



Code of Practice Relating to Freedom of Speech

February 2024

Code of Practice Relating to Freedom of Speech

General Statement for all University Policies

The following statement is to be appended to all relevant University policies and is deemed to be part of relevant existing ones with effect from the date of approval of this policy.

Statement on Freedom of Speech and Academic Freedom

The principles of academic freedom and freedom of speech within the law (and our equalities duties) are very much embedded in the University TIRI philosophy and our organisational culture. They provide a basis for providing all members of the University community with the opportunity to think critically and engage with diverse perspectives whilst at the same time enable the University to drive forward research and innovation – as we advance knowledge, understanding and truth.

The University of Bolton takes its responsibility to protect and promote both freedom of speech and academic freedom, strengthened by the Higher Education (Freedom of Speech) Act 2023, seriously and the principles are embedded into our key people policies, procedures and practices.

All members of the University community at all levels within the University have an obligation to understand, uphold and promote these principles. The University provides training / support and other resources to employees in support of this agenda. Any colleague who is not clear on these obligations should speak with their respective Head of Service / School.

The University will investigate and take both reasonable and proportionate action with respect to any allegations that go against these fundamental key principles. Where breaches by staff are uncovered the University will take action under the Disciplinary Procedure (or other appropriate procedure) – which if allegations are proven could result in a sanction up to and including dismissal or expulsion.

1. Introduction

- 1.1 The Higher Education (Freedom of Speech) Act 2023 (the 'Act') replaces the duty previously imposed on universities under Section 43 of the Education (No. 2) Act 1986 with universities now required to promote, as well as secure freedom of speech and academic freedom.
- 1.2 The Higher Education (Freedom of Speech) Act 2023 requires the University to take the steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take in order to achieve the objective in securing freedom of speech within the law for staff, members, students and visiting speakers. This includes a duty to ensure,

so far as is reasonably practicable, that use of any premises is not denied to an individual or group on grounds connected with their ideas, opinions, beliefs, views, policies or objectives.

- 1.3 In order to facilitate the discharge of these duties, the Board of Governors of the University is required under the Act to issue and keep up to date a Code of Practice setting out the procedures to be followed by members, students and employees, and their conduct, in connection with the organisation of meetings and other activities to be held on University premises and which fall within the scope of this Code of Practice. Further, the Code of Practice indicates how the University will satisfy its duty to promote freedom of speech within the law.

2. Scope

- 2.1 The Code of Practice shall apply to:

- (a) the University, including members of the Board of Governors;
- (b) University staff (full-time or part-time) and/or those working on behalf of the University;
- (c) University students (full-time or part-time);
- (d) the Students' Union its associated premises and any societies, clubs or associations; and
- (e) all persons invited to speak or otherwise take part in events to be held on University premises.

- 2.2 Reference to 'University premises' includes premises which are owned and/or controlled by the University and premises occupied or used by the University of Bolton Students' Union.

- 2.3 Every person to whom this Code of Practice applies is required to assist the University in upholding its provisions.

- 2.4 The University shall take such steps as are reasonably practicable, including where appropriate the initiation of disciplinary measures, to secure compliance by groups or individuals with their obligations under this Code of Practice.

- 2.5 The Board of Governors authorises the Vice Chancellor to appoint the Registrar who will act on its behalf to ensure that as far as is reasonably practicable all members, students and employees of the University comply with the requirements of this Code of Practice. Failure to comply with the Code of Practice may result in action being taken against those concerned under the relevant University procedure, irrespective of any action which may be taken in law.

