - Everyone has the right to free speech within the law. - HEPs (and CIs) should seek to expose students to a wide range of views, including those that challenge commonly accepted ideas and conventional wisdom. There should be no limit in principle to the range of views within the law to which students, staff and members might be exposed across the full range of speaker meetings and other activities covered by the code. These may include views that some or all students might find shocking, disturbing or offensive. 			<p>Sub-section A2(2)(c).</p> <p>OfS Guidance paragraphs 178-180. And see further information in the Meetings Statement.</p>

<ul style="list-style-type: none"> - If those organising an event invite speakers who they might reasonably have suspected would use their platform to break the law (e.g. because they have done so previously) they may fall foul of the law themselves. - Protest is itself a legitimate expression of freedom of speech. However, protest must not shut down debate. 			<p>For further details on the complex requirements relating to protests, see BFSP's statement <i>Protests at English universities: free speech requirements and risks</i>. Available at https://bfsp.uk/universities-and-free-speech .</p>
<p>The FS Code or associated requirements must require Participants:</p> <ul style="list-style-type: none"> - to comply with the FS Code; and - impose (or refer to and contain links to) appropriate Behaviour Requirements, for instance not to discriminate against, harass or bully Participants in connection with their viewpoints (giving examples to help Participants understand the sorts of viewpoints that are protected including, for example, in relation to aspects of gender and race ideology). This needs to be stated clearly and with sufficient detail but may be stated in full separately in requirements which are referred and linked to in the FS Code. These requirements and examples should also make clear that Participants are, consistent with their own free speech rights, able to express profound and vehement disagreement with others' viewpoints. 			<p>Required pursuant to Section A2(4). Also to qualify for the Section 109(4) Defence, in respect of Participants who have "protected viewpoints": recent case law has clarified that rules requiring employees not to harass people are essential in order to qualify for this defence.</p> <p>See BFSP's statement <i>Requirements for staff and student behaviour: English HEPs' free speech compliance obligations</i> for details of the requirements for such rules, and what such rules might look like.</p>

<p>An HEP must take all reasonably practicable steps to secure compliance with its FS Code, including where appropriate by the initiation of disciplinary measures. This clearly requires HEPs to:</p> <ul style="list-style-type: none"> - have appropriate rules in place requiring compliance with the code, but also rules prohibiting discrimination, harassment, bullying and other attacks (“Behaviour Requirements”) (such as complaints and knowingly false accusations) against Participants for their viewpoints; and - enforce those rules actively and appropriately. 			<p>Sub-section A2(4).</p> <p>This has many implications in practice, which are discussed in the Meetings Statement.</p> <p>See also BFSP’s Statement Requirements for staff and student behaviour: English HEPs’ free speech compliance obligations.</p>
--	--	--	---

Scope of FS Codes; Relationships with CIs and SUs	Complies?	Comments on compliance	Further information re requirements
(Under HERA Section A4, CIs must maintain their own FS Code. This is not the subject-matter of this checklist.)			
Extension to SU premises: With respect to meetings, the Government has stated that it will amend HEFSA to the effect that HEPs will be required to take all reasonably practicable steps to ensure that their SUs follow their (the HEPs’) codes of conduct on premises not owned by the HEP.			<p>Currently, HERA only requires an HEP’s FS Code to address meetings on the relevant HEP’s premises. CIs’ and SUs’ separate premises are unlikely to count as those of the HEP if the relevant CI or SU is a separate legal entity.</p> <p>DfE Policy Paper, June 2025, <i>The future of the Higher Education (Freedom of Speech) Act 2023</i>.</p>
HEP duties in respect of CIs and SUs. The Government also intends “to put beyond doubt through legislation”:			

