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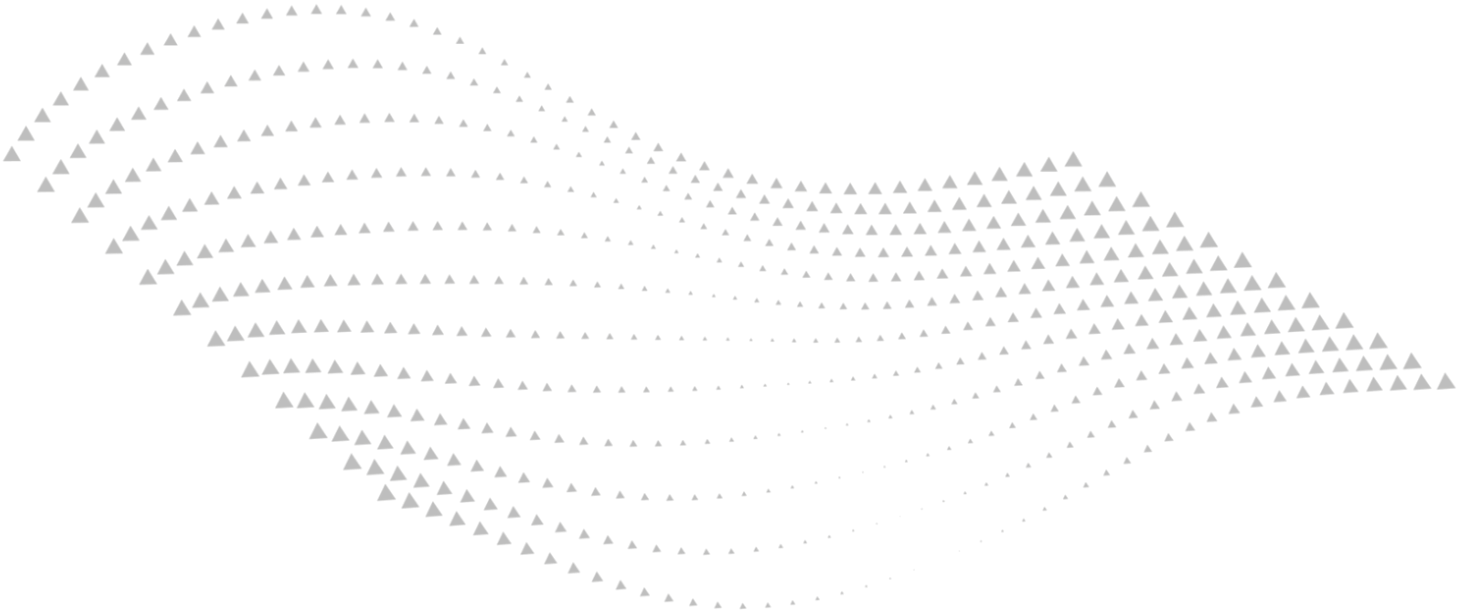
Freedom of Speech Policy



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Changes since last version:	Clarity regarding position in Germany and Ireland, including legal frameworks

1 Applicability

1.1 BIMM University is committed to protecting freedom of speech and academic freedom across all campuses. In England this Policy supports compliance with the Higher Education (Freedom of Speech) Act 2023 and associated OfS regulatory requirements. In Ireland and Germany, the principles of this Policy shall apply subject to applicable local legislation, constitutional protections and regulatory requirements.

1.2 While the statutory obligations referenced in this Policy apply principally to BIMM University's activities as an English higher education provider, BIMM University seeks to apply equivalent principles of freedom of speech and academic freedom across its international campuses. Where local law, regulatory requirements or constitutional provisions differ, those local requirements shall take precedence. Please see the Jurisdiction Schedule in Appendix B.

1.3 The statutory duties described in this Policy apply principally to BIMM University's activities as an English Higher Education provider. BIMM University will seek to apply equivalent principles across all campuses, subject to the applicable legal and regulatory requirements of the jurisdiction in which the activity takes place. Where local law differs from the requirements described in this Policy, local law shall take precedence.