3. Principles

- 3.1 The University believes that higher education has a role to play in “shaping a democratic, civilised, inclusive society”¹. The University seeks to establish an inclusive community which recognises that people with different backgrounds, experience, skills, attitudes, beliefs and views bring fresh ideas and new perspectives. The University respects the rights and freedoms of individuals, and the principles of equality, diversity and inclusion. All members of its community share the responsibility for maintaining an environment of reasoned enquiry, mutual tolerance and civility.
- 3.2 The principle of academic freedom, which encompasses freedom of speech, vigorous and open debate, and the freedom to follow lines of enquiry and discussion, no matter how unpopular or controversial they may seem to some, is an essential requirement for the pursuit of higher-level learning and research, which leads to the creation of new knowledge and understandings.
- 3.3 The University affirms its commitment to ensuring that staff, members, students and visiting speakers can exercise their right to freedom of speech as guaranteed in UK law by the Higher Education (Freedom of Speech) Act 2023, Section 43 Education (No. 2) Act 1986 and by Article 10 Human Rights Act 1998; and the freedom of academic staff within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions as provided for under the Education Reform Act 1988. However, these freedoms come with responsibilities to ensure that they are exercised in an atmosphere of tolerance and respect for others and their views, within the law of the UK.
- 3.4 The University supports the right of individuals to express controversial or unpopular views, provided that the expression of those views does not constitute racial hatred, religious hatred, hate crimes, sexual harassment or other activities which are likely to cause a breach of the peace or public disorder, create a risk to health and safety or are otherwise unlawful.
- 3.5 Nothing in this Code of Practice shall be taken to prohibit the lawful exercise of the right to peacefully protest. However, protests must be conducted without infringing the rights of others, including others’ right to freedom of speech.
- 3.6 The law protects the rights of members of the University to engage in debate and argument about social, political, religious, economic and scientific ideas, provided that the views expressed are not contrary to the civil or criminal law. The University will in this context promote freedom of speech. The University is not required to provide a platform for activity, for

¹ The National Committee of Enquiry into Higher Education, (1977) *Higher Education in the learning society*. NCIHE, London, p72

example, which is defamatory or in contempt of court, or may lead to violence, disorder or a breach of the peace, or incites racial or religious hatred, or encourages terrorism. A summary of the relevant legislation is set out in Appendix 1.

4. Procedures

- 4.1 Subject to the Principles set out above, so far as is reasonably practicable, no premises of the University shall be denied to any individual or body of persons wishing to use them for meetings on any grounds connected with:
 - (a) the ideas or opinions, beliefs or views of that individual or that body; or
 - (b) the policy or objectives of that body.
- 4.2 The University is under no legal obligation to allow meetings to be held on University premises which are open to members of the public. Meetings held on University premises shall not be open to those who are not members or employees of the University except by named invitations proposed by the organiser and approved in writing by the Registrar before such invitations or materials advertising the meeting are sent out.
- 4.3 The University will not unreasonably refuse to allow events to be held on its premises. Reasonable grounds for refusal shall include, but are not limited to, those events:
 - (a) where there is a real likelihood that the speaker may not be able to enter or leave the building safely and/or have the freedom within the law to deliver their speech without disruption;
 - (b) where there is reasonable belief that a breach of the civil or criminal law may be committed;
 - (c) that are in direct support of an organisation whose aims and objectives are illegal;
 - (d) where views to be expressed constitute views that risk drawing people into terrorism or are shared by terrorist groups; or
 - (e) which give rise to a breach of the peace.
- 4.4 The University is required to produce this Code of Practice setting out the procedures to be followed by students and staff in connection with the organisation of meetings and other activities (including virtual meetings and activities) which fall within any class specified in this Code of Practice, together with the conduct required of staff and students in connection with such meetings and activities.
- 4.5 Meetings or activities to which this Code of Practice also applies are those which are likely to take place outside teaching time or relate to non-teaching activity, and for which a room booking may be required. However, if external guest speakers are invited to timetabled lectures and seminars, the organisers should consider whether 4.3 above applies, and contact the Registrar if there is any possibility of a problem occurring. Guidance on the

types of meetings or activities to which the Code of Practice may apply is set out in Appendix 2.

- 4.6 Meetings or activities (including use of online resources to access an event) shall be held only if it has been booked in accordance with the normal procedures through Event Bookings Enquiries or the Students' Union.

The booking form needs to require the person making the booking to state:

- (i) the name of the organiser, and in the case of an external booking, the affiliation of the organiser;*
- (ii) the name(s) of any external speakers and their affiliation(s);*
- (iii) the purpose of the meeting and/or the subject matter of any speech;*
- (iv) the language in which meetings will be conducted, if not in English.*

On receipt of the booking request, the designated postholder will either:

- (a) accept the booking and grant permission for the meeting or activity to take place; or
- (b) refer the booking to the Registrar; or
- (c) if suitable premises are not available, decline the booking.

