

BRITISH FREE SPEECH BILLS - PROPOSAL COMPARISON TABLE

1. MAIN OPERATIVE PROVISIONS OF EACH PROPOSAL

PROVISION	ADAM SMITH INSTITUTE v1 (link) (essay)	PROSPERITY INSTITUTE v1 (link)
Summary of doctrinal approach to free speech reform	Enumerated rights + parliamentary sovereignty	Common law restoration
Full Bill text published	Yes	No
Commencement	Effective on the day of enactment with no implementation delay, Section 31	Unclear
Definition of protected class	Yes, Section 3 (UK Persons)	Not applicable as the proposal intentionally does not create a positive right for doctrinal reasons.
Defines Bill of Rights 1689 / U.S. 1A-style enumerated right	Yes, Sections 4, 5. The ASI's drafters take the view that enumerated rights are both possible in, and native to, the British constitutional tradition. The ASI's view is that repeals alone cannot fix Britain's free speech problem, because state censorship in Britain is not confined to a handful of statutes which criminalise speech. Only an enumerated right, binding on all state action and defined in the statute itself, is capable of controlling the British state's censorship apparatus. Before the Human Rights Act 1998 (which transposed the European Convention into domestic law, and which both proposals would	No, the proposal intentionally does not create a positive right, for doctrinal reasons. The doctrinal view explicitly stated by Prosperity's drafters and a number of its intellectual endorsers is that enumerated rights improperly transfer power from Parliament to the judiciary and are inconsistent with the British constitution. In that view, the correct remedy to Britain's free speech problem is, primarily, the repeal of the offending statutes. This is a considered constitutional position, and it is the principal point of disagreement between the two proposals. This choice explains most of the differences between them.

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	effectively disapply where free speech is concerned), the last instrument to create enumerated rights in Britain was the Bill of Rights 1689, the direct ancestor of the American Bill of Rights and the U.S. Constitution. The ASI proposal is therefore better understood as the restoration of a British form which has fallen into disuse than as the importation of an alien American form. Much of the British censorship state operates outside of the criminal statute books. See e.g. formal and informal censorship pressure on publishing platforms and businesses, NCHI recording, conditions attached to licensing and banking, regulation not rising to the level of a criminal offence, the exercise of discretion by public bodies and state-funded universities, adverse employment determinations driven by regulatory considerations, and the discretion of first-instance courts applying caselaw informed by Strasbourg jurisprudence. Most of this does not operate through the criminal law. The ASI's view is that, after the Convention rights are repealed, they must be replaced with new rights that better protect free speech. This requires the "state" to which the right applies to be defined, lawful and unlawful expression to be defined, and the boundaries of and exceptions to these concepts to be	Prosperity proposes to address the question of ECHR/Strasbourg Article 10 jurisprudence by repealing the Convention rights outright and not replacing them, with restored common law filling the gaps.
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	specified. It also explains many of the differences between the two proposals.	
Creates <i>Brandenburg</i> standard	Yes, Sections 9, 11(1)(h)	No
Reforms harassment law	Yes, Section 10	No
Retains Parliamentary Sovereignty	Yes, Sections 11(1)(l); 25 The positive right in Sections 4 and 5 is expressed to be subordinated to any contrary Act of Parliament. Parliament remains fully sovereign under this proposal; the positive right yields to any contrary Act.	Yes, due to scope/drafting assumptions.
Defines “expression” protected by law	Yes, Sections 4, 8, 28 Defined as any speech which is not made “unlawful expression” by an Act of Parliament. No Strasbourg-style balancing test.	No
Defines “expression” not protected by law	Yes, Sections 8, 11 Closed list defined by Parliament; includes any speech deemed unlawful expression by an Act of Parliament. No Strasbourg-style balancing test.	No
Prohibits use of preserved public order offences to restrict lawful expression	Yes, Section 12	No

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Prohibits censorship by the state	Yes, Sections 2, 13	No
Preserves freedom of information rights vs the state	Yes, Section 7	No
Authorizes content-neutral “time, place, and manner” restrictions	Yes, Section 13(2)	No
Abolishes Non-Crime Hate Incidents and related thoughtcrime databases	Yes, Section 14	No
Abolishes “jawboning”	Yes, Section 15(1)(a)	No
Abolishes delegation of censorship to third parties	Yes, Section 15(1)(b), (c)	No
voids any agreement which contravenes jawboning prohibition	Yes, Section 15(2) Any agreement between the state and a party to carry out censorship on the state’s behalf would be unenforceable as a matter of contract law.	No