2 Introduction and Purpose

2.1 Article 10 of the Human Rights Act 1998 states that: “Everyone has the right to freedom of expression. This right includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.” Under this Policy, freedom of speech means the freedom of individuals within the law to impart ideas, opinions or information, by means of speech, writing or images, including in electronic form without interference.

2.2 Academic freedom is the right of academic staff to have freedom within the law to question, and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing them in jeopardy of losing their jobs or privileges.

2.3 As a registered higher education provider, BIMM University has specific statutory duties under the Higher Education (Freedom of Speech) Act 2023 and is committed to taking all reasonable and practicable steps to secure freedom of speech and academic freedom within the law. This duty applies particularly to academic freedom in its teaching and research. It also has particular regard to the need to ensure that free and open discussion can take place and that a diversity of views can be tolerated, including views that may be regarded as controversial and / or provocative or unpopular. A key aim of BIMM University is to foster an environment where academic freedom and freedom of speech is secured within the law and that academic staff have the freedom within the law to question and test received wisdom without placing themselves in jeopardy of losing their jobs or any privileges they may have at BIMM University.

2.4 Every person employed at BIMM University and every student enrolling at BIMM University should be aware that joining the student community involves obligations and responsibilities which are consistent with the above principles and the law and that these are included in BIMM University’s codes of practice, policies and procedures including this Policy and that staff and students agree

to comply with under their terms of employment or registration, respectively. This does not mean that the right to freedom of speech or academic freedom is unfettered, as it may be limited by law to protect the reputation or rights of others, have regard for the essential functions of higher education, protect national security and public safety and for the prevention of disorder or crime and to prevent disclosure of information received in confidence.

2.5 The Higher Education (Freedom of Speech) Act 2023 places a legal duty on Higher Education providers to take all steps which are reasonable and practicable to secure freedom of speech. It states that the only constraints on the duty to secure freedom of speech are those imposed by law and, therefore, in operating this policy, BIMM University seeks to secure freedom of speech and academic freedom within the law whilst balancing its legal obligations to protect the welfare of both staff and students. It is not for higher education providers to set limitations on those obligations.

2.6 The central importance of freedom of speech and academic freedom in Higher Education institutions underlies this policy, which should be read in conjunction with the Prevent Duty Policy and External Guest Booking Procedure. This Policy ensures that, as far as reasonably practicable, academic freedom and freedom of speech within the law is secured for staff, students and visiting speakers to BIMM University and that no one is denied the use of BIMM University's premises on the grounds of their ideas or opinions or, in the case of organisations, the opinions and beliefs of its members.

2.7 This Policy constitutes BIMM University's Code of Practice on Freedom of Speech for the purposes of the Higher Education (Freedom of Speech) Act 2023.

2.8 Higher Education providers are often affected by wider conflicts and disputes relating to external issues, for example involving ethnicity or religious beliefs. The challenge for BIMM University is to identify when the pursuit of freedom of ideas and expression crosses a threshold and becomes unlawful or poses an unacceptable risk to the health and safety or welfare of employees, students or visitors. As such, BIMM will normally apply the Office for Students (OfS) 3 Step Framework for Assessment, contained in OfS regulatory Advice 24, when assessing free speech matters. For campuses located outside England, equivalent local Legal requirements and Guidance will also be taken into account.

2.9 BIMM University's Governing Body (the BIMM University Limited Board) has authorised the Deputy-Vice Chancellor and Chief Operating Officer (DVC & COO) to act on its behalf as Freedom of Speech Lead to secure, as far as is reasonably practicable, that all members of BIMM University (staff and students) and all visiting speakers and attendees at meetings or events have the right to free speech and academic freedom within the law and that they also comply with the provisions of this Policy and any related policy or procedure.

3 Principles

3.1 BIMM University believes that a culture of free, open and robust discussion can be achieved only if all concerned engage critically but courteously with each other. BIMM University does not tolerate any form of bullying, harassment or victimisation and expects all members of the community and its visitors to treat each other with respect, courtesy and consideration. BIMM University is committed to fostering an inclusive culture which promotes equality, values diversity and maintains a working, learning and social environment in which the rights and dignity of all members of the community are respected. However, the expression of views which are unpopular, controversial or provocative or which cause offense, can still be lawful and will not constitute grounds for curtailing an individual's rights under this Policy.

