

# UK civic space: what is happening? 2023-2024



## About Bond

Bond is the UK network for organisations working in international development. We connect and champion a diverse network of over 350 civil society organisations to help eradicate global poverty, inequality and injustice. We work to influence governments and policymakers, develop the skills of people in the sector, build organisational capacity and share expertise.

## About the report

Welcome to Bond's first annual civic space review, 'UK Civic Space: What is Happening?' The review identifies key trends and developments of restrictions affecting campaigners in the UK, covering the period from April 2023 to March 2024. Its aim is to inform civil society and campaigners about the operating environment and evolving challenges they face.

This year's review highlights three key trends, an emerging development, and presents our forecast for the year ahead. By offering insights and our analysis on an annual basis, we hope to enhance understanding and awareness of restrictions, assisting campaigners to navigate the complexities of their work more effectively.

## Acknowledgements

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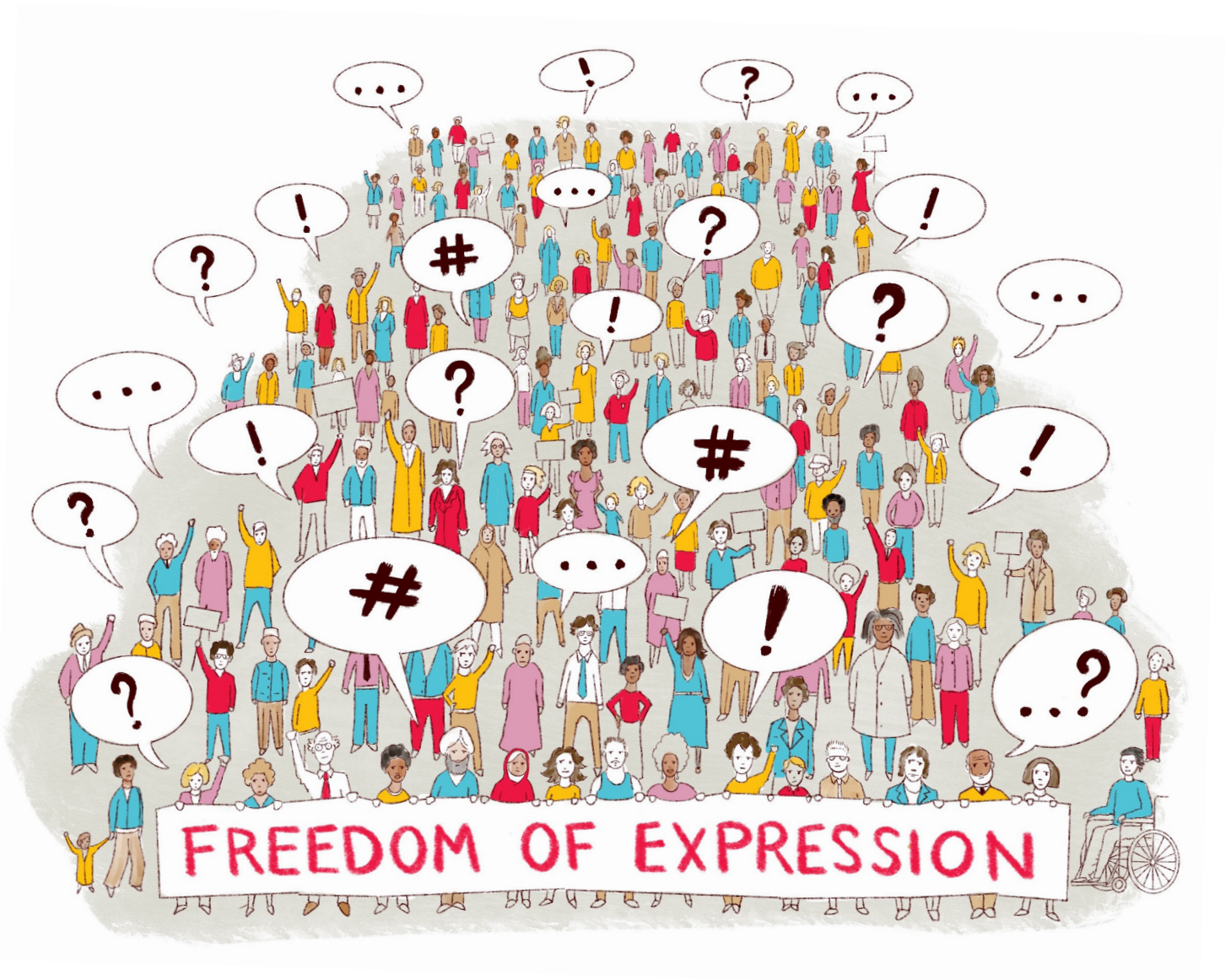
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## At a glance