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Abolishes compelled speech	Yes, Sections 4(3)(b), 16	No
Abolishes compelled speech as a condition of public services, benefits, or licensing	Yes, Section 16 Does not affect existing or future statutory oaths, affirmations, or attestations.	No, but would create tort of “unlawful interference with the right of free speech” in relation to services and public functions, premises, and work. Open q. - how to define “right of free speech” for this purpose if Strasbourg repealed and no positive right replaces?
Abolishes deplatforming from essential services	Yes, Section 19	No, but would create tort of “unlawful interference with the right of free speech” in relation to services and public functions, premises, and work
Creates Section 230-style online platform immunity	Yes, Section 20 Controversial in a country that enacted the Online Safety Act, but in the event tech becomes a priority, a provision like this will be necessary for free speech and international competitiveness. The language also immunizes AI model development and deployment (see def’n of “interactive computer service” in Section 28).	No
Creates civil cause of action for violations of	Yes, Section 21 Claims available vs the state or an “essential service provider;” interim, declaratory, injunctive	Yes, creates tort of “unlawful interference with the right of free speech” in relation to services and public functions, premises, and work, with extended limitation period from 6 to 9 months

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the free speech right	relief available, plus damages + reasonable costs.	
Civil cause of action in employment or Equality Act contexts	Yes, Sections 17, 18; Schedules 3, 4	Yes and no; proposes standalone “unlawful interference with the right of free speech” in relation to services and public functions, premises, and work, but does not amend the Employment Rights Act 1996 or Equality Act 2010.
Award of costs in civil action	Yes, Section 21(4) Court must order reasonable costs to a successful claimant.	Yes; <i>Aarhus</i> -style + one-way costs to claimants in Employment Tribunal
Anti-SLAPP	Yes, Section 22	No
Burden-shifting in civil actions; infringements on speech presumed unlawful	Yes, Section 23	No
Annulment of convictions under repealed censorship laws (“Lucy’s Law”)	Yes, Section 24 Annulment of convictions is only applicable with respect to convictions for speech which would constitute lawful expression following	No

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	enactment, not for all past convictions under the repealed statutes.	
Abolishes criminalisation of “grossly offensive” speech	Yes, Section 4(2)(b); Schedule 2, para. 6 “Grossly offensive” speech is criminalized by Section 127 of the Communications Act 2003. This standard is used extensively to police online expression of opinion.	No Reformulated communications offence contains reference to “grossly offensive” speech.

2. REPEALS AND AMENDMENTS: MODIFICATIONS TO EXISTING LAW

REPEALS AND AMENDMENTS	ASI v1 (link) (essay)	PROSPERITY v1 (link)
Communications Act 2003	Yes, Section 127 repealed; rolled into a new communications offence	Yes, Section 127 repealed; rolled into a new communications offence
Contempt of Court Act 1981	Yes, Sections 1-7 repealed Designed to eliminate strict liability on public reporting of judicial proceedings.	No
Hate Crime and Public Order (Scotland) Act 2021	Yes, repealed in entirety	Yes, Sections 1-15 repealed (very nearly a repeal in its entirety)
ECHR / Human Rights Act 1998	ECHR reform was out of scope for the ASI draft. ASI’s draft proposed to repeal Article 10(2)’s balancing test only as it was very clearly superseded by the ASI proposal, where balancing tests are not used and “unlawful expression” is a closed list defined by Parliament.	Yes, repealed in entirety (implied by proposed structure). The Prosperity Institute has called for repealing the ECHR/Human Rights Act in its entirety and this proposal would presumably slot within that structure.

