

“AdvanceHE



Embedding Freedom of Speech and Academic Freedom in Equality, Diversity and Inclusion

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1 Introduction

Higher education institutions (HEIs) have a significant role to play in promoting equality, diversity and inclusion within their institutions, and in championing freedom of speech and academic freedom. In doing so, HEIs strive to foster mutual respect, understanding, and tolerance to create an environment that encourages the free exchange of lawful ideas and perspectives, while also promoting inclusion for all staff and students.

Freedom of speech and academic freedom, the promotion of inclusion, and community cohesion have been on the agenda for HEIs for many decades. However, recent events, including rising geopolitical conflict, a number of high-profile court cases and recent changes to legislation and regulation, mean that there has been increased emphasis on these issues.

Inclusion, freedom of speech within the law, and academic freedom are not just compatible, but fundamentally complementary in securing the full framework of rights and protections for staff, students and stakeholders in higher education. However, how these aims and responsibilities are balanced and work together in practice within HEIs is complex and often contested.

A strong emphasis on free speech and academic freedom should not lead to higher education institutions withdrawing from their commitments or ambition related to equality, diversity and inclusion, and their roles in this respect are not passive. By way of example, in April 2025, the UK Supreme Court issued its judgment in *For Women Scotland v The Scottish Ministers* [2025] UKSC 16, and in that judgment, the Supreme Court explicitly reinforced, at paragraph 130, that the Equality Act 2010:

“operates to protect both individuals and groups of persons who share a protected characteristic from unlawful discrimination”.

In respect of groups in particular, the Supreme Court stated, at paragraph 143 of the judgment, that:

“The group-based protections [in the Equality Act 2010] are aimed at achieving substantive equality of results for groups with a shared protected characteristic”.

Under UK law, HEIs can legitimately and lawfully choose to take strong institutional positions and action in relation to equality, diversity and inclusion. In practice, almost all HEIs in the UK do take clear and ambitious action on inclusion, in response to evidence of barriers to participation, a specific need, disadvantage or underrepresentation experienced by a particular protected group, or to prevent harassment and discrimination. Institutional positions on inclusion are also often closely aligned with institutional values and strategic priorities in relation to social responsibility, civic duty or inclusion, and wider aims such as the UN Sustainable Development Goals. However, these actions need to be warranted by institution-specific evidence and context, and must be taken in accordance with an HEI's wider legal and regulatory responsibilities, particularly freedom of speech and academic freedom, but also in accordance with other responsibilities such as charity law.

This guidance document supports HEIs to consider how organisational commitments, policies and actions meet regulatory and legislative requirements and can positively align with and support efforts in promoting freedom of speech and academic freedom. Reflexive questions are provided throughout as prompts to encourage critical thinking and self-assessment by institutions when developing or implementing policies.

The guidance is intended to be read and used in conjunction with Advance HE's Inclusive Institutions Framework, Athena Swan and the Race Equality Charter, and other organisation-wide initiatives or strategic commitments, such as the Disabled Student Commitment. Advance HE's charters and frameworks explicitly embed consideration of free speech and academic freedom and are designed to meet relevant UK legal and regulatory requirements. The guidance supports institutions in implementing these initiatives so that freedom of speech and academic freedom can be appropriately considered and embedded. This guidance may also be useful for considering impartiality more broadly and embedding consideration of free speech in other policy areas, such as HEI's broader civic engagement, widening access or climate and sustainability.

Although there is [new regulation on free speech](#) in England, this guidance is relevant to HEIs across all four nations of the United Kingdom.

A [glossary with simple definitions](#) of selected technical terms is provided at the end of the document to support a range of staff and stakeholders to navigate and apply this guidance.

Please note that this guidance does not constitute legal or regulatory advice, and it is not intended to prescribe institutional actions.

2 Legal context and foundations

The legal framework for freedom of speech, academic freedom and equality in UK higher education is complex, and these duties must be considered together rather than in isolation. At the same time, the legal basis for equality policies and initiatives is strong and fully compatible with robust protections for lawful speech and academic freedom that underpin the academic mission.

2.1 Freedom of speech and academic freedom

Freedom of speech and academic freedom are referenced in multiple ways in legislation across different parts of the UK. HEIs in England and Wales have historically been subject to a duty, under section 43 of the Education (No 2) Act 1986, to *“take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers”*.

The Higher Education (Freedom of Speech) Act 2023 (the **“Act”**), which became law on 11 May 2023, brings in new measures to strengthen this duty, in particular in England. The Act, through the English sector regulator, the Office for Students (the **“OfS”**), requires HEIs to actively *“promote the importance of”* and to *“secure”* or protect freedom of speech for students, academics, and visiting speakers.

The main provisions of the Act came into force on 1 August 2025, and the Act now:

- + requires HEIs to strengthen their existing codes of practice relating to freedom of speech and academic freedom;
- + creates a new role of Director for Freedom of Speech and Academic Freedom, who will sit on the OfS board and whose responsibilities include overseeing the OfS’ functions relating to freedom of speech; and
- + prohibits the use of non-disclosure agreements in complaints relating to harassment and sexual misconduct.

Under the Act, the governing bodies of HEIs must give ‘particular regard’ to the importance of freedom of speech and academic freedom. ‘Particular regard’ means giving significant weight to the importance of freedom of speech and academic freedom, and actively considering and prioritising them in decision making, and in determining what steps are reasonably practicable to secure freedom of speech and academic freedom.

The OfS has published [Regulatory advice 24: Guidance related to freedom of speech](#), which English providers should follow and read in conjunction with this guidance.

The remaining provisions are not yet in force. These provisions will, once in force:

- + require the OfS to create new conditions of registration, requiring HEIs to comply with the new duties and measures set out in the Act;
- + introduce a new free speech complaints scheme, under which individuals can complain to the OfS if they have suffered ‘adverse consequences’ due to action (or inaction) in relation to the duties in relation to freedom of speech and academic freedom; and
- + require the OfS to monitor overseas funding of HEIs to assess the extent to which funding presents a risk to academic freedom and freedom of speech.

A note on academic freedom:

Academic freedom is particular to higher education and receives a high level of protection under the law, but is narrower in its application than wider rights to free speech within the law. As summarised in our supplementary [legal framework document](#), academic freedom is defined differently in legislation across the four nations of the United Kingdom.

The European Court of Human Rights, in the majority judgement in *Erdogan v Turkey* (346/04 and 39779/04), has set out that academic freedom should receive the ‘utmost protection’ under article 10 of the European Convention on Human Rights and “*is not restricted to academic or scientific research, but also extends to the academics’ freedom to express freely their views and opinions, even if controversial or unpopular, in the areas of their research, professional expertise and competence*”.