Civic space has continued to come under pressure in the UK over the last twelve months. The year began with CIVICUS, the global civic space monitoring project, downgrading civic space in the UK from 'narrowed' to 'obstructed', placing it in a category alongside Hungary, Bosnia and Herzegovina, Serbia, Greece, Poland, and Ukraine. Since then, restrictions and attacks have continued.

We have identified six established trends across three areas and one emerging trend:



### Protest rights

#### Trend 1:

Ever stricter anti-protest laws clampdown on disruption

#### Trend 2:

Protesters prevented from mentioning motives in court



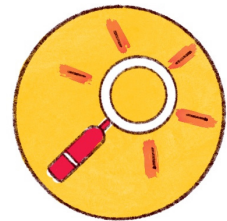
### Charity campaigning

#### Trend 3:

Tone-policing of charity campaigns

#### Trend 4:

Pressure on migrants' rights charities



### Public scrutiny and criticism

#### Trend 5:

Increased use of Henry VIII powers

#### Trend 6:

Vetting and banning experts





## Protest rights

Protests allow people from all parts of society to express their views, challenge injustice and hold those in power to account. There are many ways to protest; holding silent vigils, marching loudly through the streets or blocking access to property are just a few examples. Over the last year, the government has increasingly sought to clampdown on activities it deems to be too disruptive. Meanwhile in the courts, protesters have been charged and imprisoned for ignoring rulings that prevent them from mentioning their motivations when being tried for protest-related offences.