<ul style="list-style-type: none"> - that HE providers are required to set out in their code of practice how their students' union should secure that affiliation is not denied to any student society on the grounds of its lawful policy or objectives, or the lawful ideas or opinions of its members - that there is a duty on HE providers to take reasonably practicable steps to secure compliance by their students' union with that provision in the code of practice - that complaints about whether an HE provider has fulfilled its duty to take reasonably practicable steps to secure compliance by staff, students and students' unions with its code of practice (including on affiliation) will be in scope of the OfS's free speech complaints scheme <p>In the interim, HEPs would do well, and are expected by the Government, to take voluntarily the reasonably practicable steps to ensure that their SUs follow their (the HEPs') codes of conduct on premises not owned by the HEP.</p> <p>In addition, HEPs (and CIs) are required by their duty to take reasonably practicable steps to secure free speech under HERA Sections A1 (and A4), and by other legislation and regulations, to address in their FS Codes other matters, <u>including matters not limited to their premises</u> (see the section below: <i>Impact of important wider legal obligations on the FS Code and its content</i>).</p>			<p>DfE Policy Paper, June 2025, <i>The future of the Higher Education (Freedom of Speech) Act 2023</i>.</p>
--	--	--	---

<p>Specifically, an HEP's FS Code and related Behaviour Requirements must apply in respect of actions which relate to the HEP and other Participants, irrespective of where those actions are actually taken. For instance, an academic organising an online pile-on against a colleague must be subject to the FS Code and Behaviour Requirements notwithstanding that they may be organising it in their own home outside HEP premises. This includes actions within colleges and other CIs within SUs' premises. The application of the FS Code and Behaviour Requirements to contexts other than the HEPs premises should be made clear in FS Codes and Behaviour Requirements.</p> <p>HERA imposes parallel requirements on HEPs, and on and colleges and other CIs to have FS Codes and to take reasonably practicable steps to secure free speech, including by appropriately enforcing their FS Codes. To the extent that a CI has and correctly applies its own FS Code and Behaviour Requirements pursuant to HERA, and takes reasonably practicable steps to ensure compliance with its code, there is a strong argument for arrangements between the relevant HEPs and their CIs to be legitimately entered into to avoid duplication of their activities as regards free speech protection. This is particularly the case with respect to supervision and enforcement of their FS Codes.</p> <p>SUs are not subject to direct obligations under HERA. Their administrators may, nonetheless, be HEP employees and their officers, members and participants HEP Participants. To the extent that they take actions which</p>			<p>Steps which would otherwise be reasonably practicable for an HEP to take may well not be, if those steps would merely duplicate the actions of the relevant CI. This may apply, in particular, to supervision and enforcement of the HEP's FS Code. HEPs should retain a residual ability to intervene under their own requirements where a CI fails to perform its duties.</p> <p>This is discussed in detail in Part 3 of the Principal Statement.</p> <p>HEPs are currently required to some degree under HERA to take all reasonably practicable steps to ensure that their SUs comply with their FS Codes and Behaviour</p>
--	--	--	---

<p>relate to the HEP or other Participants or which conflict with the FS Code or Behaviour Requirements more widely, they are subject to enforcement of the FS Code and Behaviour Requirements despite the fact they may be operating within the SU's separate premises or in respect of the SU and its members.</p> <p>The above needs to be made clear in the FS Code, and relevant Behaviour Requirements need to be applied and enforced according.</p>			<p>Requirements. The Government has stated that it will substantially strengthen this requirement. See the June 2025 policy paper discussed above.</p>
---	--	--	--

Impact of important wider legal obligations on the FS Code and its content	Complies?	Comments on compliance	Further information re requirements
<p>The Secure Duty under HERA, and the need to avoid discrimination against and harassment of Participants in connection with their “protected viewpoints” under the Equality Act (or to qualify for the defence in Section 109(4) of the Equality Act (“Section 109(4) Defence”) against liability for their employees’ discrimination and harassment), mean that the following requirements also apply in respect of FS Codes.</p>	[N/a]		<p>Under the Equality Act, employers (including HEPs) are liable for discrimination and harassment carried out by their employees and agents in the course of their employment. Employers are not liable, if and only if, under Section 109(4) of the Equality Act, they can prove they have taken “all reasonable steps” to prevent the alleged act or anything of that description.</p>
<p>FS Codes should contain a statement of institutional neutrality on contentious issues.</p>			<p>This is not a specifically identified obligation, but sufficient neutrality is clearly needed in practice in order for an HEP itself not to disadvantage (or harass) people with dissenting viewpoints and thus fail to comply with its obligations.²</p>

