



# Higher Education (Freedom of Speech) Act 2023

## 2023 CHAPTER 16

### *Duties to protect freedom of speech*

#### **4 Civil claims**

After section [A6](#) of the Higher Education and Research Act 2017 (inserted by section 3) insert—

#### *“Civil proceedings*

##### **A7 Civil claims for breach of duty**

- (1) A person may bring civil proceedings against—
  - (a) a registered higher education provider, in respect of a breach by the governing body of the provider of any of its duties under section [A1](#) that causes the person to sustain loss,
  - (b) a constituent institution of a registered higher education provider, in respect of a breach by the governing body of the institution of any of its duties under section [A1](#) that causes the person to sustain loss, or
  - (c) a students’ union, in respect of a breach by it of any of its duties under section [A5](#) that causes the person to sustain loss.
- (2) In subsection (1), “loss” means loss of any kind (pecuniary or non-pecuniary).
- (3) A person may bring proceedings under subsection (1) only if—
  - (a) the person has brought a complaint relating to the same subject-matter as the proceedings under a relevant complaints scheme, and
  - (b) a decision has been made under that scheme as to the extent to which the complaint was justified.
- (4) Each of the following is a “relevant complaints scheme”—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the scheme provided by virtue of Schedule 6A (the free speech complaints scheme), and
  - (b) the scheme for the review of qualifying complaints (within the meaning of section 12 of the Higher Education Act 2004) that is provided by the designated operator (within the meaning of section 13(5)(b) of that Act).
- (5) Subsection (3) does not apply where the civil proceedings under subsection (1) are for an injunction only.”