Championing academic freedom: a call to unite for the sake of higher education

Naomi Waltham-Smith from the University of Oxford calls on UK higher education to unite in support of academic freedom for the sake of the future of higher education.

She says: 'Academic freedom and freedom of expression are fellow travellers whose paths sometimes cross, sometimes proceed in parallel, and yet crucially also pull in different directions. While each has its place on university campuses, the two are distinct in definition, scope, purpose, and justification.'

[Championing academic freedom: a call to unite for the sake of higher education](#) | [Advance HE](#)

Additional information on free speech legislation and regulation

Further detail is available from Advance HE in our [supplementary legal framework document](#).

2.1.1 UK Equality Legislation and The Equality Act 2010 (the “EA 2010”)

The duty on HEIs to promote equality, diversity and inclusion is grounded in an obligation to comply with the equality duties set out, in Northern Ireland, in [section 75 of the Northern Ireland Act 1998](#) and in England, Scotland and Wales, with the Public Sector Equality Duty, as set out in in section 149 of the EA 2010 (the “**PSED**”). The PSED imposes a legal duty on public authorities, including HEIs, when exercising their functions, to have due regard to the need to:

- + eliminate discrimination, harassment, victimisation and other conduct that is prohibited by or under the EA 2010;
- + advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- + foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Section 153 of the EA 2010 gives ministers the power, by regulations, to impose specific duties on a public authority for the purpose of enabling the better performance by the authority of the duty imposed by the PSED. These ‘specific duties’ are different across [England](#), [Scotland](#) and [Wales](#).

The Home Office has stated that the specific equality duties enacted under section 153 of the EA 2010 are intended to help public authorities to perform the PSED better, emphasising ‘transparency’ in meeting the PSED:

“The Government believes that public bodies should be accountable to their service users. Publishing information about decision-making and the equality data which underpins those decisions will open public bodies up to informed public scrutiny. It will give the public the information they need to challenge public bodies and hold them to account for their performance on equality.”

Building on this, in 2019 the Equality and Human Rights Commission (the “**EHRC**”) published guidance on Freedom of Expression for Higher Education Providers and Students’ Unions in England and Wales. Please note this guidance predates the Higher Education (Freedom of Speech) Act 2023, which brings a stronger emphasis and requirement to give ‘particular regard’ to free speech, and English institutions should be mindful of the [OfS guidance on free speech](#) when interpreting this. However, within that context, the older EHRC guidance usefully expands upon the definition of the PSED and

which provides practical guidance on what it actually means for HEIs, emphasising how the free speech and equality duties interact and can be complementary:

“Higher education providers (“HEPs”) have a legal responsibility to think about how they can promote equality and minimise tension and prejudice between different groups on campus. This is something that HEPs must consider when they are promoting freedom of expression.

For example, when a HEP takes steps to ensure a debate on a divisive topic can go ahead – to protect free speech – it must consider the potential impact on students who may feel vilified or marginalised by the views expressed. They should think about how to ensure those students feel included and welcome within the HEP environment. HEPs who are subject to the [freedom of speech duty under section 43 of the Education (No 2) Act 1986] should therefore use the PSED to encourage good relations, but without restricting lawful free speech.”

The concept of ‘due regard’ which underpins the PSED has been explored further in UK case law. In the case of *R (Brown) v Secretary of State for Work and Pensions* [2008] EWHC 3158 (Admin), later confirmed in *R (Domb and others) v London Borough of Hammersmith and Fulham* [2009] EWCA Civ 941, the High Court held that, whilst there is no prescriptive way to evidence due regard, a public authority has to be able to evidence that it has had regard to the impact of its proposed policies and decisions on equality. The High Court also set out the following general principles about complying with the due regard requirement (our emphasis added):

- + there should be a proper analysis of all the relevant material and an appreciation of the duty to have due regard;
- + the due regard duty must be fulfilled before and at the time that a particular policy is being considered;
- + it should not be a "box-ticking" exercise but should instead be a process integrated in the decision-making process;
- + the duty is a continuing one;
- + the duty is non-delegable and will always remain the responsibility of the body subject to the duty;
- + the duty to have due regard should be exercised with rigour and an open mind; and
- + the duty should be reconsidered if new information comes to light and adequate records should be kept of the consideration and decision-making processes undertaken in order to demonstrate that the equality duties have been undertaken conscientiously.

2.1.2 Due regard and particular regard

In the context of English law, 'due regard' (used in the PSED) requires public bodies to consider equality implications in a proportionate and evidence-informed way when making decisions. In contrast, 'particular regard' (used in relation to freedom of speech and academic freedom under the Higher Education (Freedom of Speech) Act 2023) places a stronger, more specific duty to prioritise these freedoms, giving them elevated importance in decision-making processes. In other words, HEIs should hold a 'presumption in favour of lawful free speech' in policy, initiatives and decisions.

2.1.3 Implications for the PSED in setting institutional positions

Compliance with the PSED is not voluntary - it is a legal obligation, enshrined in statute, which can be legally enforced by the EHRC or via legal proceedings, including judicial review and discrimination claims. Whilst HEIs must give particular regard to free speech and ensure that lawful speech and academic freedoms are protected in accordance with their legal and regulatory duties, HEIs can, and in practice often do, lawfully choose to set strong policies and initiatives on equality, diversity and inclusion in accordance with their legal duties under the PSED.

Freedom of Speech, Academic Freedom, EDI in higher education: Squaring the circle

Professor David Ruebain, Pro-Vice-Chancellor for Culture, Equality and Inclusion, University of Sussex, discusses the boundaries of 'free speech and its cousin, academic freedom'.

[Freedom of Speech, Academic Freedom, EDI in higher education: Squaring the circle | Advance HE](#)

2.1.4 Preventing discrimination and harassment

As employers, HEIs are also under a legal obligation to take steps to prevent discrimination and harassment, which may reasonably include setting institutional policies and positions in response to evidenced risk. [Guidance from the Advisory, Conciliation and Arbitration Service \(ACAS\)](#) makes this clear:

“By law (Equality Act 2010), all employers must take steps to prevent discrimination.”

“Public sector organisations have an extra legal responsibility to stop discrimination, under the public sector equality duty.”

ACAS sets out recommendations that many HEIs will be familiar with, including recognising the value of an inclusive and diverse workforce, training staff and managers, ensuring open dialogue and avenues for complaints, and it suggests more proactive measures such as mentoring and supporting staff networks.

The [EHRC's technical guidance on further and higher education](#) includes reference to the fact that education providers, as employers, will be:

3.22 "...legally responsible for acts of discrimination, harassment or victimisation committed by their employees in the course of their employment."

The EHRC's technical guidance specifies that HEIs may take steps to mitigate harassment, discrimination or victimisation, and they may be held liable if they do not take those steps.