² In particular, employers will be liable where they fail to take all reasonable steps to ensure that employees do not discriminate and harass other people because of their viewpoints. Examples are the *Fahmy*, *Meade* and *Phoenix* cases, described in the BFSP Equality Act Statement. The University of Sussex’s breach of condition of registration E1, for which the OfS fined the university £360,000, occurred in part because the university failed to maintain effective neutrality on a contested issue.

Following the attacks on Professor Jo Phoenix which resulted in liability and public embarrassment for the Open University in 2024, Dame Nicola Dandridge was commissioned to review relevant events and make recommendations for improvements in practices and policies. One of her recommendations was appropriate institutional neutrality. ¹			See the letter from various free speech campaigns to English HEPs, explaining the need (including for the reduction of legal risk) for sufficient institutional neutrality, on BFSP's website.
FS Codes and other policies and rules should refer to "tolerance" of other viewpoints but not require others to "respect" them.			People must not be prevented from expressing strong disagreement with, including disrespect for, other viewpoints. A requirement in codes and policies for "respect" for people and their views effectively limits people from expressing profound disagreement on strong terms, and this is unlawful or quickly leads to unlawfulness. What is required is "tolerance": allowing people to hold and express views others may profoundly disagree with while not, of course, allowing abuse or personal attacks on them for those views. This is not an explicit requirement but is important in order to minimise risks of compliance failures.
Sufficient training of Participants about their free speech requirements. (While this would not be "in" the FS Code, such training would normally refer to the FS Code extensively.)			This is "reasonably practicable" and would make a huge difference to free speech protection, so is required pursuant to Section A1. Also confirmed by case law as required (in respect of employees, at least) to qualify for the Section 109(4) Defence, in respect of Participants who have "protected viewpoints".

¹ Recommendation 1 and Appendix 3, paragraph 7. See the Review here: <https://www.open.ac.uk/blogs/news/wp-content/uploads/2024/10/Independent-Review-N-Dandridge-09.09.24.pdf>; and BFSP's review of it at <https://bfsp.uk/universities-and-free-speech>.

If a HEP itself takes sides in contentious debates about controversial ideological issues, it will make it very considerably harder to establish that it has taken all reasonable steps to prevent discrimination against or harassment of staff or students on the other side of such debates.

In light of recent criticism of HEPs for taking official stances (e.g. via their EDI Departments) on contentious ideological issues, some institutions (e.g. Imperial College, London, Queen Mary University of London and Harvard in the USA) are leading the way back to the norm via institutional neutrality statements in their FS Codes.

<p>The OfS Guidance states that HEPs must require adequate training on academic freedom and freedom of speech for all staff involved in making decisions relating to various specified matters.</p> <p>The OfS Guidance states that “‘Adequate training’ means that staff will have an up-to-date understanding of the free speech code of practice and how it applies in practice, including its application in detail to the member of staff’s role in the organisation”. (Paragraph 210.)</p> <p>The OfS Guidance also states that, so far as is reasonably practicable, HEPS should make available to all students training adequate to ensure that students “have at least an up-to date understanding of the free speech code of practice and how it applies in practice”. (Paragraph 211.)</p>			<p>Paragraph 209. Those matters, for which HEPs must require adequate free speech training for their involved staff, are:</p> <ul style="list-style-type: none"> - admissions, appointments, reappointments and promotions - disciplinary matters - employment contracts (that may include conditions on speech) - processes and policies relating to equality or equity, diversity and inclusion, including the PSED - fitness to practise - harassment and bullying - IT, including acceptable use policies and surveillance of social media use - the Prevent duty - principles of curricular design - research ethics - speaker events - staff and student codes of conduct.
<p>The FS Code (and related Behaviour Requirements and other requirements) must not misdescribe, misinterpret or misapply definitions and obligations (including "contrary obligations", e.g. to avoid discrimination and harassment) under the Equality Act, as this leads to mistakes and unlawfulness. Examples of errors include:</p> <ul style="list-style-type: none"> - Failure to update policies to cater for relevant developments in what count as “protected viewpoints” - Exaggeration/misstatement of definitions or obligations in the Equality Act, in particular giving “harassment” a wider meaning than its restricted, 			<p>Required (as a “reasonably practicable step”) pursuant to Section A1 and to qualify for the Section 109(4) Defence and otherwise avoid liability under the Equality Act.</p> <p>These issues are in our experience endemic in UK institutions, and lead to unlawfulness and liability, e.g. the now famous <i>Fahmy</i>, <i>Meade</i> and <i>Phoenix</i> cases. For instance, in the <i>Fahmy</i> case, the employer omitted “belief” from its list of characteristics protected under the Equality Act in its harassment policy and was held liable under Section 109 of the Equality Act when its employees harassed a colleague over her viewpoints.</p> <p>Likewise, the University of Sussex was found to have breached condition of registration E1, because one of its</p>