- 4.7 In the case of bookings referred to the Registrar under 4.6, the Registrar shall make such enquiries as is necessary, and consult senior staff of the University and the Chair or Deputy Chair of the Board of Governors, in order to decide whether to grant or withhold permission for use of the University's premises for the proposed purpose. The University has the responsibility to maintain good order on its premises and the grant of permission may be subject to such conditions as the Registrar deems necessary to ensure that the University discharges its statutory responsibilities concerning freedom of speech within the law and consistent with the need to maintain order.
- 4.8 The Registrar is entitled to designate a meeting or activity as being subject to this Code of Practice, even if the organisers have not applied to book a room on University premises.
- 4.9 Any meeting or activity must have a named organiser with full authority to act on behalf of the group in all matters concerned.
- 4.10 The Registrar may declare the meeting or activity to be a public event, which would permit the police to be present.
- 4.11 The organiser and every person concerned with the holding of any meeting or activity for which written consent has been granted by the Registrar shall be required to comply with any and every condition specified by the Registrar. Conditions may include the requirement to issue tickets, the availability of stewards and security staff, the admission or exclusion of press, television or broadcasting personnel.

- 4.12 The organiser of the meeting or activity will be required to meet the full cost of providing stewards and security staff as reasonably determined by the Registrar necessary for the meeting and for control and access to it. Payment will be in accordance with Room Booking terms and conditions.
- 4.13 The principal organiser responsible for the meeting or activity has a duty to ensure that nothing in the preparation for, or conduct of, a meeting or activity infringes the law, University regulations and is compliant with this Code of Practice. The Chair of the meeting has a duty to take all reasonable steps to ensure that both the speaker and the audience act in accordance with the law and that the principles of freedom of speech are upheld during the meeting. The Chair will be expected to use his or her best endeavours to provide any questions to a speaker, or contributions, are taken from a cross-section of those attending the meeting and are not confined to those of a particular view. In the case of unlawful conduct, the Chair is required to give appropriate warnings and if the conduct continues to require the withdrawal or removal of the persons by stewards or security staff.
- 4.14 University employees and University security staff designated by the Registrar are entitled to enter meetings held on University premises to which this Code of Practice applies.
- 4.15 Premises used for meetings or activities must be left in a clean and tidy condition; organisers may be charged for any additional cleaning and repair costs that may be required. The organisers will be required to indemnify the University in the event of any loss, damage or expense arising at the meeting or activity to University premises.
- 4.16 Stewards and/or security staff shall have the right to prohibit those attending the meeting bringing onto University premises any article or object likely to cause injury or damage.
- 4.17 Appeals against the decision of the Registrar may be made to the Vice Chancellor whose decision is final. The Vice Chancellor will report the outcome of any appeals to the next meeting of the Board of Governors.

5. How the University will protect and promote Freedom of Speech

5.1 The University will:

- (a) ensure that this Code of Practice and the principles within it are brought to the attention of staff and students on induction at the University;
- (b) draw this Code of Practice to the attention of students annually;
- (c) ensure that all relevant staff receive training on their role in helping to discharge the University's obligations in relation to freedom of speech and academic freedom;

- (d) review and, if required, update existing policies and procedures and where policies and procedures are introduced, ensure that consideration is given to their impact on freedom of speech and academic freedom;
 - (e) ensure adequate and effective mechanisms are in place to raise concerns in relation to freedom of speech and academic freedom; and
 - (f) where concerns are raised regarding freedom of speech and academic freedom, ensure that, so far as is reasonably practicable, such concerns are addressed and any lessons to be learned are incorporated into a review of relevant policies, procedures and practices.
6. In order specifically to promote freedom of speech, the University will promote Freedom of Speech (FOS) and Academic Freedom (AF) at multiple time points in student and staff engagement and across multiple aspects.
- 6.1.1 The University will promote FOS and AF at the following time points for students
- Prior to application via the website and promotional materials
 - At the initial enrolment period via induction processes
 - Prior to the start of each module and programme via Module Guides and Programme Handbooks
 - At other relevant times
- 6.2 The University will promote Freedom of Speech and Academic Freedom at the following time points for staff:
- Prior to recruitment via job descriptions and person specifications
 - At initial engagement via new starter induction
 - Periodically throughout employment via annual performance review
 - Upon completion of employment via exit interviews
 - At other relevant times
- 6.3 The University will promote Freedom of Speech and Academic Freedom across the following aspects of its work:
- The University culture through workshops and CPD generally
 - University practices and operations via FOS and AF being a default component of all academic policies
 - University recognition via embedding FOS and AF in promotions criteria
 - In other relevant activities

APPENDIX 1

The following list is not exhaustive and is intended as a guide only in order to seek further information.

Relevant legislation²

Higher Education (Freedom of Speech) Act 2023

HEIs and students' unions must take reasonably practicable steps that have regard to the importance of academic freedom and lawful freedom of speech.

