

Welcome

Dealing with Incursion, Protest & Activism and the
Higher Education (Freedom of Speech) Act 2023

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Threat Landscape

More UK universities cutting ties with fossil fuel industry

Student pressure pushes bias to divesting from fossil fuels to comm

Oxford professor given protection following threats from trans activists

© 25 January 2020

Just Stop Oil's plot to for a whole WEEK unm eco-clowns are planni capital by 'radicalising' more than 500 student

• Just Stop Oil members will teach the youngsters

By SABRINA MILLER and CONNOR STRINGER
PUBLISHED: 12:00, 15 September 2023 | UPDATED: 14:37, 15



Kathleen Stock: Protests at Oxford Union as talk goes ahead

© 30 May 2023

Almost 200 speakers rejected at English universities and colleges in 2020-21

Published on 15 Jul 2022

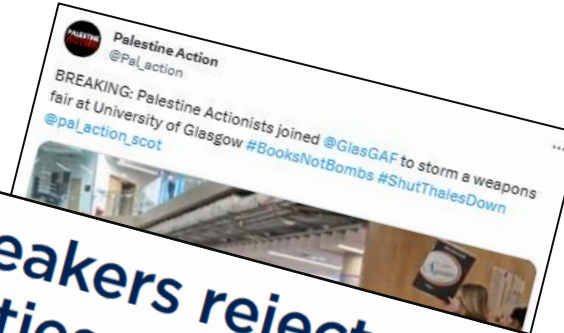
New data published today by the Off

Barclays risks centuries-old ties with Cambridge university over fossil fuel financing

Call to Action for all University Vice Chancellors in the UK

Press / September 18, 2023

Just Stop Oil students are calling on all University Vice Chancellors in the UK to read this open letter, and then sign the ultimatum that we've included below so that we may send it on to Rishi Sunak and Gillian Keegan. New oil and gas is genocide, and we are demanding that universities do not continue to be complicit.



How will the new Higher Education (Freedom of Speech) Act 2023 impact on my Campus?



Protest legislation impacting on Higher Education Institutions

European Convention of Human Rights (ECHR)
(Enshrined in UK law by the Human Rights Act 1998)

CIVIL LAW

Freedom of Thought Article 9

Freedom of Expression Article 10

Freedom of Assembly Article 11

(There are no rights of protest on private property however the Higher Education Provider, unless privately funded, are considered a Public Body for the purposes of the Human Rights Act)



Higher Education (Freedom of Speech) Act 2023

(Expected to be introduced on 1 August 2024)

CIVIL LAW

The Act requires universities, colleges and students' unions in England & Wales to take steps to ensure lawful freedom of speech on campus





So What does
that mean for our
Campus ?

Higher Education (Freedom of Speech) Act 2023



KEY DUTIES OF GOVERNING BODIES

- No Non-Disclosure Agreements in relation to complaints (Sec A1 para 11-13)
- Code of Practice (Governing Bodies-Sec. A2 & Students Unions-Sec. A6)
- Civil Claims if breaches of the Act (Sec A7)
- Does overseas funding present a threat to free speech on campus (OfS to monitor Governing Bodies and Students Unions)

The Act is not yet fully in force as the OfS is consulting on regulations/guidance to set out more detail about how the Act will work, however it is expected to be in force for Academic year 2024/2025.

Probable Campus Security Officers (CSOs) responsibilities

- CSOs, on behalf of the campus governing body, will have responsibility for peaceful and lawful protest/actions on campus (private) land
- Campus governing bodies will be regulated by the new Act and may therefore require to mirror certain public authority responsibilities which currently take place on public land
- CSOs should maintain a neutral and independent approach
- Police, if in attendance, can be expected to intervene to prevent/address criminal activity but what if they are not there?



Potential Campus Responsibilities

Liaison Officers
&
Designated Protest Areas



Use of Reasonable Force in preventing crime

- *It is for Governing Bodies of a Campus to determine what/if any use of force they expect their Security Officers to use and in what circumstances.*
- *Is the use of force authorised only to prevent crimes against a person rather than property. Is the guidance written down?*
- *What assets do you have on site, how do you protect them?*



