



Higher Education (Freedom of Speech) Act 2023

2023 CHAPTER 16

Functions of the Office for Students

9 Overseas funding

- (1) The Higher Education and Research Act 2017 is amended as follows.
- (2) After section 69C (inserted by section 8) insert—

“69D Overseas funding: registered higher education providers

- (1) The OfS must monitor the overseas funding of registered higher education providers and their constituent institutions with a view to assessing the extent to which the funding presents a risk to the matters in subsection (2).
- (2) The matters are—
 - (a) freedom of speech within the law, and
 - (b) the academic freedom of academic staff of registered higher education providers and their constituent institutions,in the provision of higher education by registered higher education providers and their constituent institutions.
- (3) The duty in subsection (1) includes a duty to consider, in a case where the OfS has found that a registered higher education provider or any constituent institution of a registered higher education provider is in breach of its duty under section A1, whether overseas funding was relevant to the breach.
- (4) The information which the governing body of a registered higher education provider may be required to provide under the condition under section 8(1)(b), in relation to the function of the OfS under subsection (1), is—

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- (a) information as to relevant funding from a relevant overseas person, where the funding from that person exceeds the threshold in any period of 12 months specified by the OfS, and
 - (b) if the OfS considers it appropriate in any circumstances, such other information as the OfS may reasonably require.
- (5) In this section “relevant funding” from a relevant overseas person, in relation to a registered higher education provider, means amounts which are received by the provider or a connected person—
- (a) by way of endowment, gift or donation from the relevant overseas person,
 - (b) by way of research grant from the relevant overseas person,
 - (c) pursuant to a research contract with the relevant overseas person, or
 - (d) pursuant to an educational or commercial partnership with the relevant overseas person.
- (6) In subsection (5) “connected person”, in relation to a registered higher education provider, means—
- (a) the governing body of the provider,
 - (b) a constituent institution of the provider, or
 - (c) a member or member of staff of the provider or of a constituent institution, in their capacity as such.
- (7) For the purposes of subsection (5), treat receipt of anything that is not money as receipt of an amount equal to the value of the thing to the recipient at the time of receipt.
- (8) In this section “relevant overseas person” means—
- (a) the government of an overseas country, other than a prescribed country,
 - (b) a body which is incorporated or registered in, or has its headquarters in, an overseas country other than a prescribed country, or
 - (c) an individual who is a politically exposed person in relation to an overseas country other than a prescribed country.
- (9) In this section—
- “overseas country” means any country or territory outside the United Kingdom, but not including the Channel Islands, the Isle of Man and any British overseas territory;
- “politically exposed person” has the meaning given by regulation 35 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ([S.I. 2017/692](#));
- “prescribed country” means a country or territory specified in regulations made by the Secretary of State.
- (10) For the purposes of subsection (4)(a), “the threshold” means an amount specified in regulations made by the Secretary of State.
- (11) Regulations under subsection (10) may include provision—
- (a) as to how the amount specified is to be calculated;

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- (b) to treat amounts received from a person other than a relevant overseas person as received from the relevant overseas person.

69E Overseas funding: students' unions

- (1) The OfS must monitor the overseas funding of students' unions at registered higher education providers that are eligible for financial support with a view to assessing the extent to which the funding presents a risk to the matter in subsection (2).
- (2) The matter is freedom of speech within the law for—
 - (a) members of the students' unions,
 - (b) students of the providers,
 - (c) staff of the students' unions,
 - (d) staff and members of the providers and of their constituent institutions, and
 - (e) visiting speakers.
- (3) The duty in subsection (1) includes a duty to consider, in a case where the OfS has found that a students' union is in breach of its duty under section A5, whether overseas funding was relevant to the breach.
- (4) For the purpose of the function of the OfS under subsection (1), a students' union referred to in that subsection must provide to the OfS at such times, and in respect of such periods, as the OfS may reasonably request—
 - (a) information as to any amounts received from a relevant overseas person, where the amounts exceed the threshold in any period of 12 months specified by the OfS, and
 - (b) if the OfS considers it appropriate in any circumstances, such other information as the OfS may reasonably require.
- (5) If a students' union fails to comply with its duty under subsection (4), the OfS may enforce the duty in civil proceedings for an injunction.
- (6) The following provisions of section 69D apply for the purposes of this section—
 - (a) subsection (7) (things other than money);
 - (b) subsections (8) and (9) (meaning of "relevant overseas person");
 - (c) subsections (10) and (11) (meaning of "threshold")."
- (3) In Schedule 1, in paragraph 13 (annual report), after sub-paragraph (3) insert—
 - "(3A) The report must include—
 - (a) a summary of information received by the OfS pursuant to sections 69D and 69E for that year, and
 - (b) a summary of conclusions drawn by the OfS for that year, from its monitoring under sections 69D(1) and 69E(1), regarding relevant patterns, trends or other matters which it has identified and which are of concern to the OfS."

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Commencement Information

II S. 9 in force at Royal Assent for specified purposes, see [s. 13\(1\)\(b\)](#)

Changes to legislation:

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