

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

# HIGHER EDUCATION (FREEDOM OF SPEECH) BILL

*Seventh Sitting*

*Thursday 16 September 2021*

*(Morning)*

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CLAUSE 1 under consideration when the Committee adjourned till this day  
at Two o'clock.

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**not later than**

**Monday 20 September 2021**

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**The Committee consisted of the following Members:***Chairs:* † SIR CHRISTOPHER CHOPE, JUDITH CUMMINS

Bacon, Gareth ( <i>Orpington</i> ) (Con)	Nichols, Charlotte ( <i>Warrington North</i> ) (Lab)
† Britcliffe, Sara ( <i>Hyndburn</i> ) (Con)	† Russell-Moyle, Lloyd ( <i>Brighton, Kemptown</i> ) (Lab/ Co-op)
† Bruce, Fiona ( <i>Congleton</i> ) (Con)	† Simmonds, David ( <i>Ruislip, Northwood and Pinner</i> ) (Con)
† Buchan, Felicity ( <i>Kensington</i> ) (Con)	† Tomlinson, Michael ( <i>Lord Commissioner of Her Majesty's Treasury</i> )
† Donelan, Michelle ( <i>Minister for Universities</i> )	† Webb, Suzanne ( <i>Stourbridge</i> ) (Con)
† Glindon, Mary ( <i>North Tyneside</i> ) (Lab)	† Western, Matt ( <i>Warwick and Leamington</i> ) (Lab)
† Hardy, Emma ( <i>Kingston upon Hull West and Hessle</i> ) (Lab)	
† Hayes, Sir John ( <i>South Holland and The Deepings</i> ) (Con)	Kevin Maddison, Seb Newman, <i>Committee Clerks</i>
† Holden, Mr Richard ( <i>North West Durham</i> ) (Con)	
† Jones, Mr Kevan ( <i>North Durham</i> ) (Lab)	
† McDonnell, John ( <i>Hayes and Harlington</i> ) (Lab)	† <b>attended the Committee</b>

## Public Bill Committee

Thursday 16 September 2021

(Morning)

[SIR CHRISTOPHER CHOPE *in the Chair*]

### Higher Education (Freedom of Speech) Bill

11.30 am

**The Chair:** Before I call Sir John Hayes, I think everyone would wish to join me in congratulating the Minister on having her responsibilities extended to further areas, including being able to attend the Cabinet. Many congratulations.

#### Clause 1

##### DUTIES OF REGISTERED HIGHER EDUCATION PROVIDERS

**Sir John Hayes** (South Holland and The Deepings) (Con): I beg to move amendment 72, in clause 1, page 2, line 36, at end insert—

“(11) The governing body of a registered Higher Education Provider must present to the OfS, at least once a quarter, a report detailing the steps their organisation has undertaken to fulfil its positive duties under subsection (2).”

You anticipated my opening remarks, Sir Christopher, although of course your seniority in all we do permits that and makes it entirely agreeable to me, so I echo your sentiments about the Minister. We are delighted to have her with us today, and she will be delighted with the amendment in my name.

The amendment is entirely in tune with the purposes of the Bill. We have had a useful debate so far during our scrutiny, and I have been reminded of Dickens:

“An idea, like a ghost, must be spoken to a little before it will explain itself.”

The ideas that have been spoken to a little during our deliberations have affirmed in the minds not only of the members of the Committee, but more widely, the significance of free speech and, in particular, the importance in higher education of open discussion and debate as a means to explore new ideas—to explore and discover, one might say.

We have also established that the argument that this is not a problem—that, in the words of Professor Biggar, who was also one of our witnesses,

“Concern about threats to free speech... in universities is sometimes dismissed as a manufactured distraction”—

does not stand up to close scrutiny. He and other witnesses made it clear that, in his words,

“There is empirical evidence that freedom to speak and research of significant minorities of university students and teachers in the UK are being inhibited.”

He went on to write:

“For every individual who finds himself censored, ostracised, made ill, or bulldozed, there are hundreds of others who look on aghast and resolve to keep their mouths shut, lest they attract trouble.”

We could have a debate—though I do not think that it would be helpful to do so this morning, and I am not sure you would permit it anyway, Sir Christopher—about

the true extent of that problem, but clearly there is a problem to be addressed. The Minister and the Government have recognised that—thus the Bill.

**Mr Kevan Jones** (North Durham) (Lab): The right hon. Gentleman said that we will not discuss this, but is not one of the main arguments put by people who support the Bill that self-censoring is going on? In a lot of the evidence that we have taken so far, everyone has said that they cannot actually say what the scale of the issue is. If we are to use that as a central plank of the reason why the legislation is needed, is it not important for someone to come up with the evidence to support it?

**Sir John Hayes:** I will take that as a helpful remark in support of my amendment, for reasons that I will explain in a second. I have spent a great deal of time with the right hon. Gentleman in discourse of all kinds. In fact, I sometimes think that I spend more time with him than I do with my family, given the Committees that we serve on together, and the onerous nature of the business. We both take that seriously, and we feel that it is a worthwhile thing to do. I always listen to him carefully, because he is a former Minister and a distinguished Member of this House. The point that he is making is that, in order to gauge and to respond to the real extent, we need information. My amendment provides the mechanism by which that information can be brought forward.

In my amendment, I argue simply that universities should provide evidence quarterly, at least, of how they are coping with and responding to the legal demands that the Bill, which I presume will become an Act, enshrines. This is about really getting to the root of the problem and the root of the solutions to the problem.

**Emma Hardy** (Kingston upon Hull West and Hessle) (Lab): I understand the motivation behind the amendment. However, resources are not endless. The Office for Students has many other duties and responsibilities. This amendment gives preference and priority to quarterly reporting on this issue above all others.

The OfS's remit is incredibly wide: it is meant to ensure that students have a high-quality education. In terms of the past year, and the number of online lessons that students have had and the difficulties with the quality of their education, this amendment would have meant the Office for Students devoting more time to looking at freedom of speech than at those other issues. On the question of resourcing, is this amendment practical?

**Sir John Hayes:** Of course, in the amendment I do not specify the character of the report. I assume it will not be a thesis. I am not expecting disproportionate resource to be allocated to the provision of this quarterly report. In my mind, it would be a summary of the steps that had been taken to meet the positive duties. Frankly, I would not have thought that that was a very bureaucratic exercise, if the universities are doing the job.

The hon. Lady is right that it would be onerous if they were not doing the job and were struggling to comprehend or respond to those duties, because they would presumably be having to find explanations to legitimise why they had not done what they ought to have done. If they are doing the job as the Bill instructs them, a short summary to explain that would not be difficult to deliver.