Section 3 Criminal Law Act 1967(1) in E & W

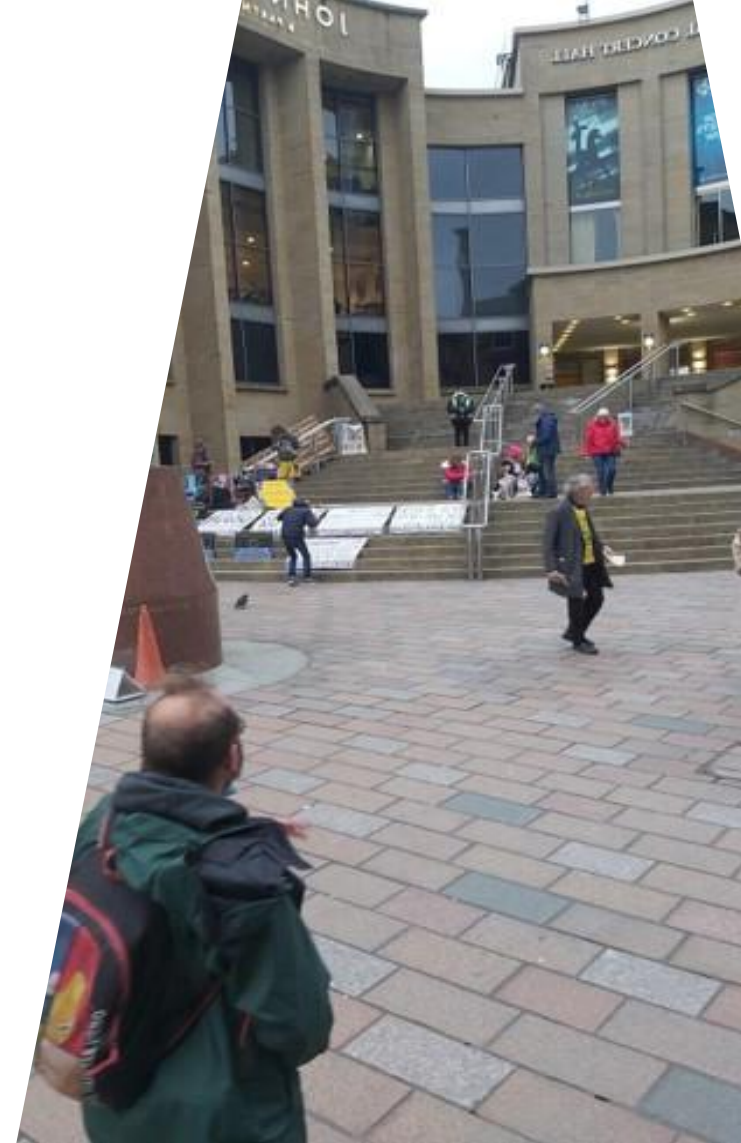
A person may use such force as is reasonable in the circumstances in the prevention of crime.....

Common law in Scotland

Right to defend yourself and your property (or agent acting on your behalf e.g Security Officer)

Impact Statement

What effect would this activity have on your Campus?



Impact Statement

An Impact Statement can include:

- What effect or impact is the protest having on your Campus i.e, loss of learning time
- What effect or impact is it having on your staff wellbeing, travel, students and or other stakeholders
- What is the estimated cost either financially or non-financially?

Financial

Assets, lost or stolen
Damage to buildings/property
Impact on student/sponsor confidence
Staff time
Increased cost on Security
Medical Expenses (if incurred)
Costs of contractual staff

Non-Financial

Reputational damage
Disruption/stress to staff/Students
Disruption to Exams
Disruption/stress to speakers
Disruption to meetings/Events
Deliveries/contractors disrupted
Vehicle/cycle/public access areas affected

Does this impact on Higher Education campuses in Scotland?

The Higher Education (Freedom of Speech) Act 2023 does NOT apply to Scotland, however.

- The Further and Higher Education (Scotland) Act 2005 amended by the Higher Education Governance (S) Act 2016 covers Academic Freedom – Sec 26
- Freedom of Expression guidance leaflet – Equality & Human Rights Commission Scotland.
- Sponsor/Funder Confidence
- Land Reform (Scotland) Act 2003

Whilst there is no similar legislation, can Higher Education Providers in Scotland afford NOT to consider similar measures to the 2023 Act, to meet the expectations of global stakeholders?



Considerations for Campus authorities

Campus resilience

Helpful sources of Information

Risk register and Threat assessment

'Threat Assessment'

Conducting a threat assessment is a good starting point for a Higher Education Campus to determine whether they are 'at risk' from protest and / or activism.

This is an Organisational Risk and should therefore form part of your business continuity / resilience / overall risk management approach rather than solely security.



Understanding & Mitigating the Risks

Understanding the risks to your people, assets, information and reputation is important. Here are the 4 key stages.*

Stage 1 - RECOGNISE THE THREAT

Understand the risks to your people, assets and services.

Stage 2 - MINIMISE THE RISK

Now you know the risks, devise a strategy to prevent them.

Stage 3 - IMPLEMENT PROCEDURES

Put into practice, through training or new work policies.

Stage 4 - RESPOND TO INCIDENTS

Plan for potential scenarios, so you can respond quickly to them.

(*This is only 1 model (NPSA). They are the UK government's national authority for physical and personnel protective security for critical national infrastructure. www.npsa.gov.uk)

Policies and Procedures

- As an organisation what are your policies and procedures for dealing with protest and activism?
- Have you considered building / land plans for the security team - clearly defining the ownership of the site?
- Do you have 'authorisation' from the landowner to remove unlawful protesters from their land?
- Body Worn Video.
- Have you practised your procedures?



Policies and Procedures

Are these policies / procedures informed by law / best practise?

Have these been communicated to those that will have to use them - Security contractors etc

Have you considered, from a PR perspective, how the implementation of these policies and procedures will look?



Helpful sources of Information

Office for Students - www.officeforstudents.org.uk Consultation process and presentation slides from the online event from 12 December 2022

Higher Education (Freedom of Speech) Act 2023 - www.legislation.gov.uk This is the UK government legislation website.

'How can Uni's prepare for the HE freedom of speech act'. Guidance published in October 2023 by Universities UK which is a collective of 142 universities in England, Scotland, Wales and Northern Ireland - www.universitiesuk.ac.uk

For CPD UK certified training in dealing with incursion, protest and activism; developing policies; conducting scenario testing and all other related services - www.rmrlimited.co.uk



Thank you



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