

This text submission was sent in March 2024 to the Office for Students in response to its initial consultation on new rules relating to the Higher Education (Freedom of Speech) Act 2023. Details of that consultation can be found here → <https://www.officeforstudents.org.uk/consultations-on-free-speech/consultation-on-the-ofs-s-new-free-speech-complaints-scheme/>

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The question of a respondents' inaction may be of special importance when it comes to free speech issues in the community of members of higher education (HE) institutions from the People's Republic of China (PRC), those with family in the PRC, and those studying the PRC.

For context, the government of the PRC has the capacity and the intent to censor speech on UK campuses by a variety of means and is engaged in this activity, which it views as a political priority. More details of how and why this happens are provided on the webpage of our public information campaign about this issue --> <https://ukctransparency.org/projects-2/ccp-on-campus/>

Our organisation, UK-China Transparency (UKCT), has for example produced detailed research showing how staff and students from the PRC working within UK HE institutions have in some cases made agreements with the PRC government to report to it or otherwise take action in response to (for example, by public challenge) speech that is lawful in the UK but forbidden in the PRC.

The PRC government may also interfere with free speech on campus through certain student groups. The PRC government exerts a degree of control over student associations called Chinese Students and Scholars Associations (CSSAs) based inside British HE institutions. There is evidence that PRC diplomats maintain regular or semi-regular contact with CSSA leaders, run 'training' courses with political elements for them, interfere in CSSA elections, and so on. Being an authoritarian regime, the government of the PRC may instrumentalise by means of threats or inducements those involved in CSSAs in order to threaten or undermine others from or with family in the PRC in response to speech that is forbidden in the PRC (blurring the line between 'victim' and 'perpetrator').

Individuals instrumentalised in this way may amplify speech that is forbidden in the PRC by sharing it publicly on social media, condemning it in such fora, challenging it in a high-profile way, etc. This, of course, can be done lawfully, but nonetheless may (be intended to) greatly increase the risk that the 'forbidden' speech leads to consequences for the speaker. These behaviours exist alongside 'informing' - that is, secretly reporting speech to PRC authorities - and threats to inform.

The ultimate consequence of these phenomena is that UK HE institution members may face threats, intimidation, or government action (for example, police visits to family in the PRC) because of their own lawful speech on campus, on its own or in combination with other speech acts (which may be lawful) which draw attention to their own, sometimes deliberately. UKCT has documented instances of students facing life-altering consequences because of lawful speech on campus, including as amplified by challenge from pro-PRC government voices. These consequences include loss of contact with family and exile from the PRC to seek asylum in the UK. We have also documented academics facing career-altering consequences because of their speech.

In our conversations with students and academics from the PRC or those with knowledge of its political systems and their replication on campus in the UK, it has become clear to us that this is a very large-scale problem, affecting tens of thousands of HE institution members.

All HE institution members from the PRC are aware of this problem to some extent, leading to self-censorship. Often, only a minority of people speak freely; they then usually face serious consequences. This number rises in tandem with political happenings in the PRC: for example, there

were many incidents during the Hong Kong protests of 2019, and a large number during the 'White Paper Revolution' of 2022. Such incidents will continue, periodically raising the chance that large numbers of HE institution members will be affected by this phenomenon.

This brings us back to the question of *institutional inaction*. UKCT continues to study the issue but based on our conversations to date with those with knowledge of this matter, it appears that HE institutions have overall not been dealing with this issue effectively, if at all.

Firstly, as outlined in the third and fourth paragraphs of this submission: HE institutions have signed agreements with the PRC government and PRC institutions to establish programmes which (when one delves into the nuts and bolts of them) contain clauses requiring people to inform on their peers, intimidate, challenge or draw attention to forbidden speech, etc. For example, there are 30 Confucius Institutes on British campuses, co-run by HE institutions: staff from the PRC at these institutions have agreed to follow Chinese Communist Party (CCP) rules on 'foreign affairs' which oblige informing, intimidation, etc.