3.2 This Policy is underpinned by the statutory requirements of the Higher Education (Freedom of Speech) Act 2023 and the core principles set out in the Office for Students' Regulatory Advice 24: Guidance Related to Freedom of Speech.

4 Scope

4.1 This Policy's obligations shall apply to:

a) BIMM University (which shall include all bodies or persons having authority to determine any matter relevant to this policy).
b) All staff and Directors of BIMM University (whether academic staff or otherwise). This includes those employed as freelancers or on zero-hour contracts.
c) Members of BIMM University Limited Board.
d) Staff employed by BIMM Group acting on behalf of the University (for example those in Marketing, Recruitment and Admissions).
e) All enrolled students at BIMM University (whether full or part-time and including the Student Association, its constituent societies, clubs and associations).
f) Anyone enrolled in a short course at the University, even if not fully registered as a student.
g) All visiting speakers to BIMM University and any other person in attendance at any meeting or event which has been duly authorised to take place by BIMM University or using its facilities or premises (as defined in the External Guest Booking Procedure).
h) All meetings and events (including lectures, seminars, committee meetings, performances, conferences whether physical, remotely and digitally live streamed or recorded) and any other activities (referred to as "events") proposed, planned or due to take place at BIMM University or using BIMM University's facilities or premises or endorsed by it whether including an external speaker or not, together with all events which are Institute organised, funded or branded including events organised by individual, groups and societies using BIMM University name or resources.

4.2 This Policy does not remove the obligation on employees to act at all times in accordance with BIMM University's various staff policies. In particular, employees are reminded of the provisions of the Staff Handbook, the Staff Equal Opportunity & Diversity Policy, and the Staff Social Media Policy (available to staff via the BIMMtranet).

4.3 This Policy does not remove the obligation on students to act at all times in accordance with the relevant student policies, in particular, the Student Code of Conduct, the Sexual Misconduct Policy, the Bullying and Harassment Policy, the Student Disciplinary Procedure, and the Student Social Media Policy & Guidelines.

4.4 Nothing in this Policy shall be deemed to affect the rights of any person taking any steps pursuant to lawful industrial action or peaceful protest.

4.5 BIMM University does not take a formal position on political or international disputes. Instead, it endeavours to provide a platform to facilitate discourse on contemporary issues by encouraging critical debate, where the views of all parties are exchanged and challenged within the law.

4.6 Where a complaint relates to a student studying under a collaborative or partner arrangement, the University will determine the appropriate procedure in accordance with the relevant partnership agreement.

5 Duties & Responsibilities

5.1 BIMM University is bound by statutory duty to take all reasonable and practicable steps to secure freedom of speech and academic freedom within the law. BIMM University operates with a presumption in favour of freedom of speech. It shall be the duty of all those subject to this Policy to assist BIMM University in upholding freedom of speech and academic freedom within the law.

5.2 Those under a duty to observe and secure freedom of speech and academic freedom within the law within BIMM University shall do so at all times while working for or on behalf of BIMM University or who are otherwise representing BIMM University whether on or off Institute-controlled premises.

5.3 Staff (and students where relevant) of BIMM University should bring this Policy to the attention of any outside organisations who are providing speakers or are responsible for organising meetings. Such organisations/speakers are expected to uphold the principles of this Policy, respect BIMM University's values and be sensitive to the diversity of the student community.

5.4 It shall be the duty of any person engaged in the organisation of any guest lecture, masterclass, or other similar event under this Policy to ensure the proper security and organisation (including stewarding and chairing of that meeting or like event) for the purpose of upholding the duty to take all reasonable and practicable steps to secure freedom of speech within the law and complying with the provisions of this Policy. See also the External Guest Booking Procedure and Prevent Duty Policy.

5.5 This means that any organiser or other person invited to address an event, other than members of any audience at that event, is obliged to comply with the obligations to take reasonable and practicable steps to secure freedom of speech under the Higher Education (Freedom of Speech) Act 2023 and this Policy.

5.6 The Students' Association should bring this Policy to the attention of the members of its societies and take steps to ensure that they comply with it.