Section 43, Education Act (No 2) Act 1986

HEIs must take reasonable steps to ensure that freedom of speech within the law is secured for members, students, employees and visiting speakers. This duty includes taking reasonable steps to ensure that the use of the HEI's premises is not denied to an individual or group on the grounds of views or beliefs held by the individual/group, or the policy or objectives of the group.

Section 202, Education Reform Act 1988

HEIs must ensure 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 any privileges they may have at an institution. These rights must be exercised within the law.

Human Rights Act 1998

The Human Rights Act 1998 incorporates the European Convention on Human Rights into UK law. As public institutions HEIs must carry out their functions in accordance with the rights guaranteed by the Convention. Relevant Convention articles include:

Article 9 - Freedom of thought, conscience and religion. The right to freedom of thought and conscience is absolute and cannot be limited. The right to manifest religion or belief is subject to limitations in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights or freedoms of others.

Article 10 – Freedom of expression. Individuals have the right to freedom of expression, including the freedom to hold opinions and to receive and impart

² Extracted from *UUK: Promoting Good Campus Relations dealing with hate crimes and intolerance (2005)* and *DfES: Promoting Good Campus Relations: Working with Staff and Students to Build Community cohesion and Tackle Violent Extremism in the Name of Islam at Universities and colleges (2006)*

information and ideas. The right is subject to limitations including those set by law and necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, or for preventing the disclosure of information received in confidence.

Article 11 – Freedom of assembly and association Individuals have the right to freedom of peaceful assembly and to freedom of association with others, subject to limitations in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

Article 14 – European Convention on Human Rights . This Article provides an over-arching principle of non-discrimination and can only be used in relation to other Convention rights. It entitles an individual to exercise his or her rights under the Convention without discrimination on any grounds including sex, race, colour, language, religion, political or other opinion, national or social origin, or association with a national minority. This right is unqualified and cannot be limited.

Article 17 – inter-relationship between Convention rights. This Article states that the convention does not grant anyone the right to do anything which is aimed at deriving others of their Convention rights, or at limiting those rights.

Equality Act 2010

Legislation prohibits discrimination on the grounds of race, gender, religion or belief, age, sexual orientation, gender reassignment or disability in all HEI functions including terms of employment, the recruitment, retention and progression of staff and the admission, progression and assessment of students including benefits, facilities and services and the imposition of any penalty or detriment.

HEIs have a positive duty to eliminate unlawful discrimination and promote equality of opportunity in relation to race, sex and disability.

Public Order Act 1986

This Act outlaws the following:

- acts or threats of violence: riot, violent disorder or affray;
- causing fear or provocation of violence: a person using threatening, abusive or insulting behaviour towards another, or displaying threatening, abusive or insulting material, may be guilty of causing fear or provocation of violence if or she intends or causes a fear of violence, or intends to provoke or causes a fear that violence will be provoked;
- harassment, alarm or distress: using threatening, abusive or insulting words or behaviour, or disorderly behaviour, or displaying threatening, abusive or insulting material, within the hearing or sight of a person likely to be caused harassment, alarm or distress.

- Incitement to racial hatred: using threatening, abusive or insulting words or behaviour, or displaying, publishing or distributing threatening, abusive or insulting material intended or likely to stir-up racial hatred. Racial hatred is defined as hatred against a group or persons defined by reference to colour, race, nationality or ethnic/national origins

The Protection from Harassment Act 1997

Under this Act harassment is defined as:

- pursuing a course of conduct which amounts to harassment of another, which the harasser knows or ought to know amounts to harassment;
- causing fear of violence – pursuing a course of conduct that causes another to fear that violence will be used against him/her

A person convicted of harassment may be made the subject of a restraining order, which can impose exclusion zones.

The Crime and Disorder Act 1998

This Act increased the penalties applicable to offences if they are racially aggravated or if there is a religious element to the crime. As long as some of the motivation is wholly or partly racial, the offence will count as a racially aggravated offence.

