



# Political Affairs Digest

A daily summary of political events affecting the Jewish Community

## Contents

[Home Affairs](#)

[Israel](#)

[Other Relevant Information](#)

[Relevant Legislation](#)

[Consultations](#)

[Back issues](#)

## Home Affairs

### House of Lords Grand Committee

#### **Higher Education (Freedom of Speech) Bill: Committee Stage**

*col 61GC Lord Mann (Non-affiliated):* ... I met ... the majority of university vice-chancellors across the United Kingdom over the past two years in advance of the Government's decision, made by the then Education Secretary, to write to universities asking them to adopt the internationally recognised definition of anti-Semitism and build it into their workings. ...

I want to highlight some examples of why a duty of care is an essential element of strengthening free speech, not as a balance but as an addition. The principle behind it is very straightforward. I referenced the international definition of anti-Semitism because the argument falsely put by a number of people against it was that it aimed to restrict academic freedom and what people said, particularly in relation to Israel. That is factually and practically untrue. There are no examples of where that has happened. It is neither designed nor written to do so. The reason I have needed to meet so many vice-chancellors, and others at the top of universities, is to ensure that they understand what it means and what it does not mean so that they can apply it appropriately, and so strengthen freedom of speech.

If I may, I will give a couple of examples of where the duty of care comes into its own. A famous filmmaker and political activist, Mr Kenneth Loach, was invited to speak at his old college, St Peter's College, Oxford. A number of the Jewish students in the college were unhappy at Mr Loach's previous commentary in relation to the Jewish community. That was their perception and, using traditional student language, they suggested that he was not welcome in their college.

There was a complication, as this was during Covid. What normally would have happened is that Mr Loach would have appeared, and there would have been a noisy protest to signify to him that he was not welcome by a number of the students because of what he had said, and he then would have spoken and life would have moved on. Here, because it was online, the university failed to find a way for those students to register the protest that would have happened in real life. This illustrates brilliantly that one person in that situation had free speech and others objected, but what they required, and are entitled to,

was the ability to have their speech; that might have been through a protest—very traditional in student environments—or a countermeeting, but they have an equal entitlement to free speech.

*col/ 62GC* Take that instance as an example. What might a university do now? If that meeting had been timetabled for a Friday night, it would have inhibited the ability of any religiously observant Jewish student to participate in a protest or countermeeting, and so their freedom of speech would have been inhibited by the timing. If the meeting had been located in St Peter's, that would have been neutral territory, but if it was located, say, next to the Jewish chaplaincy, there would have been an increased aggravation on behalf of those Jewish students, and the protest would perhaps have been wider and stronger. That might suggest that Mr Loach's freedom of speech, which was not in itself being challenged, would be an impingement if the location of the meeting had been somewhere that was seen to be hostile to a section of the community—in this case, the Jewish students. The publicity for the meeting was "Ken Loach speaks on whatever", but if it had included swastikas on the head of the Prime Minister of Israel or on the Israeli flag, there would have been an increased incentive for people to shout loudly in protest and demand that he did not speak.

All of that would fall into the category of a sensible duty of care to those students, so that their ability to have their freedom is equal to that of someone who they regard as a controversial speaker—not to restrict the content of what Mr Loach would say, to break up the meeting or to prohibit his right to speak or someone's ability to invite him. That is an example from before this Bill came forward, but one whereby, if the principles of the Bill are got right, then two sides in an argument can have equal freedom of speech. They may not all be 100% happy but everyone can have their say.

I will give another, more vivid example. I will not give too much detail but it is a real example. Let us say that a convicted terrorist is allowed into the country. I have the ability to go to the Home Secretary—and I have occasionally done so—to say that this person should not be allowed in because they are a threat. If they are allowed into the country, by definition—even if they have served a prison sentence as a convicted terrorist—they are able to speak, including at one of our universities. What happens if a student at that university is the cousin of one of the people murdered by the group of which the individual who is about to speak was a member when the terrorist outrage took place? So we have a student, in this case a Jewish student, whose cousin was murdered, and a member of the group convicted and imprisoned for that offence—with no argument or ambiguity about that—is speaking. Here, the Jewish student demanded that this convicted terrorist not be allowed to speak.