<p>objective statutory one, e.g. so as to give weight to any claim of “offence”.</p> <ul style="list-style-type: none"> - Working on the basis that an HEP’s requirement under the Equality Act to protect people from harassment and discrimination applies more widely than just in respect of their employees and (to a degree) students*. It is important to understand that HEPs don’t have to protect: <ul style="list-style-type: none"> (a) third parties (who don’t otherwise have express protections as regards the HEP) from the behaviour of their employees or students, or (b) their employees or students from the behaviour of parties other than the HEP itself and its employees, save re sexual harassment. <p>So, an HEP should not invoke the Equality Act to cancel a <u>student-organised</u> event because it might result in its employees or students** claiming to experience harassment or discrimination as a result of the subject-matter or views expressed at the meeting (subject to its wider anti-bullying rules, although this would have to be exercised compliantly with Section A1 and “proportionately” under the Human Rights Act).***</p>			<p>governing documents included a definition of harassment which, without justification, was “not limited to existing prohibitions in law”.</p> <p>* HEPs have very limited duties <u>under the Equality Act</u> as regards the behaviour of their students, save possibly under their weak duties (to consider) under the PSED.</p> <p>** Except possibly under its weak duties (to consider) under the PSED.</p> <p>*** But note that relevant parties, including external speakers, may well have protections under Section A1 and the Human Rights Act.</p> <p>AFFS will be conducting a review of HEP policies in this regard, and where any defects are not promptly corrected on notification, or appear to be materially and negligently defective, will be reporting them to the OfS.</p>
<p>Any policies and procedures relating to harassment of students in, or referred to in, the FS Code will need to comply with new condition of registration E6, which came into effect on 1st August 2025.</p> <p>To comply with condition E6, those policies and procedures must comply with two freedom of speech principles:</p>			<p>A new general ongoing condition of registration E6, relating to harassment of students, came into effect on 1st August 2025. It requires providers to provide and operate in accordance with a single, comprehensive source of information which sets out policies and procedures on subject matter relating to incidents of harassment and sexual misconduct.</p>

<ul style="list-style-type: none"> - Irrespective of the scope and extent of any other legal requirements that may apply to an HEP, the need for the HEP to have particular regard to, and place significant weight on, the importance of freedom of speech within the law, academic freedom, and tolerance for controversial views in an educational context or environment, including in premises and situations where educational services, events and debates take place. - the need for an HEP to apply a rebuttable presumption to the effect that students being exposed to any of the following is highly unlikely to amount to harassment: <ul style="list-style-type: none"> • the content of higher education course materials, including but not limited to books, videos, sound recordings, and pictures; or • statements made and views expressed by a person as part of teaching, research or discussions about any subject matter which is connected with the content of a higher education course. 			<p>This new condition addresses problems arising from HEPs' policies and rules all too often overstating, or misdescribing, key concepts such as harassment in ways which go above and beyond what actually amounts to unlawful harassment pursuant to relevant law. This has resulted in frequent free speech failures.</p> <p>An HEP will be required to comply with specified "freedom of speech principles" in respect of such policies and procedures, including when taking decisions about whether its policies and procedures will include content on harassment which goes further than is required under the Equality Act, or could reasonably be considered capable of having a negative impact on, or the object or effect of restricting free speech or academic freedom.</p>
--	--	--	--