5.7 University Leadership Team (ULT) and Heads of School will also oversee the implementation of this Policy.

6 Breach of this Policy

6.1 Any breach of the provisions of this Policy may render those responsible liable to disciplinary action under the relevant disciplinary procedure of BIMM University, or other appropriate sanction.

6.2 Where breaches of the law occur, BIMM University shall, where appropriate, assist prosecution authorities to implement the processes of the law and may suspend any internal process pending the outcome of any such processes.

7 Freedom of Expression & Assembly

7.1 Freedom of expression and freedom of assembly are fundamental rights protected under the Human Rights Act 1998 by Article 10 and 11 of the European Convention on Human Rights respectively. They are also fundamental rights under common law. Protection under Article 10

extends to the expression of views that may shock, disturb, or offend the deeply held beliefs of others.

7.2 The right to freedom of expression and freedom of assembly are qualified (rather than an absolute) rights, which means that the rights of the individual must be balanced against the interests of society. These rights operate in the context of the law and the values of a democratic society. They are qualified, for example, by laws to protect others from violence, hatred, and discrimination, to protect national security and public safety, for the prevention of disorder or crime, to protect health or morals, for the protection of the reputation or rights of others, and to prevent the disclosure of information received in confidence. In particular, freedom of expression and freedom of assembly do not protect statements that constitute unlawful harassment or incite violence or hatred against other persons and groups, particularly by reference to race (including language, national origin or immigration status), religion or belief, sex or sexual orientation, age, disability or gender reassignment ('hate speech') or seek to commit offences against public order.

7.3 BIMM University has an explicit duty in law to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for students, employees and visiting speakers. This includes a duty to ensure, so far as is reasonably practicable, that the use of any premises of BIMM University is not denied to any individual or body of persons on any ground connected with the beliefs or views of that individual or of any member of that body, or by the policy or objectives of that body.

7.4 It shall be contrary to this Policy to seek to restrict freedom of speech or academic freedom within the law other than where that restriction is proportionate and prescribed by law as set out in this Policy.

7.5 It shall be contrary to this Policy for any person or body to whom it applies to take any action other than by reasonable and peaceful persuasion or peaceful protest to prevent any student or group of students from attending any lecture, tutorial or other academic activity required by, or properly associated with, the course on which they are enrolled – or to prevent the holding of or continuance of any lecture, tutorial or other academic activity - because of the lawful views held or expressed or which are reasonably likely to be expressed as part of that academic activity, whether or not it takes place within BIMM University.

8 Academic Freedom

8.1 The principle of the right to academic freedom within the law set out in this Policy shall extend to academic staff, including visiting and guest lecturers in accordance with the External Guest Booking Procedure.

8.2 Academic staff are protected in their teaching, research and speech by the provision on Academic Freedom expressed within BIMM University's policies, procedures, regulations and contracts of employment. In summary, staff have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs or privileges. No member of academic staff shall suffer detriment, disciplinary action, loss of opportunity, or disadvantage because they have exercised academic freedom within the law.

8.3 BIMM University has a particular regard to securing academic freedom and freedom of speech within the law, but this must be set within the context of BIMM University's values and those of a civilised, democratic, inclusive society. BIMM University expects its members and speakers and

those taking part in Institute activities to respect those values and to be sensitive to the diversity of its diverse community. While these precepts are not within themselves grounds to restrict lawful free speech or academic freedom they apply even in relation to the way views are expressed and any form of protest activity.

8.4 BIMM University notes that in the context of academic settings the Equality and Human Rights Commission 2019 statement on harassment which confirmed that the harassment provisions of the Equality Act 2010 should not be used to undermine academic freedom within the law and that students' learning experience may include exposure to course materials and discussions or views that they find offensive or unacceptable and this is unlikely to be considered as harassment under the Equality Act 2010.

8.5 BIMM University also acknowledges the rebuttable presumption in relation to free speech which applies to its regulatory duties to protect students from harassment under the Office for Students Condition E6.

9 Approval of Events On & Off-Site

9.1 The primary purpose of this Policy is to ensure that BIMM University can fulfil its legal obligations in taking all reasonable and practicable steps to secure freedom of speech and academic freedom within the law, whilst at the same time fulfilling other legal obligations and statutory duties and ensuring the smooth running of BIMM University. BIMM University must have particular regard to its free speech duties and where any person subject to this Policy wishes to hold a meeting or other event for the expression of views as set out in this Policy on premises which BIMM University controls, the presumption will be in favour of free speech and BIMM University shall not unreasonably refuse consent.

