

Letter to the Secretary of State for Education

By email

Dear Secretary of State,

We, the undersigned, are deeply concerned by the government's ongoing delay in implementing the complaints scheme provision (Section 8) of the [Higher Education \(Freedom of Speech\) Act](#) (HEFSA). The complaints scheme, as enacted, would allow staff, students, and visiting speakers an easy and cost-free way to complain to the Office for Students (OfS) if their free-speech rights are breached. Without it, and with the statutory tort slated for repeal, HEFSA lacks a workable enforcement mechanism.

In your [announcement to Parliament](#) on 15 January 2025, you promised to retain a complaints scheme at the OfS, noting that '*there must be a route for righting wrongs.*' However, you proposed to amend the scheme by converting the OfS's duty to consider complaints into a discretion and to exclude students from bringing complaints. The Department for Education's [policy paper](#) published in June reiterated this intention and stated that the government has 'committed to seek a legislative vehicle at the earliest opportunity to make these changes to the complaints scheme, as well as to repeal the tort and other changes the government plans.'

Yet there is, as things stand, no legislative vehicle in sight. The main duties in HEFSA were commenced on 1 August and have been supported by [robust OfS guidance](#). But without the complaints scheme or the tort, there is no recourse when universities ignore these duties. Judicial review is, in theory, available; in practice it is expensive, risky, and utterly impractical for individual academics to pursue. It is a remedy of last resort, available only where a decision has a sufficient public-law character and where no alternative forum exists. Even where it is arguably available, public-law practitioners were, as long ago as a [2016 Ministry of Justice consultation](#), estimating that taking a claim through permission to a substantive hearing would typically involve total costs of around £30,000–£50,000, with the ever-present risk of an adverse costs order driving total exposure far higher.

Pre-HEFSA routes are inadequate. The OfS can act under its existing registration conditions E1 (public interest governance) and E2 (management and governance) where a university's governance documents or arrangements fail to uphold free speech and academic freedom. But this does not allow the OfS to act on behalf of an individual. Employment tribunals likewise cannot consider breaches of HEFSA duties. While they have been used in discrimination or harassment claims based on protected philosophical belief, they do not protect free speech or academic freedom outside such cases, and the process is onerous, costly, and potentially career-ending for claimants. The system is also severely backlogged: the open Employment Tribunal caseload has risen sharply in recent years, and unfair dismissal and discrimination claims are now commonly waiting around [twelve months simply to be listed for hearing](#).

The complaints scheme was designed as a low-stakes route to resolve alleged breaches of free speech and academic freedom. Through its accumulating precedents, it would also have served as a practical guide to help the higher education sector navigate the new statutory duties. Without it, the promise of HEFSA will remain unfulfilled.

We note Recommendation 6 of Professor Alice Sullivan's report on [Barriers to research on sex and gender](#), which concludes that internal procedures have not provided an adequate means to uphold academics' rights and that an external mechanism is needed; it identifies HEFSA's complaints scheme as precisely that mechanism.

There is no justice without access to justice. Until the complaints scheme is in force, universities can disregard their HEFSA duties with impunity. In recent months, there have been several reports of institutions failing to uphold free speech and academic freedom: an academic [suspended for noting that words have context](#); universities [forcing ideological conformity on staff](#); a leading professor instructed to [cease research on China](#). These are precisely the kinds of cases where the complaints scheme, had it been available, could have made a real difference.

You have committed to legislating to amend the scheme. Our concern is that this has been kicked into the long grass, with real consequences for academics at the sharp end, and for the integrity of research and scholarship.

We call upon you to:

1. **Set out immediately a timetable** for legislation to amend and implement the complaints scheme; and
2. As an interim measure pending legislation, **commence forthwith by statutory instrument the provisions of Section 8 of HEFSA, as enacted** (save for the paragraphs relating to students' unions, if those duties are to be repealed).

Sincerely,

Signed

1. Professor Abhishek Saha, Queen Mary University of London; Founder Member, London Universities' Council for Academic Freedom
2. Professor Alice Sullivan, University College London; Founder Member, London Universities' Council for Academic Freedom
3. Dr Edward Skidelsky, University of Exeter; Director, Committee for Academic Freedom
4. Dr Frederick Attenborough, Research Manager, Committee for Academic Freedom
5. Dr John Armstrong, King's College London; Founder Member, London Universities' Council for Academic Freedom
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7. Professor Michael Ben-Gad, City St George's, University of London; Founder Member, London Universities' Council for Academic Freedom
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14. Michelle Shipworth, Associate Professor, University College London; Founder Member, London Universities' Council for Academic Freedom

15. Lord Young of Acton, General Secretary, The Free Speech Union
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375. Dr Michael Boswell, Lecturer in Mechanical Engineering (retired)

376. Dr Nikesh Solanki, University of Manchester

377. Sir Simon Donaldson FRS (**Fields Medallist**), Imperial College London

Cc: Rt Hon Baroness Smith of Malvern, Minister of State (Minister for Skills)