An HEI may:

3.27 "be legally responsible for failing to take action where there is a continuing course of offensive conduct, which the [HEI] knows of but does nothing to safeguard against, for example if a pupil is repeatedly harassed at a work placement provider. The [HEI] could be responsible for failing to act, albeit not responsible for the third party actions in themselves."

2.1.5 Accounting for free speech and academic freedom

The EHRC technical guidance, in reference to section 94 of the Equality Act 2010, also embeds explicit reference to academic freedom in teaching and makes a specific exemption in relation to the content of the curriculum:

10.27 These obligations do not apply to anything done in connection with the content of the curriculum. Further and higher education institutions are not restricted in the range of issues, ideas and materials they use and have the academic freedom to expose students to a range of thoughts and ideas, however controversial. Even if the content of the curriculum causes offence to students with certain protected characteristics, this will not make it unlawful unless it is delivered in a way which results in harassment or subjects students to discrimination or other detriment.

In its guidance on Freedom of Expression for Higher Education Providers and Students' Unions in England and Wales, the EHRC makes a similar point:

"Students' learning experience may include exposure to course material, discussions or speaker's views that they find offensive or unacceptable, and this is unlikely to be considered harassment under the Equality Act 2010"

The strong protection accorded for academic freedom, in particular when it comes to the content of the curriculum, is therefore clearly aligned with the Equality Act 2010, and must be accounted for in determining what constitutes harassment. Whether conduct is an exercise of academic freedom will also come into play in assessing, under section 26(4)(c) of the EA 2010 whether it is reasonable for such conduct to have the effect of harassment (as part of the reasonableness or objectivity test for harassment; see e.g. paragraphs 78-82 of the [OfS guidance on freedom of speech](#)).

2.1.6 Meeting regulatory responsibilities

HEIs may be subject to other national requirements or regulations in relation to inclusion which require appropriate action to be taken. These national requirements or regulatory drivers include: the joint [National Equality Outcomes](#) identified by the EHRC and Scottish Funding Council; the Welsh Government's [Anti-Racist Wales Action Plan](#); and the OfS' [Conditions of Registration](#), including Access and Participation Plans (APPs) and consideration of the Equal Opportunities Risk Register (EORR).

From 1 August 2025, English HEIs must comply with the OfS' new Condition E6, which requires institutions to take effective and credible steps to protect students from harassment and sexual misconduct. The condition defines harassment by reference to section 26 of the Equality Act 2010 and section 1 of the Protection from Harassment Act 1997, and extends this to cover harassment by one student towards another. Institutions must maintain a single, comprehensive and publicly accessible source of policies and procedures, and these must set out multiple steps which could (individually or in combination) make a significant and credible difference in protecting students from behaviour that may amount to harassment and/or sexual misconduct, including steps aimed at reducing the likelihood of such behaviour occurring. This includes measures on staff–student relationships, reporting routes, and prohibiting the use of NDAs to silence victims. Importantly, institutions must design and apply these measures in a way that does not unduly restrict lawful freedom of speech, giving significant weight to free speech duties when balancing protections against harassment.

In considering the range of legal and regulatory requirements relevant to equality, diversity and inclusion, HEIs should be conscious that institutional positions, policies, and initiatives may be tested or reviewed in different ways and from different perspectives. A court, for instance an employment tribunal, will look at specific factors and legal considerations compared to, for example, a regulator focused on upholding free speech and academic freedom within the law. There is no single position-setting or decision-making process that an HEI might follow to guarantee it will meet the expectations of different courts or regulators.

2.2 Institutional impartiality

Foundational UK higher education documents, such as the [Dearing Report](#), set out an essential role for HEIs in ‘shaping a democratic, civilised and inclusive society’. In this context, critical reasoning, impactful research and teaching students have societal implications and are enabled by an impartial institutional environment.

Institutional impartiality here broadly refers to the range of approaches which secure an institutional environment free from bias and prejudice and support the effective exercise of academic freedom. A simple, pragmatic definition can be framed as:

- + **Institutional Impartiality:** The governance principle that an HEI should avoid taking official stances on politically or socially contested issues not related to its core mission, charitable objects or academic functions, in order to protect free speech and academic freedom.

There are different views and a significant amount of scholarship on how HEIs appropriately set values and deliver their roles as public institutions and communicate with students, staff and stakeholders in relation to societal challenges and debates. UK HEIs should exercise institutional autonomy and navigate this with their own definitions of impartiality, in line with their charitable objects and the requirements of academic governance and of upholding academic freedom.

Strict ‘neutrality’ is not a statutory or practical requirement. Indeed, institutions may wish to be active in areas directly related to their mission, to advance their charitable objects, support fairness and excellence in academic endeavours, or take proportionate steps to meet the PSED. Institutional autonomy and voice should not be unnecessarily restricted in areas such as higher education policy and funding, or the role of research in society. Many institutions have put care and thought into their approaches.

- + Examples: SOAS has articulated a ‘[plurality, not neutrality](#)’ approach, advocating for active engagement with diverse perspectives while protecting free speech. Similarly, King’s College London has developed [Values-Based Impartiality Guidance](#) for senior leaders.
- + Other nations with different legal contexts, such as the USA, have developed notable approaches, often specifically in relation to securing academic freedom: [Report on the University's Role in Political and Social Action | Office of the Provost](#) and [On Institutional Neutrality | AAUP](#).

2.2.1 Institutional impartiality in relation to equality, diversity and inclusion

Robust policies or institutional actions on equality do not, in themselves, breach an HEI’s legal or regulatory obligations in relation to freedom of speech and academic freedom or inhibit an institution’s approach to impartiality. As set out above, ambitious policies and initiatives on inclusion may be appropriate in supporting institutions missions and in meeting statutory or regulatory requirements. A proactive approach to inclusion can also be

important for enabling equality of protection for freedom of speech and academic freedom for all staff and students. HEIs must develop these policies and initiatives proportionately, in line with the requirements of equality legislation, free speech law, and wider legal and regulatory requirements.