Meetings: detailed provisions of FS Code	Complies?	Comments on compliance	Further information re requirements
The FS Code needs to apply to all types of meeting on the HEP's premises , including lectures, seminars and the like, and management meetings; and both to internal meetings			There are many implications in practice, which are discussed in the Meetings Statement.

and ones with external speakers (including participants in debates or discussions).			
<p>The FS Code is not yet required to extend to meetings at premises of or occupied by an associated CI or SU of the HEP which are not premises of that HEP, but HEFSA will soon be amended such that a FS Code is required so to extend.³</p> <p>Participants are, however, subject to their HEP's FS Code and related Behaviour Requirements, in respect of actions which relate to the HEP and other Participants, irrespective of where those actions are actually taken.</p> <p>See “Scope of FS Codes; Relationships with CIs and SUs” above for details on the duties of HEPs in relation to meetings at CIs and SUs.</p>			<p>See Section A2(2).</p> <p>HEPs' duties under HERA Section A1 require them to take reasonably practicable steps to secure free speech for Participants involved with CIs and SUs, and this must include in respect of meetings at CIs and SUs' premises. However, HEPs may avoid duplicating CIs' (and SUs') own activities for free speech protection.</p> <p>What is unclear is what steps are reasonably practicable, given the nature of the relationships involved. This will no doubt vary depending on the circumstances in each case.</p> <p>This subject is discussed in detail in the Meetings Statement and in Part 3 of the Principal Statement.</p>
<p>The terms on which the HEP's premises are provided must not be based on the views of the organisers or people likely to speak or attend at the meeting or event, and this includes as to any requirements imposed in relation to hiring and using venues.</p>			<p>(HERA Section A1(3).)</p> <p>The OfS Guidance contemplates (at paragraph 200, Example 47) that there may occasionally be circumstances in which an HEP regulates which premises may be used for a particular event and at what time they may be used, on grounds related (for instance) to the policy or objectives of the body to which it is making the premises available. For instance, where there are two mutually hostile gathering at the same time.</p>

³ Section 43(8) of the Education Act extended HEPs' duties in respect of meetings to include ones at premises occupied by an associated students' union which are not premises of that HEP. This was repealed on 1st August 2025, leaving an apparently accidental lacuna. The Government has stated in its Policy Paper, June 2025, *The future of the Higher Education (Freedom of Speech) Act 2023* that it will amend HEFSA to restore and strengthen the relevant duties – see the discussion above.

<p>FS Codes must set out the procedures to be followed by Participants in connection with the organisation of meetings and other activities (which fall within any class of meeting/activity specified in the FS Code) at the premises of the HEP.</p> <p>In setting out these procedures, the FS Code must:</p> <ul style="list-style-type: none"> - “be broad. It should not be limited to policies relating to external speakers or events. The code of practice should apply to the procedures to be followed by staff and students of the provider [...] when organising teaching or research-related activities, as well as other activities listed in paragraph 169d above.” - “Clearly and expressly require decision-makers, in making any decision or adopting any policy that could directly or indirectly (and positively or negatively) affect freedom of speech, to act compatibly with the statutory free speech duties.” - Set out “a process for the timely consideration of risks to the event. The purpose of the process would be to put in place steps that permit the event to go ahead.” - “Specify who would be responsible for planning and taking these steps.” 			<p>Section A2(2)(b). Detailed procedures can be (and often are) contained in a separate document (which should form part of the FS Code). A section in the main FS Code describing these requirements and linking to the separate document is sufficient.</p> <p>See OfS Guidance, paragraphs 172-176.</p> <p>OfS Guidance, paragraph 173.</p> <p>OfS Guidance, paragraph 174. HERA</p> <p>OfS Guidance, paragraph 176, Example 48.</p> <p>[Ditto]</p>
<p>The procedures for organising room bookings and speaker events should:</p> <ul style="list-style-type: none"> - be sufficient to ensure timely, user-friendly and appropriate processing and consideration of planned 			<p>These actions appear to be “reasonably practicable and would make a material difference to free speech protection, so are likely required pursuant to Section A1.</p> <p>See further information at BFSP’s Statement <i>Meetings at English HEPs: Free speech requirements and risks.</i></p>