*col/ 63GC* I have argued, previous to this Bill and now, that freedom of speech is absolute; the person is allowed to speak. But there is clearly a duty of care on a university when you have at least one student extremely distraught, for rational reasons, about somebody who was involved in the murder of their cousin speaking in their university.

That is not to say that we should ban, stop or restrict, but we must make sure that that student also feels empowered in the situation—perhaps they want to be part of a protest or have a countermeeting. They may need other welfare support in that context. That strengthens freedom of speech; it does not contradict or balance it. This is not a balancing act—it is about everyone having the right to freedom of speech. ...

I will give a final example. A lecturer makes a controversial speech and then, as is very common, there is an immediate external pile-on. The same thing happened to the Jewish students I mentioned in regard to Mr Kenneth Loach. They protested; they were not trying to block him but some of the language used—"We don't want him in our university"—implied that they were. That was not what they were trying to do, but they got some horrendous anti-Semitic abuse, almost exclusively from people outside the university, because they had dared to challenge Mr Loach.

In this case, a lecturer made a speech which did not appear that controversial when I read

it but was deemed so by some. There was a huge email pile-on against the university, attacking that lecturer. The university did not, shall we say, handle it very well. Again, there is a duty of care to the individual. It is one thing to have the right in law to freedom of speech, but the consequences of the speech can be that some people are greatly distressed by the content, or that the speaker is then targeted and needs some support. ... *col 64GC* I put it to the Minister that a duty of care would require universities to think through the consequences. Nothing could be clearer than the cousin of someone murdered—that is a factual statement—allowing free speech: that is, not restricting speech but ensuring that they have the opportunity also to have a say somewhere, not in contradiction but as well. They are empowered from within that situation by their own university. If it is an 18 year-old student versus an experienced political hack or social commentator, there is an imbalance of power there. I strongly advise government that this strengthens the freedom of speech legislation. It does not balance it and it absolutely does not weaken it. ...

**Baroness Falkner of Margravine (Crossbench):** ... I would like to speak in a personal capacity to warn the Grand Committee to be extremely careful about the amendment from the noble Lord, Lord Mann, which seems on the face of it to be perfectly reasonable. We do not need to be concerned about his perfectly valid and good intentions, but his peroration has made one extremely concerned about what he would expect to happen through that amendment. The noble Lord referred to the fact that the opponents of a speaker have an equal right to protest or drown out what is being said. He says that their right to be empowered is equal.

**Lord Mann:** I am absolutely categorical that the drowning out and breaking up of a meeting would not be acceptable in a democracy, but the right to have a counter-speech or a protest is a fundamental part of democracy.

*col 65GC* **Baroness Falkner of Margravine:** I think the noble Lord does not quite appreciate how qualified Article 10 rights are under the European convention. It clarifies: “The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society”.

It goes on to say that those rights can also be circumscribed “for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others”.

The point here is that they are qualified. The judgment of qualifying those rights, and making decisions about when the qualifications will apply, should rightly lie with the provider and not necessarily be set out in legislation. ...

**Lord Grabiner (Crossbench):** ... Lord Mann, gave some extremely significant examples. Some very bad stories are no doubt out there but, with great respect, might it not be more appropriate for such matters to be dealt with in the code of practice rather than in primary legislation? ...

*col 67GC* **Baroness Fox of Buckley (Non-affiliated):** ... On Monday, a noble Lord ... said that there is no place on campus “for extremist views that masquerade as facts”. ... I want to probe who the extremists are; indeed, I want to probe who the fact-checkers are in this instance.

During his first unsuccessful leadership bid, the present Prime Minister suggested an expanded definition of extremism to include anyone who hates Britain. ... the whole concept of extremism has become so elastic and broadened that it has discredited whatever it was that Prevent was trying to do. ...

Prevent asked staff to monitor the behaviour and views of their students and look out for signs of whether they were extremists of a particular type. ...