While this is not a comprehensive discussion of impartiality and related ideas, the concept underpins the role of higher education in society in four related ways that are important for this guidance:

- + **Academic mission:** Academic research and teaching are the fundamental roles of higher education. Academic freedom and integrity in research and teaching requires an environment in which different points of view within the law can be heard and given due consideration equally. Academic freedom and integrity in research and teaching are built on professional expertise and competence, and on research ethics. Rooting inquiry in critical assessment of evidence and rigorous argument helps to create an environment in which diverse and marginalised perspectives can be heard and given due consideration.
- + **Free speech:** Securing and promoting free speech on contested and societally relevant topics may be hindered when an institution takes a partisan or biased stance on socially or politically contested topics. Impartiality enables a pluralistic environment where different views within the law can be expressed and heard, and individuals and groups within an institution to feel able to teach, research, debate or protest within the law.
- + **Inclusion:** A diverse and inclusive institution benefits from impartiality, as individuals and different groups must trust that there will be consistency in the application of policies and processes, such as protection from harassment, even in the face of differences in power and representation. Promoting equality of opportunity in student admissions, progression and awards, and staff selection and promotion is complementary to a universal focus on extending a sense of belonging and based on a framework of rights relevant to everyone within a higher education institution.
- + **Credibility:** Higher education institutions should expect to encounter regular shifts in societal perspectives and debate over the decades or centuries in which they exist. Ideas and norms will change. Institutions should expect changes in legal precedent and popular opinion and anticipate and prepare for disruptive events such as geopolitical conflict. A track record of impartiality, transparent academic governance, and enabling lawful engagement on contested topics, supports trust in an institution in navigating change and uncertainty effectively, and will legitimate a strong institutional stance or action when necessary in pursuit of an institution's mission.

Higher education's role in fostering a 'democratic, civilised and inclusive society' and its contributions to societal challenges and debates therefore are enhanced if the sector embraces a nuanced and appropriate approach to impartiality. Institutional autonomy should give individual HEIs flexibility to navigate these tensions and considerations within the law and in a way which is appropriate to individual institutional context and evidence.

2.2.2 Strategy, values and impartiality

Often, an institutional strategy will include equality, diversity and inclusion through reference to inclusion, civic duty or social responsibility. Institutions also often have strong values, which may relate to free speech, academic inquiry, inclusion, shared behaviours, or a broader civic role. HEIs should be explicit about how their broader commitments, values and approaches in relation to inclusion or any references to other concepts such as social justice support their institutional mission, purpose and charitable objects, and about how they complement and are supported by a commitment to impartiality, lawful free speech and academic freedom. It should be clear that values or commitments don't supersede an institution's legal requirements and are not a basis for interfering in lawful speech.

A commitment to impartiality does not prevent an institution from pursuing ambitious inclusion goals, fulfilling its duties under the Equality Act 2010, or implementing lawful positive action and reasonable adjustments. Any equality, diversity and inclusion related priorities should be proportionate, grounded in institutional context, data and evidence, and must follow relevant legal requirements. Treating people fairly and lawfully does not always mean treating people exactly the same. However, in considering inclusion-related policies and initiatives, as a general rule, HEIs should not be giving preference to one group over another on a permanent basis and without clear, documented policy, strategy, or decision-making processes.

HEIs should also be mindful of the chilling effect that strong positions on inclusion may create for staff or students who hold different views, as well as the risks of upholding free speech duties for all parties where there is a clash of views, especially where those views are likely to be protected religious or philosophical beliefs. HEIs should take reasonably practicable steps to promote and protect free speech and academic freedom within the law, welcoming and supporting discussion and disagreement when it arises.

Specific organisational-level initiatives such as Athena Swan and the Race Equality Charter, or work on frameworks such as the Disabled Student Commitment, have a clear place in how institutions are responding to evidence of underrepresentation, disadvantage or the specific needs of a protected group, barriers to participation, and mitigating or preventing unlawful harassment and discrimination.

+ Example: an institution may engage with Athena Swan because of sector and institutional evidence that women are underrepresented in senior roles and in many academic departments, which is of direct relevance to the institution's ability to effectively deliver on its mission of teaching, research and civic engagement.

A critical question will then be *how* these institutional commitments are set and then operationalised, which is explored further in this guidance.

2.2.3 Impartiality and inclusive leadership

Leadership plays a critical role in shaping and delivering equality, diversity and inclusion policies, while also upholding institutional impartiality and legal duties concerning free speech and academic freedom. Leaders are expected to set a strategic direction, balance competing demands, engage with the entire institution, and make difficult decisions when there is uncertainty, for instance in an incident that might be on the boundary of free speech or unlawful harassment.

In considering how an approach to institutional impartiality and inclusion is operationalised, senior leaders should be mindful of their role at the head of a public institution and the sensitivities of taking a position on matters of public or political debate. When senior institutional leaders (such as the Vice-Chancellor or other members of the executive team) speaking on behalf of an institution act on or express strong partisan views on politically contested issues, they risk suppressing speech in opposition to that position, either through operational restrictions on speech, or through a chilling effect on freedom of speech within the law.

Senior leaders should be careful in exercising their own free speech not to misrepresent institutional policy or be seen to be disproportionately favouring one side of a societal debate. Institutions should similarly be mindful in balancing the risks of a perception of censorship and restricting free speech on matters of public interest, even for senior staff.

When senior leaders exercise academic freedom in their capacity as individual academics, they should clearly distinguish this role from their institutional leadership responsibilities and ensure any decisions are taken in line with appropriate governance arrangements. In communications, they should avoid implying that their interpretation represents the official position of the university, particularly where it diverges from established institutional policy. Commentary must not undermine the university's legal duties to protect staff and students from harassment or discrimination, and leaders should be mindful that their public statements do not create a perception of institutional bias or a chilling effect on other lawful views on the subject.

+ **Example:** It may be appropriate for a Deputy Vice-Chancellor, who is also a Professor of Human Rights Law, to publish a scholarly article or deliver a public lecture exploring the challenges of how UK harassment law interacts with freedom of speech legislation. The Professor might legitimately explore ideas or recommendations outwith the scope of current institutional policy or UK law in exercising academic freedom.

Senior leaders will have discretion in acting as a 'champion' or appropriately raising the profile of a particular challenge or new initiative, but when speaking on behalf of the institution, they should broadly align with institutional policies and positions, and their 'championing' of that challenge or initiative should not act to the detriment or exclusion of other lawful views (or lawful manifestation of those views).

- + **Example:** It is likely to be appropriate for a Vice Chancellor to write and sign a letter of endorsement for an equality initiative, such as Athena Swan or the Race Equality Charter. The letter may set out why they are making this commitment, the value it adds to the institution, as well as highlighting the VC's individual role and contribution to the initiative and intention to act as a champion within the institution for this work.

Reflexive questions on impartiality:

- + Do institutional policies clearly articulate how to balance commitments to inclusion in relation to commitments to enable debate on societally and politically contested issues?
- + Do institutional and academic governance processes clearly set out who decides when the institution will take a public stance on contested issues, and are these decisions transparent and documented?
- + Is it clear when staff or students are speaking or acting in a personal capacity, and when they are representing the institution—whether exercising free speech, academic freedom, or advancing equality, diversity and inclusion?
- + Is there a culture where individuals are able to express views within the law that may differ from dominant narratives or institutional priorities without fear of reprisal, disadvantage or threats to physical safety?
- + Are leaders confident in their ability to lead inclusively while upholding the institution's approach to impartiality and protecting freedom of speech within the law?