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	As a practical matter, Article 10 would be rendered largely irrelevant by the rest of the Bill. In principle all of Article 10 could be repealed by this proposal, as Sections 4, 5, 8, and 11 more than adequately replace it while also significantly restricting judicial discretion and not fettering the power of Parliament.	Creating a positive right to replace Article 10 was intentionally omitted by the Prosperity proposal for doctrinal reasons.
Employment Rights Act 1996	Yes, amends ERA 1996 to protect “lawful expression outside work” (Section 17 and Schedule 3).	No, however, proposed tort of “unlawful interference with the right of free speech” references work.
Equality Act 2010	Yes, amends Equality Act to add expression as a protected characteristic (Section 18 and Schedule 4). If Equality Act is to be scrapped, removing this provision would have no impact on the rest of the Bill.	No, however, proposed tort of “unlawful interference with the right of free speech” x-refs to Equality Act 2010, with the aim of superseding existing protections around religion or belief. Presumably consequential amendments would be proposed to the Equality Act 2010 if this blueprint were to be introduced.
Malicious Communications Act 1988	Yes, repealed in entirety; rolled into a new communications offence	Yes, repealed in entirety; rolled into a new communications offence
Obscene Publications Act 1959	Yes, repealed in entirety	No
Official Secrets Act 1989	Yes, Section 5 repealed Would legalize journalism on leaked government information obtained via legitimate	No

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	journalistic means, per <i>New York Times Co. v. United States</i> (the Pentagon Papers case).	
Online Safety Act ("OSA") 2023	Yes, repealed in entirety Sections 179 and 181 repealed and rolled into a new communications offence	OSA's internet regulatory function left substantially unaltered Sections 179 and 181 repealed and rolled into a new communications offence
Protection from Harassment Act 1997	Yes, Section 10 amends Section 7(3) of the Protection from Harassment Act 1997 to add speech-protective language.	No
Public Order Act 1986	Yes, repealed in entirety	Yes, but extent of repeals limited to Section 5, Part III, and Part 3A only. Amends Section 4 to raise the standard from "breach of peace" to fear of "unlawful violence." Does not amend Section 4A, which would leave unaltered a very similar censorship vector to Section 5.
Public Order Act 2023	Yes, repealed in entirety	No
Senedd Cymru (Member Accountability and Elections) Act 2026	Yes, repealed in entirety	No
Terrorism Act 2000	Yes, Part II repealed. This approach is used domestically in the United States, which does not proscribe ("designate") domestic political organizations as	No

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	terrorist groups but rather punishes terrorist conduct and conspiracies.	
Terrorism Act 2006	Yes, Sections 1, 2, 3, 21, and 22 repealed Note that “encouragement” in the traditional sense remains an offence under ss. 44-46 of the Serious Crime Act 2007, which is left untouched by this proposal.	No
Crime and Disorder Act 1998	No (out of scope)	Yes, repeals Sections 28 through 33
Sentencing Act 2020	No (out of scope)	Yes, repeals Section 66, Schedule 21, Paras 3(2)(g)/(h)

3. NEW RULES OF LAW: REPLACING REPEALED ENACTMENTS WITH SPEECH-PROTECTIVE NEW LAWS

NEW RULES	ASI v1 (link) (essay)	PROSPERITY v1 (link)
Replacing Breach of Peace (common law)	Redefines “breach of peace” to be speech-protective (Section 7(2); Schedule 2, para. 7).	No
Replacing Public Order Act 1986	Replaces fully-repealed POA 1986 by restoring speech-protective versions of riot, violent disorder, affray, and fear or provocation of violence (Schedule 2, paras. 1-3, 5).	No
Replacing Public Order Act 2023	Restores a speech-protective version of the common law offence of unlawful assembly, previously abolished by the Public Order Act 1986. Also redefines breach of peace to be speech-protective (Schedule 2, paras. 4, 7)	No
Replacing Online Safety Act 2023	The Internet regulatory regime of the OSA is replaced in its entirety by Section 20.	No, for internet regulatory regime

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	ss. 179, 181 of the OSA replaced by a new offence of “threatening communications” (see below).	ss. 179, 181 of the OSA replaced by a new offence of “communication that is intentionally menacing and targeted” (see below).
Repealed communications offences: OSA ss. 179/181, s. 1 Malicious Comms Act 1988, and s. 127 of the Communications Act 2003	Creates new offence of “threatening communications” (Schedule 2, para. 6). Criminalization of “grossly offensive” speech (the concept under which approximately 12,000 UK arrests occur annually) abolished and not retained in the new “threatening communications” offence.	Creates new offence of “Communication that is intentionally menacing and targeted.” Proposed new offence retains the concept of “grossly offensive” speech.