**Emma Hardy:** I thank the right hon. Gentleman for being generous and allowing me to come back. The point is not just that it is onerous and that it involves quarterly reporting, but that it is a question of priority and statement. Under the amendment, the OfS would be saying, “We will give priority to looking at the Bill above all our other duties, because we will have to have quarterly reports,” as opposed to the annual reports they have for most other duties. After the difficult year that students have had, saying that this should be given to the Office for Students every quarter as their main priority is not the message that the Office for Students should be sending to their students.

**Sir John Hayes:** With respect to the hon. Lady, the amendment is very simple, as she will see detailed in the papers before us. It simply adds to clause 1, line 36, a requirement that the governing body

“present to the OfS, at least once a quarter, a report detailing the steps their organisation has undertaken to fulfil its positive duties under subsection (2).” It does not say that all else in the university must be brought to a halt, or that this is the overweening or overwhelming priority of the university.

Universities have many statutory duties, as other bodies do. It is not uncommon for legislation to require bodies to report on their statutory obligations, so this is not in any way unprecedented or irregular. I agree with the hon. Lady that universities will have many priorities, and some of those will be fundamental to their purpose.

Good teaching and learning and good-quality research are at the very heart of the business of the university, but we have said repeatedly in this Committee, and it has been emphasised by Members across the Committee, that free speech, the free exchange of ideas and the formulation of innovative thinking are central—critical—to good higher education. If we think it is vital, and the Government must do, or they would not have brought the Bill forward in the first place, and if we think there is a problem, which again the Government must do, or else there would be no need for further requirements of this kind, then why on earth would we not want to hear from the frontline—in the spirit of the intervention made by the right hon. Member for North Durham—what the university was doing, which would, by its nature, reveal the character and extent of the problems we have discussed?

The spirit that has emerged across the Committee—the point was well made by the right hon. Member for Hayes and Harlington—is that we are trying to make this legislation as effective as it can be. That must involve communication between universities and the new body that is being established to ensure that the legislation has its effect. My amendment quite simply does that. I do not think it is in any way unhelpful to the Government’s intention. I do not think that any university that is ready and willing to do its job will resent it. I do not think that it necessarily involves great bureaucracy, although I take the point of the hon. Member for Kingston upon Hull West and Hessle that if it were to, we would need to review that. If a university said, “We cannot do this, because we have produced 10 pages, but the person who fulfils the new role wants a thesis or a book,” it would clearly have to be looked at again. However, I am thinking a summary describing what the university is doing to meet its positive duties, as the amendment suggests.

I cannot see a reason in the world why, when the Minister rises to respond, no doubt preceded by the Opposition spokesman giving the amendment a warm welcome, she would not—I do not want to put words in her mouth, particularly given her new, elevated status—say, “John, we should have thought of this ourselves.” When she does, needless to say, I will immediately say it was simply a probing amendment intended to be helpful and supportive. In that spirit, I will leave further discussion to wiser heads than mine.

**Mr Jones:** I add my congratulations to the Minister on her promotion, although she tells me she does not receive any more remuneration for her extra work. We should possibly be arguing that she should join a trade union to argue for more, but I wish her well in her new role.

I look back nostalgically to a day when I knew where the Conservative party stood. It was the party of deregulation and cutting red tape, and at any Conservative party conference, attacking the monster of red tape that was strangling business and our public institutions would get a huge cheer. I find the world we live in today rather confusing because we have a Government who, in this Bill, seem to be intervening very clearly in universities and bringing in more regulation. The amendment from the right hon. Member for South Holland and The Deepings adds more burdensome red tape for our academic institutions. It makes me wonder where the planets are aligning in the modern Conservative party, because the amendment would be onerous for academic institutions.

The problem is that this is a one-size-fits-all approach for all academic institutions, but we know they range hugely, from large universities to some very small further education colleges, whose capacity to take on this burden even annually would be limited, let alone quarterly. The party that used to pride itself on setting organisations free seems to want to restrain them, which is strange.

**Emma Hardy:** I am so pleased my right hon. Friend mentioned that, because when we think about higher education institutions we tend to think about those in the Russell Group such as Oxford or Cambridge, and not Hull College’s further education department, which has only a few hundred students and yet would be bound by everything in the Bill.

11.45 am

**Mr Jones:** My hon. Friend makes a good point. There are many such institutions up and down the country. The Minister now has responsibility for the FE sector, which—this always annoys me—is treated as the poor relation in education by Governments. When we were in government, we did not do enough in that sector, but we know from my own constituency and others that many people would not get access to life chances and qualifications if it did not exist. More importantly, the colleges are community-based and have a good reputation as providers. Anything that adds to their burden is wrong.

Another problem is that there is no detail on what will be in the report. We would surely have to have a standardised, meaningful report. Somebody will have to come up with a matrix or form for it to be equal across all institutions. It will be pretty meaningless if it is left to institutions to decide.



**Sir John Hayes:** That is sensible. One reason why I tabled the amendment was to ensure a degree of consistency across universities, because everyone has to produce the report, and all universities will be expected to behave consistently. The right hon. Gentleman's suggestion is a good one, and a straightforward means of achieving that consistency could be provided by the new office.

**Mr Jones:** It could but, again, there is a problem because that detail is not in the amendment. There is a difference between a huge academic institution and a small FE college, and I do not know how we get one standard format to deal with that.

There is another issue, which was mentioned in the evidence. The amendment says:

"a report detailing the steps their organisation has undertaken to fulfil its positive duties under subsection (2)".

That is about freedom of information. It comes back to the problem with this legislation and what we define as freedom of speech. Not only would we need a form or standardised format across all the institutions, but we would need to try and get a definition of what that freedom of speech is. We struggled with that with all the witnesses. It is a bit like motherhood and apple pie: we are all in favour of freedom of speech, but trying to define it is very difficult, especially if we want to ensure that all institutions promote the same thing, because there might be very different interpretations of what the duties would be, and I can see practical difficulties in that.

The right hon. Gentleman, who I have great affection for and have worked closely with, said that the Government must think there is a problem. Well, that is the problem with the entire piece of legislation—it is legislation looking for a problem, rather than solving an existing problem. The onus it will put on universities and the higher education sector is impractical.

Also, what is the sanction if, for example, an institution does not submit its report? What happens if it does not do something? We need criteria in the reporting that says, "You have to do X, Y and Z to meet this threshold" or whatever it is we are trying to achieve. Again, what is the sanction? What happens if an institution says, "I am just not bothering to do this", or, "I do not have time"? Some might take a principled stand and say, "We are not going to do it." What is the sanction and where does it say in the Bill, "You have to do it"? So there is a problem there. Are we suggesting that funding or other things should be withdrawn?

That comes back to my big concern about the Bill. I have said it before and I will say it again: it is a very un-Conservative approach to this sector, for the state to interfere directly in organisations that should have the ability to self-govern. What they want to achieve is ensuring that young people have a fulfilling and rich academic education, as we all do. It comes back to the issue of where the legislation lies; as well-intentioned as it may be, there are huge problems with it. It would be not only burdensome, but practically impossible to implement.