3 Embedding free speech and academic freedom in equality, diversity and inclusion in practice

HEIs should consider the specific steps or actions that will help ensure that they are taking a proportionate and evidence-based approach in meeting any legitimate commitment or aim relating to inclusion, including complying with their legal duties towards freedom of speech and academic freedom.

Many of these possible steps are set out below. However, institutions should not apply a ‘one-size fits all’ approach in developing institutional policies or initiatives.

These practical recommendations or specific steps to consider in embedding freedom of speech and academic freedom in equality, diversity and inclusion positions cover four areas:

- + Establishing policies and initiatives in equality, diversity and inclusion;
- + Implementation: emphasising free speech and academic freedom within the operationalisation of inclusion related policies and initiatives;
- + Ensuring lawful speech is protected;
- + Fostering dialogue: anticipating and supporting constructive disagreement.

3.1 Establishing policies and initiatives in equality diversity and inclusion

The strength of institutional commitments and the law in relation to free speech and academic freedom, and the ‘presumption in favour of free speech’ embedded in UK law, should not deter HEIs from setting strong institutional policies and initiatives in relation to inclusion.

Setting institutional policies and initiatives in inclusion or related areas should follow established governance, policy development and sign-off processes, to help ensure quality and consistency.

The starting point is introducing justifiable and legally compliant policies and initiatives which set reasonable and proportionate standards for the institution. Ensure policies and initiatives are established in line with an institution’s governance arrangements and scheme of delegation and that they articulate the specific, legitimate aims and constitute a proportionate approach in achieving those aims based on institution-specific evidence.

Identifying legitimate aims in specific equality, diversity and inclusion policies and initiatives can be supported by explicitly linking to an HEI’s mission or charitable objects.

Requirements on staff, students, or stakeholders resulting from a policy or initiative should be both necessary (logically required and based in evidence) and proportionate in the delivery of these aims.

Governing bodies and executive teams have overall responsibility for the strategic direction and positioning of equality, diversity and inclusion, as well as securing free speech and academic freedom. HEIs should ensure that senior leaders are equipped and supported to carry out this role effectively. Boards should have appropriate assurance of the effective design, operation and performance of inclusion related policies and initiatives.

- + **Example:** an institution's executive team and Board have signed off on a voluntary commitment made under Advance HE's Race Equality Charter, to be an 'anti-racist' institution. Taking organisational steps towards addressing racism is likely to be appropriate when it supports both institutional missions and compliance with the Equality Act 2010 (including the PSED). The Board would need to be assured and leaders take steps to ensure that such a commitment is operationalised in a way that doesn't lead to disproportionate policies, initiatives, or expectations that would restrict lawful speech and/or academic freedoms.

Freedom of speech and academic freedom must be considered in the design and development of inclusion related policies and initiatives and should be explicitly referenced in relevant documentation or action plans. This might include, for instance, consideration of disagreement and protest, academic freedom, e.g. in relation to curriculum design and development, or a possible chilling effect from setting a highly visible organisational policy. Policies should avoid blanket restrictions that may inadvertently capture lawful speech or infringe on academic freedom.

Use clear and precise language and definitions that relate to legal and regulatory requirements. This is important to avoid blanket prohibitions on lawful speech in policies and to ensure compliance e.g. with the Equality Act 2010.

- + **Examples:** reference to the PSED should include requirements to have 'due regard to the need to...', rather than stating HEIs 'need to'. There are clear definitions in the Equality Act 2010 of discrimination, harassment and victimisation; terms such as 'hate speech' and 'bullying' are commonly used in higher education settings but may cause confusion if not defined precisely and conflated with lawful but offensive language.

Policies should practically support staff and managers in making judgements about identifying the least intrusive restriction that can be imposed on freedom of speech or academic freedom, which may include restrictions on the time, place and manner of speech rather than outright prohibitions. [Advance HE's guidance on protected beliefs](#) may be useful in this context.

- + **Example:** it may be disproportionate and potentially infringe on freedom of speech if an institution required all staff and students to use preferred pronouns for trans people at all times. However, an institution may have a legitimate aim in meeting the PSED for trans people (with a protected characteristic of gender reassignment) and could implement a policy that recommended use of preferred pronouns in interpersonal interactions in academic settings (teaching or research).

When signing up to external commitments, charters or schemes, including those operated by Advance HE, HEIs should assure themselves that any required principles, policies or initiatives are fit for purpose in their particular institutional context and evidence base. Activity in relation to external charters and schemes must still meet relevant legal and regulatory requirements, including free speech and academic freedom.

+ **Example:** The International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism was adopted by the UK Government in 2016 and subsequently encouraged for use by HEIs to provide a framework for recognising and addressing contemporary forms of antisemitism. The definition helps staff and students more consistently identify actions or language that may amount to antisemitism, including more subtle or coded expressions.

An HEI gives consideration to the IHRA working definition of antisemitism, as well as other different potential non-statutory definitions of Islamophobia and transphobia. These definitions should only be adopted with suitable qualifications that they will not be applied in a way that restricts freedom of speech or academic freedom within the law, and that they do not supersede UK law in respect of definitions of harassment. Institutions should be clear in communicating with different stakeholders how the adoption and use of non-statutory definitions within an institution's legal and regulatory framework contributes to its mission.

The IHRA definition of antisemitism in particular has been subject to multiple legal opinions that state these points clearly:

"Any public authority which does adopt the IHRA Definition must interpret it in a way which is consistent with its own statutory obligations, particularly its obligation not to act in a matter inconsistent with the Article 10 right to freedom of expression." (Opinion by Hugh [Tomlinson](#) KC)

"A particular problem with the IHRA definition is that it is likely in practice to chill free speech.

"Universities and Colleges should be particularly careful about adopting or using the definition, as they have a statutory duty to protect freedom of expression " (Opinion by Geoffrey [Robertson](#) KC)

Policies or initiatives that do give preference to a group with a protected characteristic, such as positive action measures, should be proportionate, and include 'sunset clauses' (a set end-point) or regular points of review.

A proportionality assessment must be used to consider likely interactions between inclusion related policies and initiatives, on the one hand, and freedom of speech and academic freedom within the law, on the other. It should account for challenging contexts or environments such as classroom interactions or social media. Advance HE's [guidance on protected beliefs](#) includes a section on proportionality in decision making that draws on the recent judgments (from the Employment Appeal Tribunal and the Court of Appeal) in Higgs

v Farmors School and other relevant case law. Institutions in England should also be mindful of [OfS' Regulatory Advice Note 24](#), on free speech. An equality impact assessment (EIA) is another way of embedding consideration of proportionality in the development or review of institutional policies or initiatives.

