

# Code of Practice to Ensure Freedom of Speech

**Relating to:** Equality and Diversity

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## **Code of Practice – Freedom of Speech**

All students and staff of the College must familiarise themselves with this Code of Practice to ensure Freedom of Speech (“the Code”).

### **1. Overview**

The College is committed to ensuring freedom of speech, the advancement and protection of knowledge and enquiry. In accordance with the requirements of Section 43 of the Education (no. 2) Act 1986 the College has established the following Code, governing the conduct of staff and students, and outlining procedures to be followed in order to maintain freedom of speech within the law on College premises. The Code is set within the Framework of UK and European Law and Guidance, including the Equality Act 2010 and the Human Rights Act 1998. It aims to assist the College in promoting good relations across all campuses.

The Code is to be read in conjunction with other College policies, particularly in conjunction with the Policy on Equality and Diversity.

This Code shall apply to those persons and bodies listed at paragraph 4(a) of this Code.

### **2. General Principles and Legal Duties**

The College values and practices equality of opportunity, transparency, and tolerance. It believes in the advancement and protection of knowledge, freedom of speech and enquiry, in the protection of the rights and freedoms of individuals, and in respect for diversity.

Section 43 of the Education (No.2) Act 1986 requires the College to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for its members, students, employees and for visiting speakers.

The College has the right and power to regulate the use of its premises and is under no legal obligation to hold meetings on the campus which are open to the outside public. In compliance with its duties under the above legislation, however, the College will ensure, as far as is reasonably practicable, that the use of its premises 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;
- the policy or objectives of that body.

- The College is also required to produce this Code setting out the procedures to be followed by students and staff in connection with the organisation of meetings and other activities which fall within any class specified in this Code, together with the conduct required of staff and students in connection with such meetings and activities.
- The College has regard to the need to ensure that academic staff have freedom within the law to question and test perceived wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or any privileges that they may have. These rights must be exercised within the law and are subject to this Code.

### **3. Limitations on Freedom of Speech**

Nothing in this Code shall interfere with the right to assemble, demonstrate, protest, and speak within the law. However, hate crime and incitement to commit illegal acts will not be tolerated. The College has a duty to protect its staff and students from unlawful discrimination, harassment, intimidation, or threats of violence on the grounds of race, sex, religion or belief, sexual orientation, disability, and age.

The College must comply with its specific obligations in relation to gender segregation pursuant to the Equality Act 2010. Gender segregation (i.e. the segregation of male and female attendees via seating or standing arrangements) is prohibited by law for all meetings and events save as for meetings and events held for the purposes of religious observance undertaken by the adherents of a particular faith. Segregation is permissible in these circumstances only. In all other meetings and events, the College is legally obliged to take all reasonably practicable steps to prevent gender segregation.

The College must also take account of other legal obligations which may require it to have regard to what is said on its premises including complying with counter-terrorism legislation and criminal law. A speaker, for example, who makes slanderous statements or who incites an audience to violence or to a breach of the peace or to racial hatred transgresses the bounds of lawful speech. Equally, assemblies of persons, even if directed to lawful purposes, cease to be lawful if they cause serious public disorder or breaches of the peace. Whilst upholding the principle of freedom of speech recognised in this Code, the College also has a right to take action to prevent damage to its property or reputation; such action will not be unreasonably taken.

In the context of the broader notion of academic freedom, it is expected that all statements, claims and predictions or similar, reflect the academic principles of, among other things, an accessible evidential base, and a coherence of argument within the context of a recognised academic method or approach, in an area of the principal researcher's recognised expertise.

#### **4. Scope of the Code**

The Code shall apply to:

- all members of staff employed by the College.
- visiting speakers and all other persons invited or otherwise lawfully on the premises.
- Any student bodies, including any societies, clubs and associations contained within. This Code will be brought to the attention of student body members through HE Student Forums and any other platforms necessary (Welcome event, Induction, Boards of Study).
- Subject to the limitations in paragraph 7.3 below, the Code shall apply to all forms of communication and expression utilising the facilities/assets of the College, irrespective of the medium employed, including:
  - Meetings and similarly organised events arranged internally or by external organisations. The procedure to be followed in such cases is set out at paragraph 7.1.
  - The display of signs, posters, and distribution of literature.
  - The display of internal/non-profit making advertising material.
  - The display of audio-visual material.
  - Social and recreational activities.
  - College branded events taking place off campus.
  - Any other activity which the HE Strategy Committee from time to time declares to fall within the Code.