**John McDonnell** (Hayes and Harlington) (Lab): I congratulate the Minister, although, having sat in the shadow Cabinet, I am not completely sure that she will enjoy sitting in the full Cabinet. The right hon. Member for South Holland and The Deepings said that he did

not want to put words in the Minister's mouth and then went on to put words in my mouth. I want to be absolutely clear, on every occasion, that I think the Bill is an unwarranted intervention. It is completely unnecessary and on the edge of being crackers. However, we will try to make the best of a bad job.

I understand where the right hon. Gentleman is coming from: there has to be a line of accountability. It should be public, open and transparent, and doing the reports is one way. However, my problem is that it is heavy on regulation. I thought that there was a rule in the Government: one regulation in, one regulation out. I look forward to hearing which regulation is coming out to accommodate this going in.

I have worked in local government, both elected and as a civil servant. We know what will happen to this requirement if it is on a quarterly basis. It will either be a simple checklist and that is it—almost meaningless—or it will become a burden that some institutions will fail to fulfil effectively. Therefore, I think it is best left to the annual reports undertaken by the universities and colleges, rather than quarterly reports.

**Sir John Hayes:** I take careful note of the point made about regulating bureaucracy. However, the risk of not doing it this way is that the new office and, in particular, the individual will become more intrusive. The mission of that office and individual will be to ensure that the Act, as it will then be, is being implemented, and no doubt that inquiries, questions, complaints and all kinds of things will be made to that office. Contrary to his suggestion, I believe that my amendment would simplify the system, in a curious kind of way. It may well leave universities in a rather better place than they would otherwise be.

**John McDonnell:** The problem is that it will either simplify it to the extent that it becomes meaningless—just a tick-box exercise—or it will become a voluminous burden placed on colleges, when some do not have the resources to respond in that way. I offer this suggestion in the spirit of compromise: it would be best left to the Office for Students, along with the new director, which is already charged with the overview of the operation of the legislation. It would be best for them to consult with the relevant authorities and the colleges themselves, and in due course come back with an appropriate procedure. I would not want to fetter their discretion with an amendment like this at this stage.

**Matt Western** (Warwick and Leamington) (Lab): I add my personal congratulations to the Minister on her expanded responsibilities. After yesterday's sitting, I hope that she will have a lot of time to apply to the guidance that we discussed, in addition to all her new responsibilities. I am sure she will, and that she will have many more staff to support her. I wish her well.

I understand where the right hon. Member for South Holland and The Deepings is coming from with the amendment. As we have heard throughout our proceedings, this piece of legislation is not only burdensome—and, we argue, not necessary—but has not been fully thought through. It seems to have been rushed. The 90-odd—whatever number—amendments we may be up to now seem to suggest that there is a lot wrong with the Bill.

My concern, as has been articulated by my right hon. Friends the Members for North Durham and for Hayes and Harlington and my hon. Friend the Member for Kingston upon Hull West and Hessle, is about the additional work that the Bill will lead to for students, student unions and universities, as was well said. I think back to the days of 2010 and what might be described as the Cameron Government, and there was a great blaze of “We are going to rip up legislation”, or, “We are going to reduce all the red tape and burden on business and organisations”, and yet here we are with a Government who seem to be acting in quite the reverse way. They seem to be putting more and more constraints on businesses and the public sector.

**Mr Jones:** I remember those days with affection, because at least we knew where the Tory party was. The Tories said that they would have a “bonfire of red tape”. Now, not only do we have an Administration for which that is smouldering embers, but we have the Government putting fuel on to that fire, rather than putting it out.

**Matt Western:** I agree entirely with my right hon. Friend. I am just not sure where this reporting will end. Will we end up with universities having to report about whether people are tweeting from a particular political persuasion, or the political leanings and make-up of those on the governing board, and so on? I think that is an alarming direction to be going in.

**Emma Hardy:** As we recall, the previous Secretary of State for Education wrote two letters to the OfS. In both those letters, he demanded that it reduce the amount of regulation given to universities, so I am not sure how the amendment stands with the directions of the now previous Secretary of State.

**Matt Western:** My hon. Friend is right, and her experience is appreciated and valued. I think we have a problem, in that the OfS is a bit of a misnomer. I am not entirely sure that its interests are aimed at students, or whether its responsibilities are more towards the institutions or, increasingly, about being an office for Government, as opposed to an Office for Students.

Do we have reporting on the number of incidents of violence against women? Do we have reporting data on mental health incidents and issues? There are so many important and pressing issues among our student communities across the country, but those are not being listened to by the OfS. I would have thought that, given it is a few years since its inception and it has a new chair, surely those are the sorts of issues that its chair would want to get into—to understand what is of concern to the student body, as opposed to what is of concern to the Government.

With the idea of having the report—we have debated what it might look like—I think back to the days of my previous role in business and, in a subsidiary organisation, of the reporting that would go to head office. How should it look, or was it just something we knew would just sit on a shelf and never really get looked at? It helped those in head office that they had those reports.

The crucial thing, I would say, is that with any move by the OfS, it has to look at systems of standardising the data that comes in on the areas that I have been discussing—mental health, violence against women,

accommodation and so on—before it starts to introduce the burdens. As was said in the Government’s own impact assessment, the costs will already be something like £48 million over 10 years—the burden of this legislation, even before we get into quarterly submissions as well. At a time when universities and higher education institutions are under huge pressure, that is an unnecessary additional request.

12 noon

Echoing my comments yesterday, and as my right hon. Friend the Member for North Durham said earlier, I make the point about the diversity of institutions across the UK. Given, too, the further education colleges, the smaller higher education institutions—think about agricultural colleges or arts colleges—and the myriad educational provision that is termed HE, what about the responsibilities that will be demanded of them? They are just not scaled up to provide that. To underline the points made by my right hon. Friend, I think that this will be a burden too far.

**Sir John Hayes:** This has been a useful discussion. We have to be clear about what the director for freedom of speech and academic freedom within the Office for Students will do. Will he be driven by queries and complaints, which is perfectly possible? Is he there to monitor, to have a proactive monitoring role? Will he be a mentor and guide, and advise? Indications so far are that guidance will be issued and be sufficient to ensure the consistency I called for earlier, but to streamline the process rather than to complicate it, having a bottom-up rather than top-down approach—in other words, asking the universities themselves to make it clear how they will interpret and enact the duty—would seem to be a simpler process than many of the other things that I have described?

**Matt Western:** That could be the case—I thank the right hon. Gentleman for his intervention. The concern overall is about the number of reports. It could well be that guidance can assist in the delivery of that, but we will see. As my right hon. Friend the Member for North Durham mentioned, the criteria and what leads to sanction are important to establish.