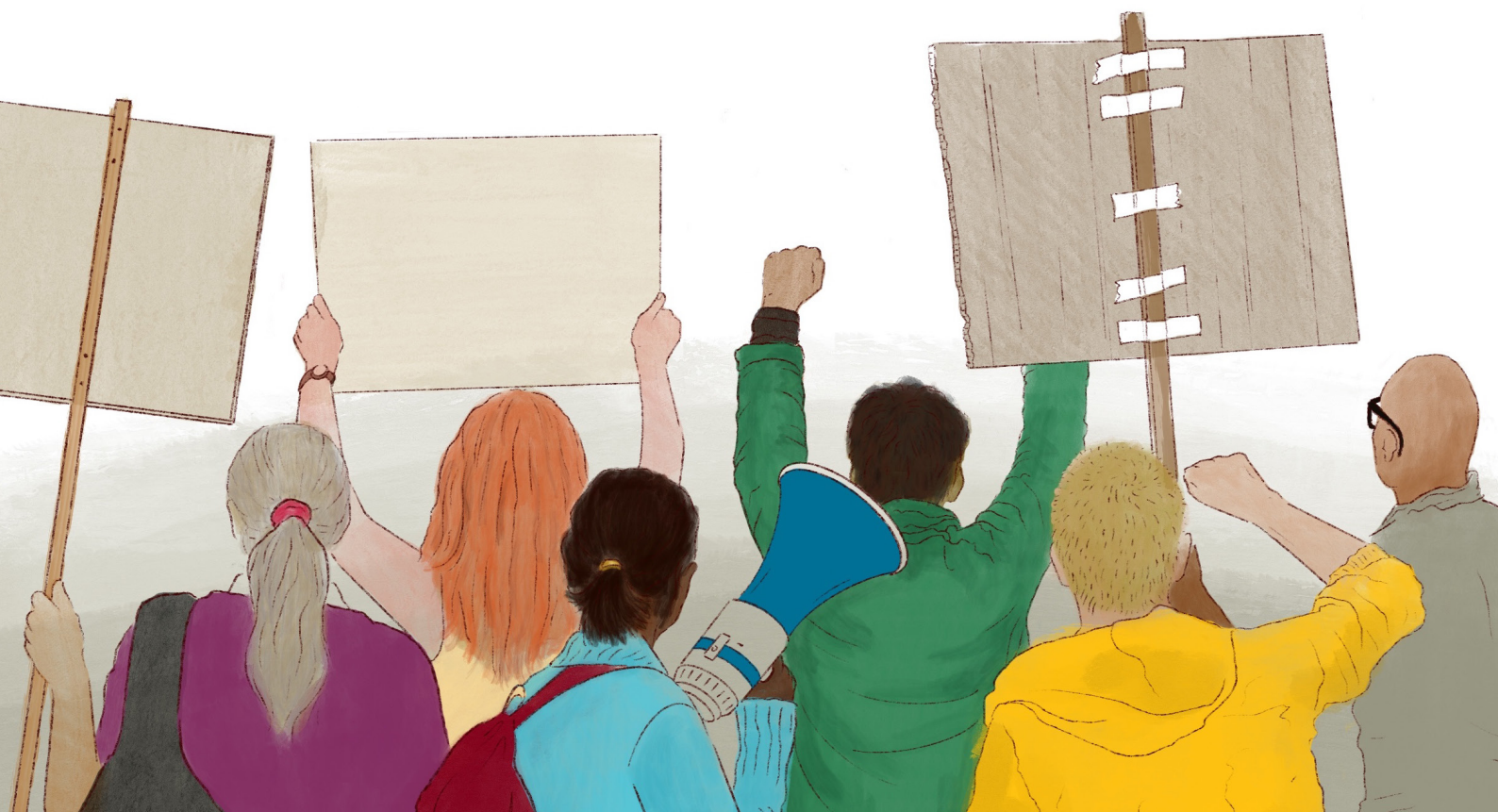
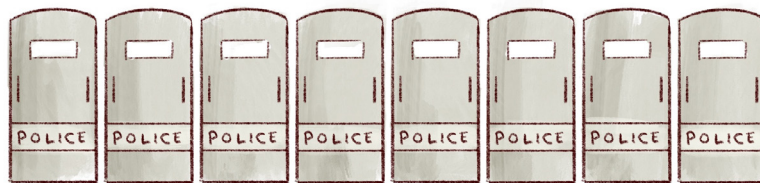
### Trend 1: Ever stricter anti-protest laws clampdown on disruption

The government has pushed through new laws on demonstrations that are increasingly focused on protests that cause “serious disruption” as opposed

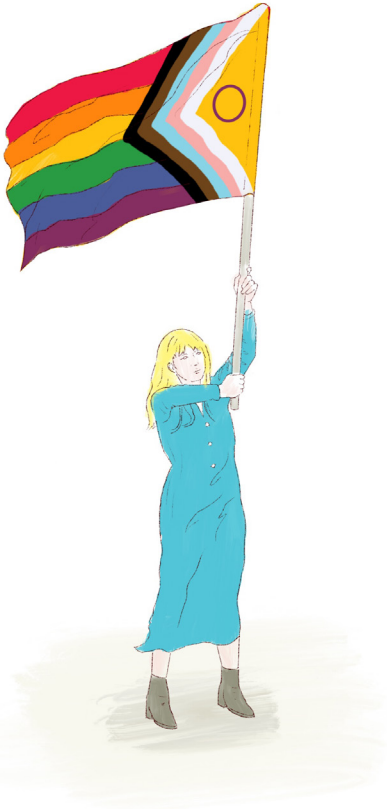
to those that result in public disorder or damage to property, which are covered by existing laws. However, protest is meant to be disruptive – and the new powers are a threat to people’s rights.