#### **5. Responsibilities**

The CEO/ Principal shall be responsible to the Governing Body for the operation of this Code. Subject to this, his/her authority will be delegated to the Deputy Principal who may further delegate his/her authority in general or in particular instances to other members of the College staff. This may include setting up a working group to consider a 'designated event' (as defined in paragraph 6) and to make recommendations. Any such group shall comprise such representatives as the Deputy Principal considers appropriate.

In reaching any decision under this Code, the College will give careful consideration to the relevant issues and all available evidence, and act proportionately. It will endeavour to balance the right to freedom of speech, and its duty to protect it, with any relevant legal limitations. It will also take into account relevant guidance that may be issued by appropriate bodies.

Any decision under the Code will be made as soon as reasonably practicable, and in any event, no more than 15 working days after the CEO/ Principal receives notification of the 'designated event'. Only the CEO/ Principal, (or, in his/her absence, a member of the Senior Leadership Team) has the authority to ban a designated event, subject to appeal as set out in paragraph (f) below.

Where there is a dispute about the interpretation of this Code, a ruling in a particular instance, the matter may be referred to the Governing Body for final determination if time and practicalities permit. The appeal must be made within five working days of the decision. Any decision taken by the Governing Body will be final and is to be reported at the next convening, also at the Senior Leadership Team meeting so all parties involved are aware. Any instances where the Code has been invoked must be reported and documented.

## **6. 'Designated Event' - Definition**

A 'Designated Event' is defined as: any meeting, event, or other activity due to take place on College premises, or utilising College facilities, which makes it likely that the College would be failing to act in accordance with duties imposed on it by law, or which would infringe the rights or freedoms of others if no action were taken in respect of the event. For the purposes of illustration only, the following is a non-exhaustive list of possible 'Designated Events':

- the expression of views which may be contrary to the law, or views which are expressed in a manner which may be contrary to the law.
- any meeting or other activity where it is likely that the speaker may not be able to enter or leave the building safely and/or deliver his/her speech (see para 7 below). any event at which a breach of the peace is likely to occur.
- the commission of, or incitement of persons to commit, an unlawful act.
- organisation of an event by, or on behalf of, any organisation or group which is outlawed under UK law.
- any meeting or event where there is a reasonable risk of unlawful gender segregation. For example, any meeting or event that follows religious worship, where gender segregation has lawfully taken place, which is attended by non-adherents to the religion involved.

## **7. Associated Policies, Regulations and Procedures**

Any breach of this Code and any conduct or course of action which prejudices the lawful exercise of freedom of speech, or which causes the College to fail in its legal duties as set out in this Code will render those responsible subject to disciplinary proceedings as laid down by the College. In the event of a concern as to whether an

activity falls within the definition of a 'designated event' (as defined in paragraph 6), advice should be sought from the Senior Leadership Team.

Additionally, if any such actions involve breaches of the law, the College will be ready to assist the prosecuting authorities to implement the processes of law, and if charges are preferred, may stay disciplinary proceedings pending the outcome of any such proceedings.

## **7.1 Meetings and Similar Organised Events**

All internal bookings of Facilities managed rooms on college premises should be made using appropriate room booking procedure as standard across all campuses.

Any booking of college facilities by or on behalf of an external person or organisation must be made subject to the Conditions of Hire of College Facilities.

All bookings of rooms or use of spaces on college premises by both internal and external persons are subject to compliance with this Code.

Organisers of meetings and other events are advised that room bookings and/or notification should always take place at the earliest possible date. Bookings may have to be refused, even where minimum times are complied with, if there is insufficient time in which to complete the necessary arrangements and procedures (including any appeal).

It is the responsibility of those who organise meetings or similar events to ensure that the question as to whether a meeting may be a 'designated event' (as defined in paragraph 6) has been carefully considered in good time by relevant College staff with all decisions appropriately recorded. In the event of doubt, advice should be sought from the outlined designated members of staff.

## **7.2 Display of Notices etc. and Distribution of Literature**

Guidance governing posters, notices, temporary signs, and the distribution of literature are available from the Marketing Department.

## **7.3 Advertising, Selling and Revenue-Generating Activity**

Nothing in this Code shall be interpreted as affording an automatic right for third parties to use College premises for the purposes of advertising, selling or other revenue-generating activity.

#### **7.4 Social and Recreational Activities**

Staff should take note of the College's Social Media Guidance.

Staff and students should adhere to all rules relating to the use of College IT Facilities. This information and other policies can be found on the College website.

#### **8. Review**

This Code will be reviewed on an annual basis.