Finally, we have to be careful about the number of demands on the universities, and we have to be consistent about how frequently we want those reports to be provided. Looking at the other amendments in which we ask for reporting from universities or from the OfS, there is some inconsistency—amendment 73 tabled by the right hon. Member for South Holland and The Deepings and our amendments 54 and 79. We have to have consistency. It would have much more weight if there were an annual report, which everyone knew they were working towards. With the introduction of the REF and the TEF—the research and teaching excellence frameworks—and so on, there are huge demands on the institutions.

Dr Greg Walker of MillionPlus made it absolutely clear—he was one of many to be quite outspoken—in saying that the Bill should

“avoid adding unnecessary bureaucratic burdens on universities which would risk diverting resources away from the frontline education of students.”

[*Matt Western*]

That is what the university institutions, and the NUS and the student unions want as well. That is not to defer, delay or prevaricate about understanding the need for reporting. Let us ensure that the reporting that is required, or requested, by the OfS is consistent and useable, as opposed to being about the sorts of issues that many on the Opposition Benches have suggested.

**The Minister for Universities (Michelle Donelan):** Thank you, Sir Christopher, and thank you for your kind words and those of other Committee members.

The amendment seeks to require providers to report quarterly to the Office for Students on how they are meeting their freedom of speech duties. The duties in the Bill, including those relating to the OfS, sit alongside duties already set out in the Higher Education and Research Act 2017.

The OfS regulates higher education through a register of higher education providers. It imposes initial and ongoing conditions of registration on providers, and monitors and enforces their compliance. There are already clear requirements for registered providers to give information to the OfS. Under the existing registration conditions, providers must provide the OfS with such information as it may require for the purposes of performing its functions. Providers must also take steps to co-operate with reasonable requests made by the OfS in its monitoring or investigation work. That may include providing explanations or making documents available.

The information requirements form part of a mandatory registration condition under section 8 of the Higher Education and Research Act 2017, and have been implemented by the OfS via registration condition F3. There are also mandatory registration conditions relating to governance, which ensure that providers have the necessary governing documents and management systems in place to comply with their registration conditions, including those concerning freedom of speech.

In addition to those existing requirements, clause 5 of the Bill will provide for new mandatory registration conditions relating to freedom of speech. The creation of the role of director for freedom of speech and academic freedom under clause 8 will mean that there is an ongoing focus on this area.

In light of that, I hope that the Committee shares my concern that the amendment would create an unnecessary bureaucratic burden on higher education providers. I will, however, reflect on the comments made by my right hon. Friend the Member for South Holland and The Deepings and other members of the Committee. Nevertheless, I believe that there are already sufficient powers in existing legislation to enable the OfS to request information and to monitor and enforce providers' duties effectively.

**Matt Western:** I hope that the Minister will agree with me—with us, perhaps. The evidence that the Free Speech Union provided included a whole list of what it described as “incidents”. It recorded a plethora of them, but they were clearly very diverse. How those might be categorised into some sort of report would be extremely difficult. Also, something we picked up from the vice-president of the NUS was how she believed that this reporting, this burden, and much of the legislation,

will have the reverse effect, impacting on so many of the smaller institutions. That reverse chilling effect might lead to less free speech on our campuses, whatever shape and size they might be.

**Michelle Donelan:** I disagree with the hon. Gentleman about the reverse effect. A key part of the legislation is that it will place a duty on providers to promote free speech. If the opposite were happening, they would contravene the Bill and the director would step in.

Another concern with the amendment is that it would be out of kilter with the approach taken to other registration conditions. As Opposition Members have said, so many things could be asked of the OfS on reporting and our providers. There is a balance to strike. I remind Members that, a year ago, the Government made a commitment to reduce bureaucracy for our higher education providers. A further information requirement, in addition to what is already in place, would increase bureaucracy and the burden on providers. I am not convinced that there is a clear need.

I trust that the Committee will agree that we do not wish to impose a further burden and that the amendment is not necessary. However, I will continue to reflect on the points made in the debate.

**Sir John Hayes:** I do not agree with the Minister on this. The risk is that the new director for freedom of speech and academic freedom will be driven, as I implied earlier, by queries and complaints. The Minister emphasised in her response the investigative role of that individual. That risks inconsistency, rather than consistency. The amendment I tabled might be imperfect in its detail—I am always prepared to concede that point, because Government have at their disposal all sorts of clever people who can draw up amendments far more carefully than I can—but I think that creating openness and a degree of consistency and transparency in the process is important.

**Fiona Bruce (Congleton) (Con):** I am listening to what my right hon. Friend said, and I heard what the Minister said, but is not the mischief that my right hon. Friend is seeking to address the fact that in universities, challenges to freedom of speech are so widespread—so entrenched, in many cases—that there needs to be real impetus to engender change? That is what this positive obligation would impose, so that we do not see again—as in the King's study—that 25% of students, or half a million people, say that they feel inhibited from speaking freely. If, over time, there are much healthier reports, the frequency of the report that he has suggested could perhaps be reduced, but initially we need this energy and impetus urgently.

**Sir John Hayes:** Yes, I did not emphasise that point in my opening remarks, or just now, so it is important to say how serious we are about this, and to send that signal to universities; my hon. Friend is right. However, from the Government's point of view, my suggestion would create more clarity about the role of the new director. It is important that during the passage of the legislation, we learn a bit more about how his office will work within the Office for Students. At the very least, I hope that the Minister will agree to be clearer about that, because we do not quite know how proactive or reactive that individual will be. As the legislation progresses, universities deserve that clarity, as do Members of this House and parliamentarians in the other place.



**Matt Western:** I actually agree. What is the new role? What is the remit of the director of free speech and academic freedom? It is not clear just how powerful that individual will be, what size the department will be, and how far-reaching those powers will be. The right hon. Gentleman's point is extremely well made and very important. One of the Opposition's amendments relates to how that person should be appointed and what reporting back there should be from them and that department. The key thing will be to appoint that person in the light of a set of criteria that set out the intention for that role.

**Sir John Hayes** *rose*—

**John McDonnell:** Will the right hon. Gentleman give way?

**Sir John Hayes:** I will, but shall I answer that intervention first. I do not want to build up a catalogue of interventions; I will not know which one to deal with in which order.

The hon. Member for Warwick and Leamington is right; creating some structure around that role is important. I suppose that, in part, is what the amendment does: try to create more certainty. There is a balance between the proactive and the reactive. There is the balance between what is expected of universities, and what they feed into the process, and what is fed to them from the centre. This is a complex matter, because it is new territory for universities and for Government. It will be important to create more understanding of the role, as he suggests. I give way to the right hon. Member for Hayes and Harlington.

**John McDonnell:** I think we are getting there. The spirit of the matter that the right hon. Gentleman is laying before us is right. However, for some of us, there is anxiety about quarterly reports and their onerous nature; they will become like Soviet tractor production records if we are not careful. That is why amendment 79, tabled by me and my hon. Friend the Member for Warwick and Leamington, refers to an annual report. In that way it becomes manageable. That is all we are suggesting; we agree with the spirit of the right hon. Gentleman's suggestion.