However, because nobody wanted to be accused of being Islamophobic, Prevent ended up being a sort of diktat about extremism, and I am concerned that, as broadly applied, it has ended up arguing that students should be restricted in what they are able to think or

say, or listen to and so on. ...

*col/ 68GC* The Prevent duty ... is used as an indication that there are double standards when it comes to free speech. Here are a Government saying that they want to encourage academic freedom and more open free speech on campus, and yet they have created and promoted the Prevent duty. ...

More broadly, once free speech is presented as something which should be balanced with and traded off against security issues—that is, as a threat—in the way that Prevent does, then free speech loses its moral authority. ...

... I think we all received the SOAS briefing on the Bill beforehand. It complains that the Bill requires universities to protect the speech of Holocaust deniers and others seeking to deliberately provoke or offend. It goes on to say that it directs universities to ignore equality law, which in effect is trumped by free speech. It argues that the Bill should be got rid of, because there is a real problem if the duty to ensure freedom of speech overrides the Equality Act.

The point I make ... is that one of the difficulties is that the Equality Act has been used in a censorious fashion, often because it has been misinterpreted by university authorities. Informally, universities and student unions will say that they need to protect a group of students from harm, as provided for by the Equality Act, and so will ban X, Y or Z; it is frequently used in that way. Students with protected characteristics are dragged out as some kind of stage army, as though all women or all racial minorities have the same views. Those are some of the more dangerous aspects of identity politics. ...

**Baroness Bennett of Manor Castle (Green):** ... the leading human rights group, Liberty, which says that the biggest threat to free speech in our higher education institutions comes from Prevent. ...

The University and College Union briefing is useful to the entire Bill. It notes that “Prevent has encouraged the policing of mainstream discussion of topics such as British foreign policy and Palestine”. ...

*col/ 69GC* I note also that research from SOAS academics found that Muslim students on campus were modifying their behaviour because of Prevent, for fear of being stigmatised, labelled as potentially extremist or subjected to discrimination on campus. ...

*col/ 70GC* **Baroness Smith of Newnham (Liberal Democrat):** ... The amendments in the name of the noble Lord, Lord Mann, are potentially helpful but ... the Government are extremely unlikely to say, “That’s a really good amendment. We’ll just take it lock, stock and barrel and put it into the legislation”. ... I therefore ask the Minister, in responding to the amendments, to respond instead to the sentiment of what the noble Lord, Lord Mann, is saying. ...

What is so important about the noble Lord’s three amendments is that they are asking for clarification and an explanation of how freedom of speech would be guaranteed. ...

*col/ 72GC* **Lord Smith of Finsbury (Non-affiliated):** ... There is a danger in some of the advocacy for this Bill in assuming that only one kind of freedom of speech, rather than all kinds, is to be encouraged and facilitated. Ensuring that what we do here enshrines the principles of contest and debate alongside the principle of freedom of speech is rather important. I am not sure that the precise amendments of the noble Lord, Lord Mann, get us there but it is important that we find a way of doing so. ...

*col/ 75GC* **Lord Collins of Highbury (Labour):** ... As the noble Lord, Lord Mann, said, students have a right not to be harassed or subjected to hate speech. Most importantly, as he said, they have a right to protest and to say that the opinions being expressed by somebody who has been invited to their university are abhorrent. When I was at university, extremist religious faith groups were saying that my sexuality represented an evil thing that needed to be banned and stopped. Fortunately, we have moved on and do not allow that in quite the same way. If a religious fundamentalist came here, I would expect to have the right to say that I found their opinion abhorrent. The noble Lord, Lord Mann, was absolutely

right, and the case that he used to illustrate this is an important one. ...