9.2 BIMM University reserves the right to refuse consent to any meeting or event that involves, or is reasonably expected to involve, the expression of views that are unlawful or in circumstances where it would be prescribed by law to apply proportionate restrictions under this Policy. All such requests should be made and will be considered in accordance with BIMM University's External Guest Booking Procedure.

9.3 The withholding or withdrawal of permission will only occur in exceptional circumstances where reasonable and practicable steps cannot be taken to secure freedom of speech within the law and, wherever possible, after consultation with the principal contact for the event and appropriate internal and external parties as are deemed necessary by the Freedom of Speech Lead, who may take external specialist advice when required. The Freedom of Speech Lead has the sole discretion to take this decision.

9.4 It is important to note, however, that although BIMM University operates with a presumption in favour of freedom of speech within the law and will take all steps reasonably practicable to secure free speech and academic freedom on its campus, there may be exceptional circumstances where it may be necessary to limit or curtail free speech or academic freedoms as long as any interference with those rights is for legitimate reasons and proportionate i.e. they must impose the least possible restriction on freedom of speech necessary to secure such legitimate aims. When considering imposing limits on freedom of speech, such as when developing policies around staff or student conduct, BIMM University will always first undertake a proportionality test to ensure this is the case. Similarly, when making any decision under such polices, BIMM University will again undertake a proportionality test or risk assessment to ensure any action taken is legitimate and goes no further than is necessary. Please see our External Guests Booking Procedure.

10 Appeal Against the Decision

10.1 Appeals against the rulings of the Freedom of Speech Lead may be made in writing to the Chief Executive Officer and Vice Chancellor, whose decision shall be final but must be reported to the next meeting of the BIMM University Limited Board.

11 Sanctions / Complaints

11.1 If there is any contravention of this Policy, then the individual or individuals (whether staff, External Guest or student) responsible will be liable to be referred into BIMM University's respective disciplinary procedures and subject to sanction if determined appropriate.

11.2 Formal complaints in relation to the BIMM University community's rights to free speech and academic freedom can be made using the Freedom of Speech Complaints Scheme. Upon completion of BIMM University's internal procedure, eligible complainants may have access to external review routes including the Office for Students Free Speech Complaints Scheme and, where applicable, the Office of the Independent Adjudicator.

11.3 A report can also be made anonymously – please refer to the Freedom of Speech Complaints Scheme for more information.

11.4 Other complaints can be raised by referring to the Student Complaints Procedure or the Staff Grievance Procedure in the first instance.

11.5 Complaints concerning activities occurring at campuses outside England will be considered under this Scheme having regard to applicable local legal and regulatory requirements. References to the Office for Students apply only where the matter falls within the jurisdiction of the Office for Students.

12 Review, Amendment & Monitoring of this Policy

12.1 BIMM University has a duty under the Higher Education (Freedom of Speech) Act 2023 to issue and keep up to date a Code of Practice on Freedom of Speech. Academic Board should, therefore, receive a report on the operation of this Policy together with any recommendations for the revision thereof, annually. This report shall be consulted on with members of Academic Board prior to consideration by the BIMM University Limited Board. Academic Services will ensure that this Policy and its terms is brought to the attention of BIMM University's students annually.

13 Legal Context

13.1 This Policy is underpinned by external legal context which are documented at Appendix A.

14 Social & Electronic Media

14.1 The principles of freedom of expression and academic freedom within the law apply to the use of electronic and social media; however, BIMM University requires responsible and legal use of the technologies and facilities available to staff and students, including the use of the internet, email and social media. Please refer to BIMM University's Staff Social Media Policy and Student Social Media Policy for more information.