**Sir John Hayes:** I had always assumed that the right hon. Gentleman was fonder of five-year plans than me.

**John McDonnell:** We need to have a discussion about the different tendencies of socialism, because actually Stalin—no, we had better not go there.

**Sir John Hayes:** I tell you what: I will make the right hon. Gentleman an offer. I think we should have lunch or dinner.

**John McDonnell** *indicated dissent.*

**Sir John Hayes:** He is shaking his head. He thinks that is a bridge too far.

**Matt Western** *rose*—

**Sir John Hayes:** I happily give way to the hon. Gentleman, and then I will wrap up, because I know the Minister want to make progress. Did he want to intervene? Was it about Marxist-Leninism?

**Matt Western:** Well, it is just—

**Sir John Hayes:** It is about Marxist-Leninism!

**Matt Western:** Not entirely, but on the point about tractor production—this is serious—if we think about the number of students arriving on campus this autumn, if there was some understanding or plan, that might have been more helpful than the slight chaos that many universities will face as a result of the A-level results.

12.15 pm

**Sir John Hayes:** I start with the assumption that we will have to engender some good will towards the process, because the aim is for universities to be co-operative. I certainly would not want to make this an attack on the sector—that is not how I see it—but it is a requirement on the sector. Not all obligations are by their nature antagonistic. My aim in proposing the amendment is to say to universities, “Look, describe what you are doing and how you are doing it, pertinently, briefly and coherently.”

It may well be that once the new director is in place, he finds some other means—not this quarterly report—of eliciting this information from universities, but my purpose in putting the amendment forward was to create greater certainty and clarity in the minds of universities and those who are profoundly concerned about free speech and its absence, as my hon. Friend the Member for Congleton and I are, and, moreover, to send a signal about how serious the duties are. I re-emphasise that all the witness statements we received said that the Bill was significant, and many regarded it as essential.

**Matt Western:** Does the right hon. Gentleman agree with the point made by my right hon. Friend the Member for North Durham about criteria and sanction? We have to be very careful, because there are real concerns that an appointment could be political and that, if we do not have the criteria clearly established and laid out, where there are those in the OFS who are incredibly political, and who have certain institutions in their crosshairs, they will be gunning for those institutions.

**Sir John Hayes:** Yes, that is a fair point. Obligations necessitate some kind of sanction when people fail to meet them, do they not? That will also need to emerge in the course of our deliberations, either here, at a later stage, or in the other place. Maybe it will come in the guidance that we are promised from the new director.

The right hon. Member for North Durham was, as I was, a Minister in many Government Departments over a considerable time. Most of the people I dealt with in all those Departments would say to me—I would not be surprised if he found the same—“If you are clear about what you expect of us, we will build our plans around those expectations. If we know what we are obliged to do, we will develop a business plan to do it.” It is not always about what a Minister demands. It is about how clear they are about those demands. That is what I found with the various agencies and organisations I worked with as a Minister in different spheres of Government.

I hear what the Minister says. She has been very generous in saying she will reflect on the point. I respect that and thank her. I think we will return to this matter of being absolutely certain about what universities will do next, the signal that is sent to them and the role of the new director. I have no doubt that that will continue to be debated before the Bill becomes an Act. I hear

[Sir John Hayes]

what the Minister says. I was probing, as she knows. I am grateful for the way she has dealt with the matter. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**Matt Western:** I beg to move amendment 75, in clause 1, page 3, line 9, at end insert—

“(e) the procedures to be adopted for consulting by ballot staff and students of the provider in making decision about whether to allow the use of premises, and on what terms, for events.”.

*This amendment would provide the governing body with a democratic procedure for inviting or withholding invitations to speakers.*

**The Chair:** With this it will be convenient to discuss the following:

Amendment 76, in clause 1, page 3, line 9, at end insert—

“(2A) The provider must have particular regard to the result of a consultative ballot of its staff and students in making decisions about whether to allow the use of premises and on what terms.”.

*This amendment would provide the governing body with a democratic procedure for inviting or withholding invitations to speakers.*

Amendment 74, in clause 1, page 3, line 20, at end insert—

“(6) The Code of Practice shall include procedures to be followed to ensure the right of peaceful protest by staff, students and other interested parties.

(7) The Code of Practice shall include procedures for consulting recognised staff unions and student unions on amendments to the code of practice.”.

*This amendment would ensure that university authorities set out procedures to facilitate peaceful protest on campus, and to engage with campus stakeholders on amendments to the code.*

**Matt Western:** I will address these amendments in turn. While I appreciate the three of them being grouped together, the essence of the amendments is about ensuring the retention of democracy within our institutions, whether that be among staff, students or the entire body. I thank my right hon. Friend the Member for Hayes and Harlington, who inputted the content of these amendments and is keen to speak to them.

It was interesting to hear from Danny Stone from the Antisemitism Policy Trust, who referenced the Manchester principles, which he worked hard on back in the day. Under those principles, an event was first advertised, in order to allow students to object if they thought it necessary. That is important. Amendments 75 and 76 echo the sentiment of the Manchester principles. We also heard in the evidence sessions from Professor Jonathan Grant from King’s College London about the work that KCL and other institutions have done. He said,

“What we did at King’s was work with our student union in developing a joint statement modelled on the Chicago principles and signed by both the president of the student union and the president of King’s College London. On the back of that, we developed a committee that reviewed all so-called high-risk events. That committee was made up of equal numbers of university staff, academics and professional staff, and students. It made recommendations to the senior vice-principal for operations and, potentially, to the principal. In my mind, creating a sort of co-production and co-creation process around managing those events was deeply beneficial because”, as Professor Layzell had said,

“both sides started having conversations about the boundaries of what is and is not acceptable. Both groups then owned the process and the mitigations thereafter.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee*, 13 September 2021; c. 123, Q268.]

The approach of KCL, University College London and many other institutions has been to establish these sorts of co-production and co-operative processes to ensure the rights to free speech are heard, but within an understanding and responsibility to the Equality Act 2010. That shows changes could have been put in place across the sector if the Government had consulted and engaged more openly with the sector, and looked at the likes of KCL, UCL and others to see best practice, what can be done, and what could be developed.

In response to the comments made by Professor Grant, Professor Layzell said that Universities UK would absolutely support that approach, and that what Professor Grant was saying was right. This can be achieved and it could have been achieved. That underlines the belief right across the sector that this legislation is unnecessary. Their process and these amendments seek to ensure the inclusion of all voices and all relevant parties interested in free speech on campus, and to achieve the cultural effect the Government are trying to achieve. We believe that, through a democratic process and through the engagement of all parties, that could have been, and could still be, achieved. As many have said, the legislation is a real sledgehammer to crack the proverbial nut.