HEIs should ensure that they document a methodical and evidence-based approach to decision-making. Inclusion policies and initiatives should have appropriately scheduled reviews, accounting for any changes in context, supporting evidence, proportionality, or communication required for staff and students.

Reflexive questions for developing policies or initiatives:

- + Has the policy or initiative been developed with proportionality in mind, and do you meaningfully reference free speech, academic freedom and your Code of Practice in the policy or initiative?
- + Does your policy or initiative avoid 'blanket' statements that may restrict freedom of speech within the law or is it overly prescriptive in a way that does not leave room for contextualised judgements?
- + Does the policy or initiative disproportionately infringe on freedom of speech or on academic freedom, including areas such as curriculum design and content?
- + Does reference to bullying, harassment, discrimination and victimisation follow legal definitions and not include wider concepts (such as safety or harm) which may restrict freedom of speech within the law?
- + If a policy or initiative is necessary to achieve a legitimate aim, are you confident that there is not a less intrusive way to achieve what the policy or initiative aims to achieve?
- + Is it clear how concerns or complaints related to free speech or academic freedom can be raised in relation to the policy or initiative?

3.1.1 Operationalising equality, diversity and inclusion policies and initiatives

Many of the challenges that HEIs have faced in relation to free speech or academic freedom arise in the operationalisation of policies and initiatives related to equality, diversity and inclusion. Even where policies have a lawful basis and are proportionate, HEIs may face risks arising from inconsistent implementation, unclear communication, or unpredictable interactions between staff, students, and stakeholders.

HEIs can emphasise free speech and academic freedom within the law in the implementation and operationalisation of inclusion related policies and initiatives, and take steps to anticipate and mitigate key risks.

Senior leaders, managers and academic and professional staff responsible for operationalising policies and delivering initiatives should follow established institutional processes and clearly document decisions. This includes appropriately reflecting legal and regulatory requirements related to freedom of speech and academic freedom embedded in institutional Codes and related policies.

- + **Example:** An academic department is undertaking recruitment and wants to ensure institutional values and approaches to inclusion are considered in the process. The department should ensure that language used in recruitment could not be reasonably interpreted as requiring endorsement of, agreement with, or experience in relation to specific viewpoints on equality, diversity and inclusion. The department could ask about commitments to broader concepts explicitly aligned to an HEI's mission, such as equality, diversity, inclusion or belonging for all staff and students, and how candidates would contribute to an inclusive environment for everyone. It also might ask about past contributions or commitments to meeting duties under the Equality Act 2010, with the expectation that there are a range of different ways candidates might be able to demonstrate this, without conforming to a particular belief or approach.

HEIs should ensure freedom of speech and academic freedom are explicitly considered in the development, communication and delivery of actions or initiatives, documenting where rationale for inclusion related policies and initiatives can support freedom of speech and academic freedom, or require mitigating action to secure free speech and academic freedom within the law. This will be particularly relevant where there is a risk of a chilling effect, or where securing rights to free speech and academic freedom may require action. For instance, this could include initiatives in areas of current political and societal debate, or where disagreement and protest may emerge, such as decolonising initiatives, action to address antisemitism or Islamophobia, initiatives related to inclusive curriculum or inclusive pedagogy, competence standards and reasonable adjustments, or work to create inclusive environments for LGBTQ+ staff, students and stakeholders.

- + **Example:** an institution working to Advance HE's Race Equality Charter (REC) has a self-assessment team (SAT) responsible for developing and reviewing an institutional action plan. As part of their process, the SAT applies the reflexive questions outlined in this guidance, to ensure the actions are proportionate, that legal and regulatory requirements are accounted for and that freedom of speech and academic freedom are explicitly considered. As a result of this, a decolonising initiative developed as part of the REC action plan clearly highlights academic freedom in the rationale for the project, and emphasises it practically in delivery, such as through project communications. The initiative emphasises the opportunity for increasing contributions or perspectives and therefore growing opportunities for students to encounter speech of different

stakeholders. It is also clear that the initiative does not supersede or infringe on academic freedom; in areas covered by academic freedom such as curriculum design and content, a decolonised approach is recommended, but not mandated. In curriculum design, academic freedom is often exercised collectively as a team or committee agreeing on a shared approach. Decolonising initiatives should be subject to usual democratic academic governance processes and dissenting or minority views should be accommodated within reason.

HEIs can usefully prioritise communication and set clear expectations for staff, students and stakeholders, both for inclusion-related policies and initiatives and also in relation to freedom of speech and academic freedom. For instance, in staff and student inductions, institutions could be clear about legal and regulatory requirements, or include in training the objective test in harassment under the Equality Act 2010, or understanding academic freedom and how it is distinct from free speech, which will all be important in setting appropriate expectations.

Incidents often bring competing claims of harassment versus protected speech that challenge the judgement of managers and staff. Risk assessments, scenario planning and simulation exercises can help the relevant functions across institutions work together more effectively to anticipate, mitigate and respond to both persistent challenges and crises in relation to inclusion and freedom of speech. Exercises that bring together diverse functions that don't usually collaborate, such as EDI, strategy and planning, comms, student services, HR, and senior leadership can be particularly effective in equipping managers to respond effectively.

+ **Example:** A lecturer delivering a seminar on historical understandings of and attitudes towards gender may lawfully and appropriately present and critically discuss controversial views as part of academic exploration (classroom discussion, academic context). However, if that same lecturer expresses similar views in a 1:1 meeting with a trans colleague, directing the comments personally and without relevance to work duties, it may constitute harassment or a breach of a dignity at work policy, rather than protected speech.

Similarly, an academic member of staff may lawfully present, describe and analyse stereotypes in teaching or research. As explained above, academic freedom provides the 'utmost' protection within the law for expression and speech in these contexts. However, academic freedom is not unlimited. It must be exercised within the law. Negative stereotyping in some circumstances may need to be balanced with human rights protections, e.g. under the Equality Act 2010 and/or in relation to Article 8 of the ECHR. For instance, stereotyping (or other academic expression) may not be protected, even in academic contexts, if it is reasonably viewed to incite hatred or violence, or is gratuitous, not based in evidence or does not meet minimal thresholds of academic quality or rigour.

Reflexive questions on operationalising EDI policies and initiatives:

- + Are EDI policies and initiatives being implemented consistently across the institution's departments and functions?
- + Are initiatives (e.g. decolonising the curriculum, inclusive pedagogy, positive action in leadership representation) framed in a way that supports academic freedom and implemented in a way that does not suppress freedom of speech within the law or the manifestation of a protected belief?
- + Are managers and staff equipped to make nuanced judgments on free speech, academic freedom, and inclusion, and know where to seek support if necessary?
- + Are there mechanisms in place—such as scenario planning or cross-functional exercises—to build confidence and consistency in responding to incidents?