In the wake of the Police, Crime, Sentencing and Courts Act 2022, which first gave the government the power to clarify the definition of “serious disruption” and gave police new powers to restrict noisy protests, the government pushed through the Public Order Act 2023.

This act criminalises disruptive protest tactics, such as locking-on, and gives the police new powers to stop and search demonstrators. It also introduced Serious Disruption Prevention Orders, which are civil orders that could subject protesters to intrusive state surveillance if they have previously committed two offences and have been given such an order.



The act came into force in May 2023. Police made the first arrests under the new law just days later at the coronation of King Charles III as dozens of presumed anti-monarchy protesters were detained by police.



One group of protestors were arrested and had their placards seized as they unloaded them from a van because police wrongly believed the straps used to support the placards constituted locking on devices. The act has also resulted in hundreds of climate protestors being arrested for non-violent protest actions.<sup>1</sup>

In May 2024, three climate protestors were found guilty by a jury after taking part in a slow march and blocking traffic, marking the first convictions under Section 7 of the act.

In June 2023, the home secretary used secondary legislation to push through further changes to public order legislation which had previously been rejected by parliament. This change, which seeks to define "serious disruption" as any action that causes "more than minor" disturbance, has been challenged by civil liberties groups in the courts, and was ruled unlawful by the High Court in May 2024. The government says they intend to appeal this decision.

Since October 2023, hundreds of thousands have protested in solidarity with the people of Gaza. These are some of the largest protests the UK has seen in decades. Following intense public debate about the actions of protestors at these demonstrations, the home secretary announced he would introduce stricter controls on the use of face coverings at demonstrations, and the criminalisation of protestors who use flares and pyrotechnics or climb war memorials under the Criminal Justice Bill.

### Positive developments

The most egregious proposals in these new laws were challenged by the House of Lords, which made several amendments to the legislation as it passed through parliament and secured some concessions from the government. Civil society groups have also challenged government attempts to push through further changes to public order laws in the courts.





## Trend 2: Protesters prevented from mentioning motivations in court

A further challenge to protest rights has been seen in UK courts. Judges have repeatedly sought to prevent protesters from mentioning their motivations for protest while on trial for protest-related offences. One such ruling even sought to prevent protesters from mentioning climate change or fossil fuels.

In March 2023, three environmental protesters who ignored one such ruling were held in contempt of court and imprisoned. Twelve people protesting outside the court were later investigated for attempting to pervert the course of justice, and one woman was arrested for holding a placard reminding jurors that they have a right to act according to their conscience. In April 2024, a High Court judge refused the Solicitor General's request to initiate contempt of court proceedings against the woman holding the placard. The Solicitor General has since appealed this decision.

Banning protesters in court from mentioning their motivations undermines their right to freedom of expression and implies that their genuinely held beliefs are not a legitimate defence. It could also result in more protesters being convicted and imprisoned. This is exacerbated by the government's plans to remove protesters' ability to use the right to protest as a reasonable or lawful excuse for protest-related offences.<sup>2</sup>

In January 2024, Michel Forst, the UN Special Rapporteur on Environmental Defenders, described the new laws as "regressive" and said it was "difficult to understand what could justify denying the jury the opportunity to hear the reason for the defendant's action, and how a jury could reach a properly informed decision without hearing it".<sup>3</sup>

In March 2024, the Court of the Appeal removed one of the few remaining defences available to those in court on protest-related charges. The government had asked judges to remove the so-called 'consent' defence, which enables those accused of criminal damage to argue that they honestly believed the owner of the property would have consented to the damage if they understood why the action was taken, after several climate protesters successfully used the defence in court.