I turn to amendment 74 on the countervailing right to peaceful protest by staff, students and other interested parties. We seem to be losing some sort of perspective on how important protest is. In the Police, Crime, Sentencing and Courts Bill, there is a move by the Government to suppress freedom of speech and people’s right to protest on whatever it may be, whether they be on the right, the left or anywhere in between. People have different views, and they should be allowed to express them. Protest is just one simple form of freedom of speech. I am sure, Sir Christopher, that you will appreciate that. Back in your days as a student, you would have wanted to exercise that right just as much as anyone else.

**Emma Hardy:** One of the contradictions that I find with the Bill is that it gives the right to freedom of speech anywhere at any time within a university; however, under the Government’s new Police, Crime, Sentencing and Courts Bill, they wish to ban protest in Parliament Square. It seems slightly muddled.

**Matt Western:** We could be slightly cynical. I would not personally suggest this, but some might suggest that it is about freedom of speech as long as your speech is the sort of speech that the Government want to hear, as opposed to a genuine desire to have freedom of speech. You have to look at the legislation in the context of not just the PCSC Bill but what is going on with our museums. Sir Charles Dunstone, who I thought was once upon a time a Conservative donor, has resigned from the Royal Museums Greenwich because of the interference coming from the Government.

That echoes the point made by my right hon. Friend the Member for North Durham that there is meddling, interference, and an authoritarian chill going on from No. 10. I do not necessarily believe that the Minister

thinks or behaves like that, but an incredibly centralising force is coming through from the Government. Trevor Phillips, in his evidence, said:

“In common law there is a right to protest in this country. I would have gladly seen something in this legislation that referred to that, but the truth is that we do have that right.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee, Tuesday 7 September 2021; c. 26, Q50.*]

We have that right presently, but it is being challenged by the Government. We need to remind ourselves how important freedom of speech is, and how important protest is to it.

Professor Whittle, who I had heard of and read about, gave quite moving evidence. He said:

“I have organised protests outside events myself but that has never been to close down the conversation. It has been to express an alternative point of view—to say, ‘Here are many voices who disagree with the voice inside.’”

It is really important that wherever we may be coming from we have the opportunity to protest and to put across our point of view, exercising our freedom of speech. He added:

“My main concern about the Bill is that it will provide an additional chilling effect overall, not to speakers but to potential protesters. It will result in people who want to express an alternative viewpoint, who are not speakers and do not have that opportunity to participate in the event...having no way of expressing that without appearing to challenge somebody’s right to free speech.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee, Tuesday 7 September 2021; c. 38, Q71.*]

That was picked up by my hon. Friend the Member for Kingston upon Hull West and Hessle, who said to him:

“So you would want to see amendments to the Bill that gave students the right to continue to protest, and not therefore fall under the guidance of the Bill.”

He replied:

“Absolutely. Legitimate protest within universities is an absolute must.”—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee, Tuesday 7 September 2021; c. 44, Q81.*]

What would universities be without protest? What would they be without true free speech? Amendment 74 serves to provide that protection of protest—a physical manifestation of freedom of speech and academic freedom.

12.30 pm

**John McDonnell:** Picking up from where my hon. Friend the Member for Warwick and Leamington left off, for absolute clarity, this section deals with the code of practice, which is one of the most significant elements of the Bill. That is why we need to be more explicit about the range of factors it takes into account.

I am trying to envisage how this legislation will be implemented. We need to look at the most difficult scenarios, not the easiest ones where we have laws that would prevent certain speakers from being hosted at universities because of the nature of the organisations they are associated with or the views they express. My anxieties are about the cases that are not clear cut but that can have a real impact on a community. The best way of dealing with that is to ensure that there is a process of engagement with the communities involved—the students and staff and so on. To democratise that as much as possible, I have suggested in one amendment a balloting procedure, but it does not have to be that; it could be other forms of consultation.

Full involvement is the best way of resolving those difficult issues that are not absolutely clear cut, because that way people are brought along. In addition, we need to establish a process whereby people can engage in expressing a view against a decision with which they disagree. That could be about preventing a speaker from coming on—Sir Christopher, you have had that experience in the past, although I am not sure about the level of riotous behaviour—or allowing a speaker with whom people fundamentally disagree. We have to engage and enable that process to take place or it will spill out in other forms.

The other day, someone explained to me what an arc of narrative is, so I am going to try an arc of narrative. If I start with a story that seems completely unrelated, I promise that we will get there in the end. It is a serious matter drawn from my experience in my own community 40 years ago. A young Asian man was racially murdered in Southall. I live in Hayes, literally half an hour down the road. Community concern was expressed about the lack of policing and the investigation. It was a contentious issue in the community that got national coverage. Then far right groups seized on it.

Hon. Members will remember that in the late 1970s, we had the National Front in its worst forms, and it decided to march through Southall. I had not been elected to any position at that time so I was not heavily engaged, but in my view as a community activist and local resident, the lack of community engagement meant that the authorities did not fully understand the scale of anxiety, insecurity and anger in the local community. The march took place and there was a riot. The interesting thing was that it was not just a riot of protesters: the police lost control, so it was a police riot, too. A young man called Blair Peach was killed. We went on a commemorative walk the following week. It was an appalling story that took place in the heart of our local community.

The lesson to learn from that was to ask whether the community, liaising with the police and all the other authorities, should have allowed that march to go through. The unrest, the violence that took place and the complete lack of control from all angles was almost inevitable. We learned from that, so now judgments are made about whether a particular provocative act, such as a march or something like it, is allowed to take place in certain communities.

What the police have found—I resent what is happening in the new police Bill, which is going through Parliament, because I think it is inappropriate and unnecessary—is that if an action was thought to be provocative in that way, there would be widespread consultation in the community. The police would make a judgment, working with the local authority, local councillors, community groups and others, about whether that march should be allowed to go ahead. We are working on that in my local community now. My worry is that if we do not have in this Bill some process and procedure of engagement with all interested parties, including the students and the staff, the enforcement of the legislation could become heavy-handed and provoke a unintended reaction. We need to think that through.

Some Members have been here longer than me and have dealt with these things for longer than I have, but when considering legislation, is it not always best to take the worst scenario and to legislate for that? That does not undermine the process overall, but it builds in



[John McDonnell]

safeguards. The amendment, which is not provocative in any way, would build in the safeguard of ensuring, first, that we had a consultative procedure with staff and students; perhaps elements in the local community will want to engage, as well. Building in a consultative procedure that would enable the university authorities to make a wiser decision. They might completely ignore the consultations, and that is their right, but they should at least have regard to them.

Secondly, I want to go a bit further because I am fundamentally a democrat, despite allegations of Stalinism from certain sides. I fundamentally believe that the best form of consultation is a ballot. People do not necessarily have to abide by it, but a ballot does test the strength of feeling and balance of judgment of the participants—the staff and the students themselves.