3.2 Ensuring freedom of speech within the law is protected

It is important that HEIs are clear with staff, students and stakeholders in the context of setting and delivering inclusion related policies and initiatives that freedom of speech within the law will be protected.

All staff, students and stakeholders should expect as a fundamental aspect of their study, employment or engagement at an institution, that their free speech and academic freedom within the law will be protected and they will not experience unlawful harassment or discrimination. This should be stated simply and clearly, not just in freedom of speech codes but in equality, diversity and inclusion related policies.

Critical views held by staff or students in relation to institutional policies or initiatives in contested areas may be protected under freedom of speech and academic freedom or possibly as lawful manifestations of a protected belief. Institutions should ensure staff who do criticise institutional positions are able to express views within the law, and are not subjected to harassment or discrimination for holding or lawfully manifesting them. For more information, please see [Advance HE's guidance on protected beliefs](#).

- + **Example:** an institution's commitment to Athena Swan should not limit the free speech, academic freedoms or lawful manifestation of a protected belief by staff or students who hold gender critical views.

HEIs should take all reasonably practicable steps to ensure that freedom of expression within the law and lawful manifestation of protected beliefs (even those which may be offensive to many) are tolerated on campus and in research and teaching.

Discussions of ideas and academic subjects can be vigorous and cause offence while still being within the law. Students and staff should expect in their time at an institution that they will encounter views that they disagree with and likely find offensive. As set out in the [EHRC guidance on Freedom of Expression](#), thoughtful critique or academic discussion of even the most contested topics is likely to be protected. Freedom of speech and academic freedom within the law protect the expression of views that may shock, disturb, or offend the deeply held beliefs of others, and academic freedom protects the right to freely express their views and opinions, even if controversial or unpopular, in the areas of their research, professional expertise and competence.

+ **Example:** Prevent guidance requires HEIs to consider carefully whether “views being expressed or likely to be expressed constitute extreme views that risk drawing people into terrorism”. There have been cases where students have been wrongly referred to as ‘students at risk’ where they have accessed certain materials for legitimate and academic reasons. Institutions should be mindful that what some stakeholders deem “extreme” language or views might actually be lawful, i.e. pro-life views, criticism of western society, anti-immigration sentiment, etc., could lead to institutions breaching duties related to free speech and academic freedom.

However, offensive language that is personalised or targeted at an individual may cross the line into harassment, as might ‘extremely offensive’ language (see reference to the Fahmy v Arts Council England case in [Advance HE’s guidance on protected beliefs](#)).

In protecting freedom of speech within the law in the context of EDI-related policies and initiatives, it will be useful to articulate how inclusion and free speech can be complementary and often mutually reinforcing. For further information please see Dr Robert Simpson’s article [Doing Collective Inquiry Better - the alignment between Equality, Diversity and Inclusion, and Academic Freedom/Free Speech in UK universities | Advance HE \(advance-he.ac.uk\)](#).

Ensure that specific activities, events or initiatives do not restrict free speech or academic freedom within the law. If there are any concerns related to speech or inclusion, consider mitigations that do not intrude or are the least intrusive upon freedom of speech, such as requiring the original event to offer information about support services and alternative events, or effective panel moderation. Further guidance is available in [Advance HE’s Freedom of speech and academic freedom: activities and events checklist](#).

Where there are conflicting views on a topic or event, consider mitigations to enable all involved to exercise free speech, such as managed protest that enables an ongoing dialogue.

Ensure robust decision-making processes in relation to any potential interference in speech. As there is a “presumption” in favour of free speech and academic freedom, any potential interference in freedom of speech and academic freedom within the law must be made on a lawful basis. Therefore, when deciding whether it may be necessary to interfere with any rights to freedom of speech in response to a given incident, institutions will need to ensure the decision is taken with regard to the individual circumstances of a case, interference is on a lawful basis (under Article 10(2) of the ECHR), and the interference is proportionate. Institutions should account for their specific legal and regulatory context. For instance, providers in England should ensure they are following OfS’ guidance on free speech: [Regulatory advice 24: Guidance related to freedom of speech](#). Further guidance on decision making is available in [Advance HE’s guidance on Promoting good relations in HE](#).

An important caveat: when might it be legal and proportionate to restrict lawful speech?

There are limited circumstances where it might be appropriate to restrict lawful speech. Advance HE’s guidance on protected beliefs includes a section on decision making which covers how any interference in speech must be in line with UK law, in pursuit of a legitimate aim necessary in a democratic society and must be proportionate.

Any interference must also be ‘prescribed by law’, which has an extended meaning and may include contracts with staff or students, codes of conduct, or institutional regulations and policies, provided that these are accessible, clear and foreseeable. This means it must be reasonable to assume that staff, students and stakeholders are aware of these requirements, understand behaviours expected of them, and can reasonably predict how these requirements will be put into practice. Providers in England should refer to OfS guidance on free speech, which acknowledges that there may be limitations placed on lawful speech and includes a section (p34, paragraphs 124-128) on ‘prescribed by law’ (which does not have the same meaning as “within the law” in Step 1 of the OfS’s guidance).

For an HEI, proportionate restrictions on freedom of speech within the law might include, for example, where there’s repeated interruption of teaching sessions or a case of bullying not related to a protected characteristic under the Equality Act 2010. For an institution as an employer, it might involve, for example, restricting someone who’s trying to advocate or convert individuals to a particular religion or belief.

Reflexive questions on ensuring lawful speech is protected:

- + What proactive steps have been taken to secure and promote freedom of speech within the law, particularly in relation to equality, diversity and inclusion policies and initiatives?
- + Is it clearly communicated to staff, students, and stakeholders that freedom of speech within the law—including views that may be unpopular or offensive—is protected, and why that is important?
- + Are decision-making processes for potential speech restrictions robust and well-documented?
- + When might there be a lawful basis and when might it be proportionate to restrict speech? And are policies and decision-making processes clear, accessible, and foreseeable in such cases?

3.3 Culture and fostering dialogue

One important step that institutions can take, both in relation to setting organisational-level policies or in developing specific initiatives related to equality, diversity and inclusion, is anticipating and supporting constructive disagreement. This can include taking longer term steps to develop a strong institutional culture and expectations in relation to disagreement and academic conflict.

HEIs can welcome academic differences of perspective and disagreement, in policy and positioning but also in practice in relation to specific disagreements. This can include proactively creating space for disagreement in setting or implementing EDI policies, alongside tolerating and accommodating peaceful protest.

Disagreement should be managed to protect free speech and rights to peaceful protest, and to ensure that the rights of all staff, students and stakeholders aren't disproportionately affected by a particular protest.