Appendix A: Legal Framework

a) The Higher Education (Freedom of Speech) Act 2023 imposes specific statutory obligations on BIMM University to take such steps as are reasonably practicable to secure freedom of speech within the law for its employees, students and visiting speakers. This also includes the duty to ensure, as is reasonably practicable, that the use of any of BIMM University's premises is not denied to any individual or body of persons on the grounds of their beliefs, views, policies or objectives. BIMM University is also required to issue, and keep up to date, a policy of practice on freedom of speech, setting out the procedures to be followed by students and staff in connection with the organisation of meetings and activities which fall within any class specified within this policy, together with the conduct required of staff and students in connection with such meetings and activities.

b) The Higher Education & Research Act 2017 (HERA) makes it clear that all universities and colleges which register with the Office for Students (OfS) must uphold the existing laws around freedom of speech and follow the OfS' regulatory framework. Under the framework the governing bodies of registered universities and colleges should take 'such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.' HERA also includes a general duty for the OfS to protect institutional autonomy including academic freedom.

c) The Education Reform Act 1988 (section 202) (reinforced by the Higher Education and Research Act 2017) makes clear that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at their institutions.

d) The Public Order Act 1986 creates criminal offences relating to public order; to control public processions and assemblies; to control the inciting of racial hatred or on the grounds of religion or of sexual orientation.

e) The Protection from Harassment Act 1997 creates both civil and criminal offences for harassment and makes provision for protecting persons from harassment and similar conduct.

f) The Human Rights Act 1998 in particular Article 9 (freedom of thought, conscience and religion); Article 10 (freedom of expression); and Article 11 (freedom of assembly and association).

g) The Equality Act 2010 requires BIMM University, in the exercise of its functions, to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations between different groups.

h) The Terrorism Act 2006 creates offences relating to the encouragement of terrorism and dissemination of terrorist publications, including publishing, or causing another to publish, a statement likely to be understood as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism with the intent that members of the public will be directly or indirectly encouraged or otherwise induced by the statement to commit, prepare or instigate acts of terrorism, or being reckless as to whether that effect will be caused. Office for Students: Advice and guidance – Freedom of Speech.

i) The Counterterrorism & Security Act 2015 creates a general duty on BIMM University when exercising its functions to have due regard to the need to prevent people from being drawn into terrorism having particular regard to the duty to secure freedom of speech imposed by section 43(1) of the Education (No. 2) Act 1986 when carrying out that duty.

j) **Ireland: The Universities Act 1997, Technological Universities Act 2018 and Higher Education Authority Act 2022 -** Irish higher education legislation recognises and protects the principle of academic freedom. Academic staff of universities and technological universities have the freedom, within the law, to question and test received wisdom, to put forward new ideas, and to express controversial or unpopular opinions without being disadvantaged or placed at risk in relation to their employment or professional standing. The Higher Education Authority Act 2022 further requires the Higher Education Authority to respect the academic freedom of higher education providers and academic staff. BIMM University Ireland will seek to secure freedom of expression and academic freedom within the law, while balancing its obligations under equality, employment, health and safety and other applicable legislation. [oireachtas.ie], [ohchr.org], [irishstatutebook.ie]

k) **Germany: Article 5 of the Basic Law (Grundgesetz) for the Federal Republic of Germany -** Article 5 of the German Basic Law provides that freedom of expression, art, science, research and teaching shall be protected. Academic freedom is recognised as a fundamental constitutional right and protects the freedom of researchers, teachers and academic institutions to pursue, develop, disseminate and challenge knowledge without improper interference. This protection extends to the expression of ideas and opinions, including those that may be controversial or unpopular, provided they are lawful. BIMM University Germany will uphold the principles of freedom of expression and academic freedom in accordance with German constitutional principles and any applicable federal or state legislation governing higher education, equality, health and safety and employment.

l) For campuses located outside England, this Policy shall be interpreted and applied in accordance with applicable local constitutional, human rights, education, employment, equality and other relevant legislation. Where there is any conflict between the requirements of local law and the provisions of this Policy, local law shall take precedence. BIMM University will nevertheless seek, wherever legally permissible, to apply consistent principles of freedom of speech and academic freedom across all campuses.

Appendix B – Jurisdiction Schedule

Campus	Primary legal framework
England	HE(FS) Act 2023, HERA 2017, OfS regulation
Ireland	Irish constitutional protections, equality and higher education legislation
Germany	German Basic Law (Grundgesetz), regional state law and relevant employment/equality legislation