



FSU

FREE SPEECH UNION

KNOW YOUR SPEECH RIGHTS ON CAMPUS

A guide for students in Scotland, from the Free Speech Union

Last reviewed: September 2026

This guide is a summary we have prepared for students studying in Scotland at the start of the new academic year. You may have seen coverage of new free speech laws for universities. Those laws impose duties on universities in England, and they impose none on universities in Scotland. What follows sets out what protections you do have, where they come from, and what to do if you find yourself in difficulty.

The position is worth stating plainly. A Scottish student has fewer specific protections than a student in England, and there is no regulator to complain to if you feel your right to free speech has been restricted. You do still have some protections, and this guide sets out what they are.

The short version

The Higher Education (Freedom of Speech) Act 2023 imposes no duties on universities in Scotland, and there is at the time of writing (September 2026) no Scottish equivalent.

Your protections come from the Human Rights Act, the Equality Act, your university's own charter and codes, and the Equality and Human Rights Commission's guidance for Scotland.

Article 10 protects expression that others find offensive, shocking or disturbing. That is settled law and it applies in Scotland as it does everywhere else in the United Kingdom.

Scotland has no free speech complaints scheme. Your route is your university's own procedure and then the Scottish Public Services Ombudsman.

If you get into trouble, contact us: assistance@freespeechunion.org. We act for members across the whole United Kingdom, including Scotland.

What the English Act does, and why it does not reach you

Since August 2025, universities in England have been under a statutory duty under the [Higher Education \(Freedom of Speech\) Act 2023](#) to take reasonably practicable steps to secure freedom of speech within the law, to publish a code of practice on decisions about events and speakers, and to promote the importance of free speech actively. A Director for Freedom of Speech and Academic Freedom sits at the Office for Students, and since September 2026 there has been a complaints scheme, although students are excluded from it. From 1 April 2027 English universities may face financial penalties for breaches.

None of that applies in Scotland. There is no equivalent Act, no Office for Students, no Director for Freedom of Speech and no complaints scheme. Higher education is devolved, and the Scottish Parliament has not legislated in the same terms.

Whilst the FSU would like to see Scottish students given comparable protections, this guide deals with the law as it actually stands. It is also worth knowing that the English regulator's [guidance to universities](#) contains a great deal of thinking about what protecting free speech on campus requires in practice. It does not bind your university, but it is a useful benchmark, and a Scottish institution would find it hard to explain why the principles in it ought not to apply to its own students.

Where your protections come from

The Human Rights Act and Article 10

Public authorities must act compatibly with Convention rights, including the right to freedom of expression under [Article 10](#) of the European Convention, given effect in domestic law by the [Human Rights Act 1998](#). Scottish universities are generally treated as public authorities for these purposes, although the position can depend on the institution and on the function in question.

What Article 10 protects is broader than most students assume. The European Court of Human Rights held in *Handyside v United Kingdom* in 1976 that the right applies not only to information and ideas that are favourably received or regarded as inoffensive, but also to those that offend, shock or disturb. That has been the position for fifty years, and it is the single most useful thing to know.

The protection is therefore not limited to opinions that people find agreeable. It exists precisely to enable the open discussion of controversial and contested subjects such as religion, gender, race, immigration, the Middle East, and class. Those are the areas in which there is genuine and lawful disagreement.

Academic freedom in Scots law

There is a Scottish statutory provision on academic freedom, at [section 26 of the Further and Higher Education \(Scotland\) Act 2005](#), as substituted by [section 23 of the Higher Education Governance \(Scotland\) Act 2016](#). It requires a post-16 education body to aim to uphold, so far as the body considers reasonable, the academic freedom of all relevant persons.

Several points follow from that wording. The standard is a soft one, because the institution itself judges what is reasonable, which is weaker than the objective test applied in England. It is also defined by activity rather than by status. "Relevant persons" means those engaged in teaching, in the provision of learning, or in research at the institution, which will not ordinarily include an undergraduate studying there. If you are a postgraduate researcher, or you teach or demonstrate as part of your studies, you may well fall within it.

The section is nonetheless worth knowing, because it defines academic freedom as including the freedom, within the law, to hold and express opinions, to question and test established ideas or received wisdom, to develop and advance new ideas, and to present controversial or unpopular points of view. That last phrase appears in the statute itself, and it is useful if a lecturer at your university comes under pressure for an unpopular argument.

The Equality Act

The [Equality Act 2010](#) applies across Great Britain and protects religion or belief, including philosophical beliefs, from discrimination. The courts have held gender-critical belief, ethical veganism, belief in climate change and belief in Scottish independence to be protected beliefs. The Act cuts both ways, because it also creates the harassment provisions discussed below, but it means that holding an unpopular belief is not in itself a ground on which you can be treated less favourably.

Your university's own charter, statutes and codes

Most Scottish institutions publish their own commitments on freedom of expression, and in the absence of a statutory duty these become more important rather than less. They are worth reading, they are often more specific than the general law, and because your university has written them itself it is in a poor position to argue that they do not mean what they say.

What the EHRC says your university must do

In 2019, the Equality and Human Rights Commission published [Freedom of expression: a guide for higher education providers and students' unions in Scotland](#). It is the closest thing Scotland has to the English regulator's guidance, it is free to read, and it is the document most worth knowing about.

Its central statement is unambiguous: “Higher education providers in Scotland have a legal duty to protect freedom of expression for their members, students and employees and for visiting speakers.” Among the principles it sets out are that everyone has the right to free speech within the law, that higher education should always work to widen debate and challenge rather than to narrow it, and that protecting freedom of expression is a legal requirement rather than an optional aspiration.