When I looked at the Bill's Committee stage in the Commons, I saw that points were made, with reference to the evidence sessions, about how the Equality Act could be used:

"Professor Stephen Whittle from Manchester Metropolitan University acknowledged as much in the Bill Committee, recognising that the Equality Act would afford protection only if the speech were directly addressed to the complainant. That is important because front groups such as Hizb ut-Tahrir, which is not a proscribed organisation but which often espouses antisemitic views, could come on to campus under the guise of freedom of speech."—[[Official Report, Commons, 13/6/22; col. 80.](#)]

There is real concern here about how we must have that balancing act and ensure that people are protected. The example from the noble Lord, Lord Mann, about a family member of someone who suffered the consequences of terrorism, is a really important one. ...

**Earl Howe (Conservative):** ... I am grateful to [Lord Mann] for raising this important point and listened with care to the examples he gave. He is quite right that providers have a duty of care to their students under common law, as well as obligations to their staff under employment law. Student unions also have responsibilities to their staff under employment law. It is of the utmost importance that they can fulfil these obligations, providing an environment in which students, academic staff and members can thrive and taking reasonable steps to promote their health, safety and welfare.

*col 76GC* As I mentioned, the noble Lord cited a number of examples to illustrate his arguments around the duty of care, one of which was a speaking invitation issued to a convicted terrorist. Inviting a convicted terrorist would likely require consideration under the Prevent duty in addition to the wider points he made on duty of care. I will cover the Prevent duty in more detail when I cover Amendment 69, if he will allow.

**Lord Mann:** I thank the Minister but, to clarify, the case I cited was not stopped by Prevent. Prevent was in place. This was an actual example, not a theoretical one, but I do not want to name the college or identify the student in any way. It was perfectly lawful under Prevent; Prevent did not stop it and was not party to it. ...

*Lord Mann's amendment was withdrawn*

*col 100GC* **Baroness Falkner of Margravine:** ... All manner of bodies use university academics to do a piece of research for them, including collecting and collating survey evidence and/or other evidence ...

In the past, much of our non-statutory guidance has been based on that kind of research because you seek to find an evidence base for whatever you are saying. ...

You get a great diversity in institutions as regards the quality of research. If you found that you perhaps ended up having commissioned an institution that did not deliver for you, I would hope that any amendment that we might seek to make would emphasise the fact that you can only take reasonable steps and that where it says in proposed new Section A8(2) that "providers must not require changes to academic research as a condition for a grant", the change does not come at that stage; it might come when you look at the data collection.

An example of data collection in our case is that the majority of the UN conventions that we apply tend to have been written immediately after the Second World War, generally between 1945 and 1960, and they use language that muddies the water. The convention on the elimination of racial discrimination is a good case in point because it refers over and over again to nationality, whereas frequently what we look for in racial discrimination is not necessarily the Polish person suffering race discrimination but potentially the Afro-Caribbean or African or Asian person. You commission the research and then you discover that the dataset does not hold up, because nationality was taken into account by the researchers rather than particular ethnicity; you might have wanted a narrower framework. ...

**To read the full transcript see**

[https://hansard.parliament.uk/lords/2022-11-02/debates/7421390C-5AAF-47E8-A200-CE45A8D48E43/HigherEducation\(FreedomOfSpeech\)Bill](https://hansard.parliament.uk/lords/2022-11-02/debates/7421390C-5AAF-47E8-A200-CE45A8D48E43/HigherEducation(FreedomOfSpeech)Bill)

*The amendments debated above can be read at*

<https://bills.parliament.uk/publications/48293/documents/2400>

*The SOAS briefing referred to above can be read at*

<https://blogs.soas.ac.uk/cop/wp-content/uploads/2021/05/MAY-21-Free-Speech-law-chaos-FINAL.pdf>

*The UCU briefing referred to above can be read at*

[https://www.ucu.org.uk/media/12919/UCU-briefing-on-the-Higher-Education-Freedom-of-Speech-Bill-Jun-22/pdf/UCU Lords briefing on the HE FoS Bill Jun 22.pdf](https://www.ucu.org.uk/media/12919/UCU-briefing-on-the-Higher-Education-Freedom-of-Speech-Bill-Jun-22/pdf/UCU%20Lords%20briefing%20on%20the%20HE%20FoS%20Bill%20Jun%2022.pdf)

## House of Commons Oral Answer

### Prime Minister's Questions

**Keir Starmer (Labour):** ... The Prime Minister ... did a grubby deal with [the Home Secretary], putting her in charge of Britain's security just so that he could dodge an election. She has broken the ministerial code, lost control of a refugee centre and put our security at risk. ...