## Positive developments

Despite efforts to limit the defences available to people in court on protest-related offences, juries have continued to find defendants not guilty. Out of 160 trials involving environmental protesters monitored by the campaign group Plan B since 2019, three quarters resulted in either not guilty verdicts or hung juries.<sup>4</sup>

Other protesters have had their cases thrown out of court. In February 2024, the climate activist Greta Thunberg and three fellow protesters were cleared of all charges after a judge ruled they had no case to answer because the conditions imposed on the protest were so unclear that anyone who failed to comply could not be committing an offence.<sup>5</sup>





## Charity campaigning

Charities have long been criticised by governments and parliamentarians for being too political, particularly when they speak out against government policies or intervene in public debates on contested issues. Over the past year, the focus has been on the tone of charity campaigns as much the issues or policies they address. Meanwhile, migrants' rights charities have come under intense pressure as the government has sought to push through controversial anti-migration policies.

### Trend 3: Tone-policing of charity campaigns

In March 2023, the chair of the Charity Commission, Orlando Fraser, robustly defended the right of charities to campaign but called on charities to avoid "inflammatory language", "reduce the heated frenzy of aggressive debates" and "use their voices with kindness, respect and tolerance".<sup>6</sup>

While the issues a charity chooses to campaign on is regulated by charity law, the tone a charity chooses to take when campaigning is not.<sup>7</sup> Charity regulations explicitly state that charities "can campaign using emotive or controversial material where this is lawful and justifiable in the context of the campaign."<sup>8</sup>

A few months later, the RSPB caused controversy when it labelled three government ministers "liars" in a social media post that quickly went viral and prompted fresh debate about the language charities use when campaigning. The organisation's CEO later apologised and described the framing of the post as "incorrect and inappropriate".<sup>9</sup>

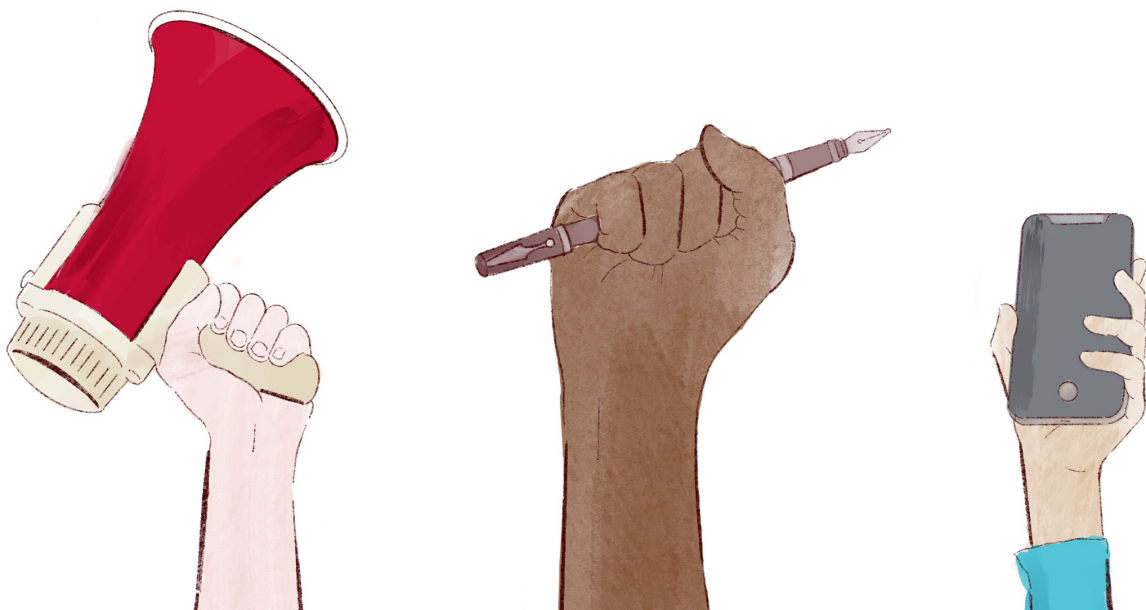
Several MPs called on the RSPB to be stripped of its charitable status, and the Charity Commission launched an investigation.<sup>10</sup> Independent experts have concluded that, while it is lawful and legitimate for charities to publicly criticise the government in strong terms, it was unwise for the RSPB to use the word liars.<sup>11</sup>