Let us consider a belt-and-braces approach. A consultation should be undertaken, and it might include a ballot, depending on what amendment we consider appropriate. We know that, even though views have been listened to, the decision may not suit some people and they might still be anxious or angry about it, so we need to build in the ability and the right for people to protest as well. That is a pragmatic way to deal with issues that are as contentious as this. If we do not build in such procedures, what do we get? We get late 1970s Southall, where people are angry and say, “No one has listened to us. They have allowed this to happen.” People pour on to the streets, the police overreact, and a young man is killed.

I do not want to exaggerate the situation. I am just saying let us at least build into the legislation the possibility that these things might go wrong or go awry. Sometimes things will go awry anyway, but at least we would know we had done our best to undermine the chances of the legislation resulting in unforeseen events that damage the protection of freedom of speech and academic freedom, rather than enhance it.

That is why we tabled the amendments. There might be drafting issues that the Minister and the Committee might like to look at, but that is the spirit in which the amendments were tabled. I cannot see why anyone would disagree with it. The Bill is completely inappropriate and unnecessary, and it will cause more problems than it tackles, but at least let us try to minimise one potential problem, by a democratic process that we are trying to enhance as we sit in Committee today. That is the narrative arc. Thank you, Sir Christopher, for having patience with me. I nearly got there in the end, but perhaps not completely.

**Matt Western:** I thank my right hon. Friend for giving way, and for how he has articulated his argument. I remember the Blair Peach death and the events that led to it. I mentioned the Red Lion Square disorders during our evidence sessions. At the time, I did not recall that it involved a student from the University of Warwick, who was also killed while protesting against the rise of the fascist National Front. He was the first person to be killed in a protest for 55 years.

When I asked Professor Kaufmann about this, he said that the Bill

“is not really a public order Bill”.—[Official Report, Higher Education (Freedom of Speech) Public Bill Committee, 13 September 2021; c. 90, Q183.]

I appreciate that it is not a public order Bill, but there are serious consequences, and we have talked about unintended consequences throughout. The kind of behaviours that can result from the lack of engagement and consultation, as my right hon. Friend described, could be very disturbing.

**John McDonnell:** That is my point. In legislation such as this, it is important to ensure that we identify the unintended consequences. That is what the amendments are all about. As I said, the best way of overcoming them is through maximum involvement and engagement with all those who are implicated in or affected by the Bill’s provisions.

We had a commemoration for Blair Peach only 18 months ago. I was with his widow. We had another commemoration, only a couple of months ago, because, as happens in some of our local communities, someone had stolen the plaque—but, never mind, it came back eventually. That reminded me of how, on contentious issues like this, where there is a distinction to be made between what someone says or does that is clearly illegal and what someone says or does that is just unacceptable—and dangerous in certain communities—there must be some mechanism by which judgment is made by the authorities involved. One of the best ways of informing that decision is through consultation, engagement, and, for me, a bit of democratic decision making too. That is all that the amendments do.

**Sir John Hayes:** The right hon. Gentleman is making a case about events. Public events, of course, include speakers, meetings, and so on. I presume that he is not extending that to the area of academic enquiry. There could not be such a debate about a research project or a piece of academic work, because, on that basis, he would be trying to democratise scientific thinking. I assume that he is speaking about one particular aspect of the Bill.

**John McDonnell:** That is a good point. I am trying to look pragmatically at what is happening on the ground, what would happen in practice, and the problems that could cause. This is almost certainly uniquely about specific events that will take place. They are the ones that are the most difficult, where we can see that protests can get out of hand if we do not accommodate for them.

Protests can also be provoked if we do not allow voices to be heard in some part of the process of decision making. It is a valid point to make. I am trying to look practically at how this legislation will roll out. The last thing we want is to be returning in a few years’ time with some form of event on our hands that provoked that scale of anger and protest because people did not have the right to have their say or participate in the decision making process.

12.45 pm

**Lloyd Russell-Moyle** (Brighton, Kemptown) (Lab/Co-op): My right hon. Friend reminds me that one of the first acts of the right hon. Member for Maidenhead (Mrs May) in 2010 when she became Home Secretary was to ban a march of the English Defence League in Bradford, not because she was a dangerous person undermining free speech, but because only nine years earlier, we had devastating race riots in Bradford that left a long scar on the community. I do not say that because I think



there is a danger that the English Defence League will march through university campuses—although I do not rule it out. Because it was a public space, the Secretary of State had the ability in that instance to make a ruling that, even though what the English Defence League was marching about was legal in that it was not directly inciting hatred—many people say that it was doing so indirectly—there was a public order issue that she was concerned about. We need the ability in the code of practice for universities to look at that balance of ensuring public order and safety on their campuses.

**Emma Hardy:** I refer the Committee again to Sunder Katwala's evidence. He said:

"I feel that an event at a student union, 'No blacks in the England team—keep our team white,' does not seem to be the kind of event that we want to protect, and yet that is lawful but reprehensible speech, which we want to stigmatise, even though it is free speech within the law."—[*Official Report, Higher Education (Freedom of Speech) Public Bill Committee*, 13 September 2021; c. 130, Q213.]

Unless we build some protection—some ability to consult—into the law, such events could take place. As our right hon. Friend the Member for Hayes and Harlington said, they would be likely to lead to confrontation.

**Lloyd Russell-Moyle:** I agree. I am sure that the Minister will point to clause 1 and proposed new section A2(2) of the Higher Education and Research Act 2017, which provides that universities must create a code of practice that considers the conduct required of people speaking at the university. She may say that that is sufficient, but given that the Bill provides for a code of practice, it is a perfect time to consider how it is drawn up. It is not the Opposition saying that there should be a code of practice or that there should be limits on how people behave in public meetings or even in academic practice; the Government have included the provision. The Government are saying that universities must have a system to determine and delineate.

However, we have heard that what management thinks is acceptable is often very different from what the academic community and students find acceptable. Management might be motivated by thinking about good PR and what looks good in their recruitment, whereas academics might consider what is important for academic rigour, creating new debate and so on. The amendments are important because they propose including students and staff in the discussion about and creation of the code, and therefore the voting to approve it. Without including them, there is a danger that the code of conduct will be written up and created by universities and do everything that some people do not want it to do.

**John McDonnell:** The point of including in amendment 74 a consultation process on amendments is that things change over time. There are bound to be amendments to the code over time, so is not it better to ensure that a consultation process is built into the drafting? We talked in previous sittings about how attitudes to LGBT issues have changed. That sort of thing has to be reflected in any codes in future. That is just a pragmatic approach to how we develop.

**Lloyd Russell-Moyle:** Amendment 75 allows for consultation on the uses of premises, and would ensure the issue was covered by the code. As he mentions, amendment 74 is about future amendments to the code.