For another example, a large number of UK HE institutions actually sponsor scholarships for students from the PRC who have been awarded scholarships by the PRC government based on an evaluation of their political attributes (which includes willingness to work with the PRC government on suppressing free speech), and who have agreed to be 'guided and managed' by PRC diplomats in the UK.

CSSAs exist on roughly 100 campuses and many admit they are 'under' such diplomats' control. Yet more broadly, it should be noted that all CCP members vow to obey the CCP and enforce its will when called upon, keep its secrets and so on – this is the membership oath. CCP members on British campuses may be expected to keep this oath.

In spite of these clauses, systems and structures, UK HE institutions have entered into these arrangements or allowed them to exist on campus. That they have done so must be seen to contribute to, at best, a form of 'inaction' when it comes to their responsibility to take steps to protect free speech on campus and their role as would-be respondents in individual cases.

Inaction takes other forms. Overall, there is a lack of institutional awareness, a lack of creativity in devising solutions (to what is after all a complex problem), and, most worryingly, a dynamic whereby many institutions appear to be deliberately ignoring the issue because they fear that dealing with it or *even acknowledging it publicly* will have a drastic impact on their relations with the PRC government which may in turn lead to financial problems for the university.

Awareness is growing and UKCT is working towards promoting it. As for creative solutions, a number have been proposed in the past and have come up in our conversations with those knowledgeable about these issues.

In the case of one HE institution we are aware of, the institution has issued a policy statement which includes warning not to engage in threats or inform: if "a student has acted in such a way as to cause reasonable fear of such adverse repercussions on the part of some other student or a member of staff, that is threats or similar, we will take rapid and strong disciplinary action that may include immediate suspension, exclusion or expulsion in accordance with our harassment policies. This in turn is likely to lead to revocation of the right to study in the UK. Students who are asked by the agents of overseas governments to report on fellow students or members of staff should, where possible, refuse, citing the disciplinary position and sanctions set out in this policy statement. Otherwise, they should, by whatever means are available to them, avoid or evade informing on

colleagues. They can report approaches in confidence to [the university], we may be able to support or assist.”

Other solutions proposed to UKCT include a training course for members from the PRC, or educational brochures; evidence-gathering by means of interviews with members; the termination of arrangements of the kind described above (Confucius Institutes, CSSAs, CSC scholarship); new clauses in staff contracts; and so on. It may also be important for universities to educate members who have nothing to do with the PRC about this issue, in order to cultivate a kind of ‘grassroots resilience’.

UKCT prescribes no particular solutions: our goal is to raise the level of understanding of the facts about the issue and what has been proposed by others. The work of the Academic Freedom and Internationalisation Working Group (see <https://hrc.sas.ac.uk/networks/academic-freedom-and-internationalisation-working-group/about-afiwg>) has also addressed these issues and is worth studying.

It is essential to note that most universities appear allergic to this issue and that there is circumstantial evidence that this is a result of a fear of financial consequences. In at least some cases, there is firm evidence that universities have taken positive action against members because of pressure by the PRC government. One important instance of this has been highlighted by UKCT already (see <https://ukctransparency.org/projects-2/ccp-on-campus/>) It is likely that universities’ passivity or inaction about this issue as a whole is connected to the fear of consequences.

Most strikingly, only one university in the UK appears to name the PRC or its government as a source of potential interference in free speech on campus. This is in spite of the breadth and scale of this issue and the mounting evidence that the PRC government poses a profound threat to tens of thousands of HE institution members. Institutional silence may encourage the PRC government to interfere and give courage to those who would enable that interference. The thousands who feel afraid to speak and those who have spoken and suffered the consequence tend to view this silence as a form of complicity. At the very least it is obviously a form of ‘inaction’.

UKCT’s public information campaign about this issue and connected issues is a multi-year project to raise awareness amongst administrators, staff, student unions, regulators, policy-makers and the general public. Full details are found here → <https://ukctransparency.org/projects-2/ccp-on-campus/>

It is essential that the Office for Students gets abreast of this issue, relates it to the new rules on the significance of ‘inaction’/ the ‘failure to take steps to protect speech’, and communicates with HE institutions about this.