HEIs should consider appropriate steps to ensure staff, students and stakeholders have the opportunity to be heard on topics that are important to local communities or that are societally relevant, including signalling that free speech and disagreement is welcome. This may be particularly valuable at the stage of developing institutional policies or initiatives.

- + **Example:** some institutions have proactively set up listening exercises or created forums for staff and students to discuss the April 2025 Supreme Court judgment on the definition of 'sex' in the Equality Act 2010. Listening exercises and engagement can be incorporated into policy development through equality impact assessments or other forms of equality and proportionality analysis.

HEIs can emphasise their obligation under the PSED to give due regard to the need to foster good relations, including prioritising longer term cultural development, as an effective solution to potential clashes of rights by anticipating and mitigating their impact. Work on inclusion in this context explicitly supports free speech. Institutions can consider the additional positive initiatives that might support fostering good relations and free speech, for instance through role modelling high quality dialogue, or community engagement events to facilitate positive discussions around contentious topics.

- + **Example:** some institutions have taken proactive steps to bring external speakers together with different backgrounds and perspectives to role model effective discussion and dialogue in relation to different geopolitical issues.

Build trust with different groups of students and staff, particularly those often marginalised from and within institutions. Foster recognition of commonalities between different groups of students and staff.

A repeated and aligned emphasis on free speech, inclusion and dialogue will over time encourage a culture where diversity of views and of disagreement is celebrated as an essential part of learning. Institutions can aim to develop a culture of more respectful dialogue and debate, for instance referencing standards of quality and behaviour in student and staff codes of conduct, alongside recognition that HEIs have a legal duty to take all reasonably practicable steps to secure freedom of speech and academic freedom within the law, even when it may be offensive to others.

Please see Advance HE's updated good relations guidance for further detail: [Promoting good relations in higher education | Advance HE \(advance-he.ac.uk\)](https://www.advance-he.ac.uk/good-relations-in-higher-education)

Reflexive questions on fostering dialogue:

- + What long-term steps are we taking to build trust and mutual understanding between different groups of staff and students?
- + Do engagement processes (e.g. consultation under equality impact assessments) include space for disagreement and constructive critique?
- + Are our staff equipped to enable productive disagreement within academic settings in ways that uphold legal duties?
- + Are our staff equipped to manage disagreement in ways that uphold legal duties and foster good relations?

4 Conclusion

Embedding freedom of speech and academic freedom within equality, diversity and inclusion is not about choosing one over the other, but about recognising their interdependence and managing their tensions with care and confidence. This guidance has outlined the legal, institutional and cultural frameworks that shape this work and offered practical steps for higher education institutions to uphold their duties while fostering inclusive, intellectually vibrant environments.

To succeed, institutions should:

- + Apply the law with nuance, ensuring that both equality and freedom of expression are protected and promoted.
- + Develop proportionate, evidence-based and transparent policies and practices.
- + Nurture a culture where disagreement is valued as part of academic life.
- + Continuously reflect and improve, using tools such as impact assessments and reflexive questions.

Embedding these principles is an ongoing commitment, not a one-off task. By approaching this work with integrity and openness, institutions can model the values of inclusion, academic freedom and robust debate that define higher education.

5 Glossary

Academic Freedom

The right of academics to freely conduct research and express views within their area of research, professional expertise and competence, even if those views are controversial or unpopular. Protected under UK law and international human rights frameworks (e.g. Article 10 of the European Convention on Human Rights).

Chilling Effect

A situation where individuals refrain from expressing lawful views due to fear of negative consequences, such as institutional disapproval or disciplinary action.

Due Regard

A legal obligation under the Public Sector Equality Duty (PSED) requiring public bodies to consciously consider how their decisions and policies affect people with protected characteristics. It means giving appropriate weight to equality considerations, not just ticking a box.

Equality Impact Assessment (EIA)

A process used to assess how policies or decisions may affect people with protected characteristics, often used to support compliance with equality duties.

Freedom of Speech

The right to express opinions without censorship or restraint, within the limits of the law. In HEIs, this includes students, staff, and visiting speakers.

IHRA Definition of Antisemitism

A non-legally binding working definition developed by the International Holocaust Remembrance Alliance, often adopted by institutions to guide anti-discrimination efforts.

Institutional Impartiality

The governance principle that an HEI should avoid taking official stances on politically or socially contested issues not related to its core mission, charitable objects or academic functions, to protect free speech and academic freedom.

Particular Regard

A legal term from the Higher Education (Freedom of Speech) Act 2023 requiring HEIs to give significant weight to freedom of speech and academic freedom in decision-making.

Positive Action

Lawful measures under the Equality Act 2010 that allow organisations to help disadvantaged or underrepresented groups, provided actions are proportionate and evidence-based.

Prescribed by Law

Compare with 'within the law', below.

A legal standard, particularly in human rights law, meaning that any restriction on a right (e.g. freedom of expression) must be: Clearly defined in law, accessible and foreseeable to those affected, not arbitrary, and must serve a legitimate aim (e.g. public safety, protection of others' rights)

Proportionality

A principle in law and policy that actions taken (e.g. restrictions on speech or implementation of EDI measures) must be appropriate and necessary to achieve a legitimate aim, and not excessive in relation to that aim.

Protected Characteristics

Attributes protected under the Equality Act 2010, including age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, and pregnancy and maternity.

Public Sector Equality Duty (PSED)

A legal duty under the Equality Act 2010 requiring public bodies to have due regard to eliminating discrimination, advancing equality, and fostering good relations.

Reasonable Adjustments

Changes made to remove or reduce disadvantages experienced by disabled people, as required under the Equality Act 2010.

Scheme of Delegation

A formal document or framework within an institution that outlines who has the authority to make decisions and carry out specific responsibilities. It ensures accountability and clarity in governance.

Sunset Clause

A provision that sets an expiration date for a policy or initiative unless it is reviewed and renewed, ensuring ongoing relevance and proportionality.

Within the Law

Refers to actions or policies that comply with existing legal frameworks, such as the Equality Act 2010, the Human Rights Act 1998, or the Higher Education (Freedom of Speech) Act 2023. It implies that institutional decisions must not breach statutory or common law.

Contact us

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Advance HE helps HE institutions be the best they can be, by unlocking the potential of their people.

We are a member-led, sector-owned charity that works with institutions and higher education across the world to improve higher education for staff, students and society. We are experts in higher education with a particular focus on enhancing teaching and learning, effective governance, leadership development and tackling inequalities through our equality, diversity and inclusion (EDI) work.

Our strategic goals to enhance confidence and trust in HE, address inequalities, promote inclusion and advance education to meet the evolving needs of students and society, support the work of our members and the HE sector.

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