The Education Act 1994, introduced by a Conservative Government, regulated how student unions affiliate and who can affiliate with them, and created a democratic element to that. The Act requires a certain threshold of student turnout, and regular student polling to ensure that student unions do not affiliate with organisations that the student body might no longer feel it appropriate to affiliate with. That is why, up and down the country, student unions must have regular ballots on whether they should continue to affiliate with the National Union of Students. Some student unions—very few—choose not to affiliate with it. Southampton was one in my day, although it might have affiliated since; I cannot keep up with these things. Those requirements are quite right.

The procedures introduced by the Bill, particularly about a code of conduct that will regulate who can speak on campus and how, need to have that democratic aim. I would be more than happy if the Minister said, "This isn't quite the wording. We want to incorporate some of the wording from the 1994 Act, as there are some parallels." That would be great. However, there needs to be an appreciation of how students and staff will be balloted on both the use of premises and, more broadly, on the creation of the code of conduct and any amendment of it. Otherwise, there is real danger that the code will be written for a university's public relations purposes, rather than to ensure a university's academic rigour.

**Fiona Bruce:** I have listened to the debate, and I am troubled by amendments 75 and 76. I believe I heard the right hon. Member for Hayes and Harlington say that the best form of consultation is ballot. I would normally construe that to mean a secret ballot. I am happy to be corrected if I misinterpreted his words. The whole aim of the Bill is to promote and secure freedom of speech—to open up dialogue at universities. We could end up with the almost bizarre situation in which people could vote in a secret ballot for what witnesses described as the monoculture, or even vote a certain way because of prejudice against a particular speaker, without having to give any reason why. I strongly believe that if the decision is made not to allow a speaker, or not allow the use of premises, those making that decision should publicly justify it; that goes to the heart of the Bill.

**Michelle Donelan:** I will try to be brief and not take interventions, given the time. Amendment 74 seeks to ensure that university authorities set out procedures to facilitate peaceful protest on campus and to engage with campus stakeholders on amendments to the code of practice. Amendments 75 and 76 would require the governing body to have a democratic procedure for decisions taken on use of their premises, and a provider would have to have particular regard to that procedure.

Proposed new section A2 of the Higher Education and Research Act 2017 will require registered higher education providers to maintain a code of practice, as they are already required to under section 43 of the Education (No. 2) Act 1986. Providers will, of course, need to revisit their existing codes after Royal Assent to ensure that they are fit for purpose and comply with the new duties of the Bill.

To help providers to update their codes, the Office for Students will in due course issue comprehensive guidance about what should be included in a code of practice. As well as setting out the provider's values relating to freedom of speech and how those values uphold freedom

[Michelle Donelan]

of speech, the code of practice must set out the procedures to be followed when organising meetings and activities, as well as the conduct required in connection with them, and the criteria for decision making on the use of premises. This will ensure that individuals on campus are aware of the ways in which freedom of speech and academic freedom are effectively secured by the provider, and will provide guidance on how individuals can go about exercising their freedom of speech.

Although we encourage providers to work with their university community to ensure these values are upheld in a transparent way, we do not think there is a need to consult on subsequent changes to the code, as would be required under amendment 74. As for the right to peaceful protest, which is also covered by amendment 74, this is a fundamental tool of civic expression. It is in itself an aspect of freedom of speech, and so it is protected by the Bill. For example, if there is a protest against an academic because they have said something controversial but lawful, providers will need to decide what they can do that is reasonably practical to ensure that that academic can speak freely, but without limiting the peaceful protest surrounding them. Proposed new section A2(3) allows providers to include in their code such other matters as they think appropriate. That could include provision on the right to protest as a key part of freedom of speech.

Turning to amendments 75 and 76, it is intended that the code of practice should facilitate the discharge of the freedom of speech duty. A provider could choose to include a procedure for a ballot to assist with selecting speakers in the first place, but to insist on one would be overly bureaucratic. More significantly, one of the aims of the Bill is to secure the freedom of speech of everybody on campus, including those with minority viewpoints. It would not, therefore, be right to mandate a process that would give the majority a right that might act as an effective veto over decision making on events and, in effect, the free speech of minorities.

I hope that Members are reassured that nothing in this Bill restricts the right to protest, and that the requirements for the content of a provider's code of practice are appropriate as drafted.

**Matt Western:** I do not have any points to add. I simply wish to push all three amendments to a vote.

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 6, Noes 9.

#### Division No. 9]

##### AYES

Glendon, Mary	McDonnell, rh John
Hardy, Emma	Russell-Moyle, Lloyd
Jones, rh Mr Kevan	Western, Matt

##### NOES

Britcliffe, Sara	Holden, Mr Richard
Bruce, Fiona	Simmonds, David
Buchan, Felicity	Tomlinson, Michael
Donelan, Michelle	Webb, Suzanne
Hayes, rh Sir John	

*Question accordingly negated.*

*Amendment proposed:* 76, in clause 1, page 3, line 9, at end insert—

“(2A) The provider must have particular regard to the result of a consultative ballot of its staff and students in making decisions about whether to allow the use of premises and on what terms.”—(*Matt Western.*)

*This amendment would provide the governing body with a democratic procedure for inviting or withholding invitations to speakers.*

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 6, Noes 9.

#### Division No. 10]

##### AYES

Glendon, Mary	McDonnell, rh John
Hardy, Emma	Russell-Moyle, Lloyd
Jones, rh Mr Kevan	Western, Matt

##### NOES

Britcliffe, Sara	Holden, Mr Richard
Bruce, Fiona	Simmonds, David
Buchan, Felicity	Tomlinson, Michael
Donelan, Michelle	Webb, Suzanne
Hayes, rh Sir John	

*Question accordingly negated.*

*Amendment proposed:* 74, in clause 1, page 3, line 20, at end insert—

“(6) The Code of Practice shall include procedures to be followed to ensure the right of peaceful protest by staff, students and other interested parties.

(7) The Code of Practice shall include procedures for consulting recognised staff unions and student unions on amendments to the code of practice.”—(*Matt Western.*)

*This amendment would ensure that university authorities set out procedures to facilitate peaceful protest on campus, and to engage with campus stakeholders on amendments to the code.*

*Question put,* That the amendment be made.

*The Committee divided:* Ayes 6, Noes 9.

#### Division No. 11]

##### AYES

Glendon, Mary	McDonnell, rh John
Hardy, Emma	Russell-Moyle, Lloyd
Jones, rh Mr Kevan	Western, Matt

##### NOES

Britcliffe, Sara	Holden, Mr Richard
Bruce, Fiona	Simmonds, David
Buchan, Felicity	Tomlinson, Michael
Donelan, Michelle	Webb, Suzanne
Hayes, rh Sir John	

*Question accordingly negated.*

*Ordered,* That further consideration be now adjourned.—(*Michael Tomlinson.*)

1 pm

*Adjourned till this day at Two o'clock.*