That last point is worth quoting to your university if you need to. The guidance also addresses students' associations, whose position differs from that of the institution, so it is worth reading if you are involved in running a society.

Two parts of it are particularly useful. Annex C sets out which laws apply to which institutions, which answers the question a Scottish student most often has. The guidance also cites [R \(Ben-Dor\) v University of Southampton](#) [2016] EWHC 953, a case concerning a university's cancellation of a conference, which is worth knowing about if an event you have organised is blocked.

What is genuinely off limits

Unlawful speech is not protected. In Scotland that includes the offences of stirring up hatred under the Hate Crime and Public Order (Scotland) Act 2021, which cover a wider range of characteristics than the equivalent law in England and Wales. The FSU voiced its opposition to the Hate Crime Act after it was passed, citing free speech concerns. That Act contains freedom of expression provisions, but its scope and thresholds are not identical to the position south of the border, so if you have read about the English law you should not assume that it transfers.

The offence most commonly charged in Scotland is threatening or abusive behaviour under section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. It applies where a person behaves in a threatening or abusive manner, the behaviour would be likely to cause a reasonable person fear or alarm, and the person either intended that or was reckless as to it. Section 38 expressly covers things

said or otherwise communicated, and it applies in private as well as in public. It is a defence to show that the behaviour was, in the circumstances, reasonable. Breach of the peace at common law also remains, as does the separate offence of stalking under section 39 of the same Act.

Separately from the criminal law, harassment is actionable as a civil wrong. [Section 8 of the Protection from Harassment Act 1997](#) gives every individual in Scotland a right to be free from harassment, enforceable by a claim in the civil courts known as an action of harassment. Two features of it are worth knowing. The section states expressly that "conduct" includes speech, so what you say can in principle amount to harassment. It also requires a course of conduct on at least two occasions, so a single remark or post cannot be harassment under this section, and it is a defence to show that the conduct was, in the particular circumstances, reasonable.

Harassment under [section 26 of the Equality Act 2010](#) can also give rise to a claim. It is worth knowing that section 26 has an objective element, in that a tribunal must ask whether it was reasonable for the conduct to have had the effect complained of, and not simply how it was received.

Where your protections stop

It is worth being clear about the limits, because they are the same in Scotland as anywhere else.

Nothing here protects you from disagreement. Being argued with is not a breach of anything; it is the point of the exercise. Nothing protects you from being unpopular, and nothing compels anyone to platform you, since a society that would rather not invite you is exercising a freedom of its own. Obligations of this kind fall on institutions rather than on your fellow students, so they do not reach private conduct between students.

Most of what makes students go quiet falls into that last category. The cost is social rather than legal. The law can help you against your institution, but it cannot make a room want to hear you out, and that part is up to the people in the room.

We can help

If your university or students' association investigates you for something you have said, if an event you organised is blocked, or if you are simply unsure where you stand, contact us as soon as you can. Keep a record of all correspondence as you go. We act for members across the whole United Kingdom, including Scotland. Our case team can be reached at assistance@freespeechunion.org.

Scotland has no free speech complaints scheme. If your university's own process does not resolve matters, your route is the [Scottish Public Services Ombudsman](#). The SPSO will only look at a matter once your university's procedure is complete and it has issued a Completion of Procedures letter.

It is worth understanding what it can do. The SPSO considers whether your complaint was handled properly rather than revisiting the decision itself, and under [section 7\(1\) of the Scottish Public Services Ombudsman Act 2002](#) it is generally not entitled to question the merits of a decision taken without maladministration in the exercise of a discretion vested in your university. In practice that means it can tell you whether you were treated fairly, but not whether your university was wrong.

Further reading and resources

EHRC guidance for Scotland. [Freedom of expression: a guide for higher education providers and students' unions in Scotland](#) (Equality and Human Rights Commission). The most directly relevant document for a Scottish student, and free to read. Annex C sets out which laws apply to which institutions.

The academic freedom provision. [Section 26 of the Further and Higher Education \(Scotland\) Act 2005](#), as substituted by [section 23 of the Higher Education Governance \(Scotland\) Act 2016](#).

The Human Rights Act. [Human Rights Act 1998](#), and [Article 10](#) in particular.

Your own university's charter, statutes and codes, published on its website. In the absence of a statutory duty these carry more weight rather than less, and they are the first thing to read if something goes wrong.

The English regulator's guidance. [Regulatory Advice 24: Guidance related to freedom of speech](#) (Office for Students, in force since 1 August 2025 and updated on 5 August 2026). It does not apply in Scotland, but it is the most thorough account available of what protecting free speech on campus actually requires, and it is worth reading if you want to know what good practice looks like.

On Liberty by John Stuart Mill (1859). Chapter 2 is arguably the best short account of why free speech matters to anyone trying to learn something, and it is [freely available online](#).

About the Free Speech Union

We are a non-partisan membership organisation with over 48,000 members that defends and promotes freedom of speech, acting for people across the whole United Kingdom including Scotland. Since 2020 we have taken on more than 6,500 cases for people in trouble for something they said, from pro-Palestine protesters to gender-critical feminists and from Christian conservatives to communists. We do not ask whether we agree with you, only whether you were exercising your lawful right to speak.

Through the [Ian Mactaggart Programme](#) we fund students to hold debates and bring speakers to campus, with grants of up to £1,500 a term for societies and smaller awards for individuals aged 16 to 30. You do not need to be a member to apply.

Student membership is £14.99 until 31 October, half the usual student rate, using the code FRESHERS26. [Join here](#).

This guide offers general information about the law and is not legal advice. It applies to universities in Scotland.