**The Prime Minister:** The right hon. and learned Gentleman rightly raises the topic of national security, because it is important, but this is the person who, in 2019, told the BBC—and I quote—"I do think Jeremy Corbyn would make a great Prime Minister." Let us remember that national security agenda: abolishing our armed forces, scrapping the nuclear deterrent, withdrawing from NATO, voting against every single anti-terror law we tried, and befriending Hamas and Hezbollah. ...

<https://hansard.parliament.uk/commons/2022-11-02/debates/43EF9B9D-8092-4B21-854E-78302F541B18/Engagements#contribution-0A35D12E-8D27-448B-BDED-F6FEC0524327>

## House of Commons Point of Order

**Afzal Khan (Labour):** ... November marks the beginning of Islamophobia Awareness Month, which is a call to tackle this insidious hatred. This time last year, to mark the month, I made a similar point of order, highlighting the then Prime Minister's failure to respond to my letter urging him to better safeguard British Muslim communities. A year on, we have had another two Prime Ministers, and each has failed to respond to my letters on Islamophobia. That is wholly unacceptable and it is an insult to British Muslims. Is it in order for consecutive Prime Ministers to ignore Members' correspondence? If not, what action can I now take? Perhaps the Prime Minister could come to this Chamber to make a statement on Islamophobia Awareness Month.

**Mr Speaker:** ... I can confirm that I have not had a statement from the Government on this matter, although Ministers on the Treasury Bench will have heard his points. I am not responsible for ministerial correspondence, but the right hon. Members he mentioned were written to in a ministerial capacity and I would have expected replies to have been provided. I am sure that the hon. Gentleman will continue to pursue the issue that he has raised. If he does not, he should please let me know. If he would like to drop me a line to tell me which Ministers have failed to reply, I will take that up in private.

<https://hansard.parliament.uk/commons/2022-11-02/debates/86E8087E-3B90-465A-BC32-A4406D917393/PointsOfOrder>

## Israel

### House of Commons Written Answers

*The following two questions both received the same answer*

#### **Israel: Palestinians**

**Alex Cunningham (Labour)** [72249] To ask the Secretary of State for Foreign, Commonwealth and Development Affairs, if he will have discussions with UN OCHA on the number of Palestinian children reportedly (a) killed and (b) critically injured by Israeli forces using live ammunition in the West Bank in 2022.

**Alex Cunningham (Labour)** [72250] To ask the Secretary of State for Foreign, Commonwealth and Development Affairs, with reference to the United Nations Office for the Coordination of Humanitarian Affairs' Protection of Civilians Reports for the Occupied Palestinian Territory for 2022, what recent discussions he has had with his Israeli counterpart about of the number of children reportedly injured by Israeli forces.

**David Rutley:** We regularly raise the issue of the numbers of Palestinians killed and injured by Israeli Defence Forces in the West Bank and Gaza with the Israeli authorities, encouraging them to carry out swift, transparent and thorough investigations and, if wrongdoing is found, that those responsible be held to account. We will continue to stress the importance of the Israeli security forces providing appropriate protection to the Palestinian civilian population, particularly the need to protect children, and urge restraint in the use of live fire.

<https://questions-statements.parliament.uk/written-questions/detail/2022-10-26/72249>

and

<https://questions-statements.parliament.uk/written-questions/detail/2022-10-26/72250>

#### **Israel: Palestinians**

**Alex Cunningham (Labour)** [72252] To ask the Secretary of State for Foreign, Commonwealth and Development Affairs, if he will make an estimate of the number of times Israeli forces raided schools in the West Bank in 2022; and what recent discussions he has had with his Israeli counterpart on the impact of these raids on education in the West Bank.