<p>meetings and events, and should not operate as an effective inhibitor on holding successful meetings and events, for instance by being too slow or being so cumbersome and unwieldy that they put potential organisers off; and</p> <ul style="list-style-type: none"> - adhere to the following principles: <ul style="list-style-type: none"> ○ They should make clear that the starting point for any event is that it should go ahead and that cancellation is exceptional and undesirable. ○ The procedures should be clearly set out. ○ The process should not take longer than necessary. ○ There should be a single, identified point of contact for questions about the process. ○ There should be identified person(s) responsible for approval of an event. Any final decision to cancel an event, or to delay indefinitely, should only be taken by a suitably senior official (who may be, for instance, at pro-vice-chancellor or vice-chancellor level), who has delegated authority to take it. ○ There should not be onerous requirements for information. - The FS Code should state that the HEP will not interfere with or alter the content of any meeting (for instance, by requiring “balance” or the inclusion or exclusion of 			<p>OfS Guidance paragraph 175.</p> <p>Not interfering with the content of meetings is an important and reasonably practicable step (OfS Guidance,</p>
--	--	--	---

<p>any viewpoints or perspectives) where it is legally reasonably practicable not to interfere. The content of the meeting is a matter for the organisers.</p> <p>This section of the FS Code should set out a process for the timely consideration of risks to the event. The purpose of the process would be to put in place steps that permit the event to go ahead.</p>			<p>paragraph 203, Example 50), which the FS Code must uphold.</p>
--	--	--	---

Costs of meetings	Complies?	Comments on compliance	Further information re requirements
<p>HEPs must pay the costs of security relating to the event, save in exceptional circumstances.</p> <p>The FS Code must set out the criteria for determining whether there are such exceptional circumstances. These criteria should:</p> <ul style="list-style-type: none"> - be clear, objective and neutral. - be framed in such a way that ‘exceptional’ circumstances only arise very rarely. - not (so far as is consistent with the law) depend on any of the relevant person’s or body’s viewpoints, policies or objectives or the ideas or opinions likely to get legal expression at the meeting or event. <p>Where an HEP requires an organiser to bear any security costs, it should supply the organiser of the event with a</p>			<p>Sub-section A1(10), and sub-section A2(2)(d).</p> <p>OfS Guidance, paragraphs 182 – 184.</p> <p>The OfS Guidance, paragraphs 185–186 states that an HEP “might have a stated policy that it will not pass on the first £X of security costs associated with the use of its premises by an individual or body, where X is stated as a numerical quantity that applies to all individuals or bodies regardless of their ideas, opinions, policies or objectives; and where security costs rarely exceed £X”; but it must apply this policy uniformly.</p>

<p>clear written summary of its calculation of the expected security cost and an explanation for this calculation.</p> <p>The HEP must, where reasonably practicable, have in place a process for appealing this calculation to an independent review, and for the HEP to supply this summary in enough time for the event organiser to appeal the calculation.</p>			<p>OfS Guidance, paragraph 187.</p> <p>The imposition of unaffordable security costs has previously resulted in meetings on controversial subjects being cancelled, with activists threatening physical force and noisy disruption.</p> <p>HEPs will need to be actively involved in monitoring and supervising security issues and assisting often inexperienced organisers to arrange appropriate security.</p> <p>The uncertainty over the point at which, in a particular case, costs can justifiably be treated as exceptional militates towards caution and prudence: paying security costs in cases of doubt is the only safe way forward.</p>
---	--	--	---