In the wake of the row, the Chair of the Charity Commission reminded charities that while they should not be "meek" or "avoid controversial subjects", they should be prepared for criticism "if they take an alternative view in a contentious and contested area".<sup>12</sup> This position is reflected in new social media guidance published by the regulator in September 2023, which highlights the benefits of using social media but also stresses the risks associated with its use, particularly when engaging on emotive topics.<sup>13</sup>

### Positive developments

The Charity Commission Chair has repeatedly stressed in his public speeches that charities can and should be campaigning, and that they should not shy away from addressing difficult or controversial issues.

After a public outcry, Arts Council England was forced to issue a clarification in February 2024, which confirmed it will not withdraw funding from organisations or individuals who make work that is political. Just weeks earlier, the funding body had produced new guidance which said that work which was "overtly political and activist" could "be perceived as being in conflict with the purposes of public funding culture".







#### Trend 4: Increased pressure on migrants' rights charities

Charities and campaigners who work on migration issues have come under intense pressure in the last year for speaking out against government migration policies. These attacks have been relentless. They are also unwarranted as the policies are clearly relevant to these organisations' charitable purposes.

Examples include Suella Braverman, the former home secretary, publicly criticising charities for campaigning against migration policies in her speech to the Conservative Party Conference in September 2023, in which she called these charities "Labour's allies in the third sector".<sup>14</sup> On another occasion, Braverman accused charities and civil society groups of "actively undermining efforts to curb illegal migration".<sup>15</sup>

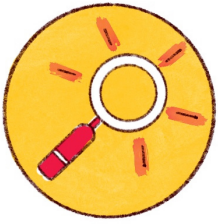
Foundations that fund charities that work on migration issues have also been targeted. The Paul Hamlyn Foundation was criticised by the Telegraph for taking government grants while also providing funds to

charities that campaign against government migration policies, for example.<sup>16</sup> Similarly, GB News negatively reported on a member of the government migration advisory committee who is also a trustee of the Joseph Rowntree Foundation.

Attacks such as these can create an environment where there is greater self-censorship among campaigners due to a fear of hostility. Publicly targeting specific organisations or individual campaigners can also create a security risk, leading some organisations to increase safety measures internally.

#### Positive developments

Charities from across UK civil society have stood in solidarity with migrants' rights organisations that have come under attack from government ministers. In January 2024, 270 charities and organisations issued a joint statement calling on the House of Lords to reject the government's Safety of Rwanda Bill, and condemning the bill for undermining the principle of universal human rights.



# Public scrutiny and criticism

Opportunities for public criticism, debate and scrutiny have become increasingly limited in recent years. Parliamentary scrutiny has been reduced by the increased use of Henry VIII clauses in legislation, while experts have been prevented from engaging with government if they are seen to be critical of the government or its policies.