**David Rutley:** The UK is firmly committed to ensuring access to education for all Palestinians. We repeatedly call on Israel to abide by its obligations under international law and have a regular dialogue with Israel on legal issues relating to the occupation. It is essential to have a strong and thriving Palestinian education system in order to provide opportunities, economic development and hope for the next generation.

<https://questions-statements.parliament.uk/written-questions/detail/2022-10-26/72252>

## Other Relevant Information

### European Union Agency for Fundamental Rights (FRA)

#### **Antisemitism online far outweighs official records**

Disinformation and hate against Jews flourished on the internet throughout the Covid-19 pandemic and Russia's invasion of Ukraine. Yet, recording of antisemitic incidents remains poor across Europe. Each country collects data differently and some do not collect data at all. This hampers efforts to effectively tackle antisemitism, shows the latest annual overview of antisemitic incidents from the EU Agency for Fundamental Rights (FRA).

"Antisemitism remains a serious problem in our societies. The Coronavirus pandemic and Russia's aggression against Ukraine further fuelled such hate," says FRA Director Michael O'Flaherty. "Without proper data we cannot hope to be effective in countering longstanding antisemitic incidents. ...

FRA's latest annual overview highlights:

- Data gaps remain – most EU countries do not effectively record antisemitic incidents or collect comprehensive official data. ...
- Antisemitism online – disinformation and antisemitism online rose in the wake of the pandemic and invasion of Ukraine. ...
- National strategies – only 14 EU countries have dedicated national strategies or action plans to tackle antisemitism. Eight countries are currently developing such strategies and plans.
- IHRA definition – an increasing number of countries are using the working definition of antisemitism developed by the International Holocaust Remembrance Alliance (IHRA) in education, training and awareness raising. ...

**To read the full press release see**

<https://fra.europa.eu/en/news/2022/antisemitism-online-far-outweighs-official-records>

**Antisemitism - Overview of antisemitic incidents recorded in the European Union 2011-2021**

[https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2022-antisemitism-overview-2011-2021\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2022-antisemitism-overview-2011-2021_en.pdf)

TOP

## Relevant Legislation \*\* new or updated today

### UK Parliament

#### **Bill of Rights Bill**

<https://bills.parliament.uk/bills/3227>

#### **Education (Non-religious Philosophical Convictions) Bill**

<https://bills.parliament.uk/bills/3186>

#### **\*\* Higher Education (Freedom of Speech) Bill**

<https://bills.parliament.uk/bills/2862>

Committee Stage, House of Lords

[https://hansard.parliament.uk/lords/2022-11-02/debates/7421390C-5AAF-47E8-A200-CE45A8D48E43/HigherEducation\(FreedomOfSpeech\)Bill](https://hansard.parliament.uk/lords/2022-11-02/debates/7421390C-5AAF-47E8-A200-CE45A8D48E43/HigherEducation(FreedomOfSpeech)Bill)

## **Marriage Act 1949 (Amendment) Bill**

<https://bills.parliament.uk/bills/3325>

## **Online Safety Bill**

<https://bills.parliament.uk/bills/3137>

## **Palestine Statehood (Recognition) Bill**

<https://bills.parliament.uk/bills/3217>

## **Private Burial Grounds and Cemeteries Bill**

<https://bills.parliament.uk/bills/3188>

## **Universal Credit (Removal of Two Child Limit) Bill**

<https://bills.parliament.uk/bills/3163>

## **Schools Bill**

<https://bills.parliament.uk/bills/3156>

## **Scottish Parliament**

### **Gender Recognition Reform (Scotland) Bill**

<https://www.parliament.scot/bills-and-laws/bills/gender-recognition-reform-scotland-bill>

TOP

## **Consultations**

\*\* new or updated today

**Mapping Exercise - Youth Workers supporting young people facing racism & antisemitism in Scotland** (closing date 14 November 2022)

<https://www.surveymonkey.co.uk/r/Z5YX2C7>

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The Scottish Council of Jewish Communities (SCoJeC) is Scottish Charitable Incorporated Organisation SC029438