## Trend 5: Increased use of Henry VIII clauses

The inclusion of Henry VIII clauses in primary legislation is not new, however their use has increased in recent years.<sup>17</sup> These clauses enable ministers to amend or repeal provisions in laws that have already been passed. This is controversial because usually only parliament can make or amend laws. With Henry VIII clauses, government ministers can change laws that parliament has previously agreed. They do this using statutory instruments, without having to go through the same parliamentary scrutiny that is applied to primary legislation. In most cases, parliamentarians must accept or reject statutory instruments after little or no debate and they cannot be amended.<sup>18</sup>

In the last two years, several acts have passed through parliament which have had a profound impact on civic space in the UK, many of which contain Henry VIII clauses. We have already seen ministers use statutory

instruments like Henry VIII clauses to make further amendments to laws that parliament has already passed, such as the Public Order Act 2023, and in some instances parliamentarians had previously rejected these changes.<sup>19</sup> Parliamentary scrutiny ensures laws are properly debated and amended. It allows experts and civil society time to input their experience and expertise, gives people affected by regulations a chance to have their voices heard, and prevents inadvertent errors being made which minimises the risk of unintended consequences. It also ensures that there is accountability and that constituents can engage in the legislative process by lobbying their MP. By evading scrutiny, Henry VIII clauses give ministers expansive powers to push through regulations without debate, challenge or amendment. There is a risk this centralisation of power renders parliament less accountable, which is why these clauses are considered by some to be undemocratic.<sup>20</sup>

## Positive developments

Ministers could increase opportunities for scrutiny by using existing tools such as the 'super-affirmative procedure'.<sup>21</sup> This would give MPs and House of Lord peers a chance to comment on proposals for secondary legislation and to recommend amendments.





## Trend 6: Vetting and banning experts

In the past year, following a change in government policy in 2021, several experts have been banned from speaking at government events. The Cross-Government Diversity Networks' Due Diligence and Impartiality Guidance was framed as an initiative to help maintain impartiality and promote diversity amongst speakers. In practice, it has led to experts who are critical of government policies being banned from events.

In May 2023, a chemical weapons expert with over 25 years' experience was prevented from giving a keynote speech at a government event once it came to light he had criticised government policies on his social media account.<sup>22</sup> At least eight other academic speakers have been banned since the policy was introduced.

The guidance also permitted the government to monitor experts' social media accounts. It appears that the government has compiled dossiers containing information on the social media of several academics who are critical of government policy.<sup>23</sup> The monitoring of early childhood education experts led to an attempt

by one government department to cancel a conference in March 2023 because two of the scheduled speakers had previously criticised government education policy.<sup>24</sup>

Stopping experts and academics who have criticised the government from speaking at events has clear implications for free speech. It also narrows the range of opinions, ideas and experiences that civil servants have access to. This limits the scope of policy discussions and reduces diversity.

## Positive developments

Government vetting of social media accounts was debated by the House of Lords in June 2023, and the government suspended the guidance in July 2023 while it was reviewed.

In March 2024, a government minister was forced to apologise and pay damages after wrongly accusing two academics of sharing extremist views and publicly calling on a government-funded research body to cut its links with them.



## Emerging trend: Expanding the definition of extremism

In February 2024, the government withdrew funding from the Interfaith Network, an organisation that worked to promote understanding, cooperation and good relations between those of different faiths, after it appointed a trustee with links to the Muslim Council of Britain, forcing the religious cohesion charity to close its doors after 37 years.

Then in a dramatic speech on the steps of Downing Street following the election of George Galloway in the Rochdale by-election in early March 2024, the prime minister announced he would introduce a "robust framework" for tackling extremism. There are concerns this may lead to further controls on protests. A few weeks later, the government expanded the definition of extremism so that it will capture the activities of many more groups than before. The definition now refers

to "the promotion or advancement of an ideology" rather than actions.<sup>25</sup> It sits alongside a new set of cross-government engagement principles<sup>26</sup> which ban organisations from meeting with government officials and parliamentarians and from receiving public funds if the government decides they meet the criteria for extremism under this definition. There will be no appeals process. Groups labelled as extremist under the new definition will only be able to challenge this decision in the courts.

## Positive developments

High profile figures, including the Archbishop of Canterbury and several former Conservative home secretaries, spoke out against plans to expand the definition of extremism ahead of its publication.



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