Racial and Religious Hatred Act 2006

The Act creates new offences of stirring up hatred against persons on religious grounds. The new offences apply to the use of words or behaviour or display of written material, publishing or distributing written material, the public performance of a play, distributing, showing or playing a recording, broadcasting or including a programme in a programme service and the possession of written materials or recordings with a view to display, publication, distribution or inclusion in a programme service. For each offence the words, behaviour, written material, recordings or programmes must be threatening and intended to stir up religious hatred. Religious hatred is defined as hatred against a group of persons defined by reference to religious belief or lack of religious belief

Terrorism Act 2000

Under this Act there is a positive duty to inform the police where a person has information that might be of material assistance in preventing another person from committing and act of terrorism or securing the apprehension, prosecution or conviction of another person in the UK for an offence involving the commission, preparation or instigation of an act of terrorism. There is also a duty to inform the police about information relating to offences concerning the funding of terrorism

Terrorism Act 2006

This Act created offences which include:

- publishing or causing to be published a statement which is likely to be understood as directly or indirectly encouraging terrorism. Indirect encouragement includes glorification as long as those to whom the statement is published understand that the conduct that is glorified is glorified as conduct that should be emulated;
- disseminating terrorist publications. Dissemination includes distributing, circulating, selling, emailing or offering for download. A publication will be a terrorist publication if it contains matter which directly or indirectly encourages terrorism, or is useful in acts of terrorism and was included in the publication wholly or mainly for the purposes of being so useful. Indirect encouragement includes glorification as long as those to whom the statement is published understand that the conduct that is glorified is glorified as conduct that should be emulated;
- preparing to commit an act of terrorism or to assist others to do so if the defendant has the necessary intention to commit an act of terrorism or assist others to do so;
- attending at a place for terrorist training.

Counter Terrorism and Security Act 2015

This Act makes provision to counter terrorism by:

- placing temporary restrictions on travel where a person is suspected of involvement in terrorism;
- enhancing existing terrorism prevention and investigation measures to monitor and control the actions of individuals in the UK who pose a threat;
- enhancing law enforcement agencies' ability to investigate terrorism and serious crime by extending the retention of relevant communications data to include data that will help to identify who is responsible for sending a communication on the internet or accessing an internet communications service;
- strengthening security arrangements in relation to the border and to aviation, maritime and rail transport; and
- reducing the risk of people being drawn into terrorism, by enhancing the programmes that combat the underlying ideology which supports terrorism through improved engagement from partner organisations and consistency of delivery.

APPENDIX 2

Anyone involved in organising a meeting or other activity, or processing a room booking should consider whether there is a possibility that the speaker may not be able to enter or leave the building safely and/or have the freedom within the law to deliver their speech without interruption; or that a breach of the civil or criminal law may be committed.

The following is an indicative list of circumstances which might give rise to a reasonable apprehension that disruption or disorder may occur.

(a) where the subject-matter of the meeting or activity includes in whole or in part

- Animal experimentation
- Immigration and nationality policy
- The supposed superiority or otherwise of racial/ethnic/religious groupings
- Blood sports
- Genocide
- A current or recent war (or revolution)
- Sexual abuse of children and paedophilia
- Abortion
- Drugs policy
- Terrorism and/or violent extremism
- Other local or national controversial matters

(b) when the guest or visiting speaker includes

- Any current Member of the House of Commons or Lords
- A present or former representative of any political party which has put forward candidates at a British or Irish Parliament election in the last 20 years
- Any member of the British or an overseas Royal family
- Any diplomat or the representative of a foreign power
- Any person who has previously been prevented from delivering a speech or whose presence has threatened a breach of the peace at the University or any other Higher Education Institution
- Any religious cleric or representative

(c) where the subject matter might be considered to be of a blasphemous³ nature (not just in respect of Christianity), obscene or defamatory.

This list is provided for guidance and is not intended to be exhaustive. If there is any doubt whether the Code of Practice applies, the guidance of the Registrar should be sought.

³ 'Blasphemy' is defined by the Oxford English Dictionary as 'irreverent talk about God or sacred things'.

APPENDIX 3

Additional Resources

Freedom of Expression: A guide for higher education providers and students' unions in England and Wales

<https://www.equalityhumanrights.com/sites/default/files/freedom-of-expression-guide-for-higher-education-providers-and-students-unions-england-and-wales.pdf>

Code of Practice Relating to Freedom of Speech

Policy Ref: VC: 04/2023

Version Number:	5.0
Version Date	Revised January 2024
Name of Developer/Reviewer	Registrar
Policy Owner (School/Centre/Unit)	Vice Chancellor's Office
Person responsible for implementation (postholder)	Vice Chancellor and all staff
Approving Committee/Board	Board of Governors on 13 Feb 2024
Date approved	13 February 2024
Effective from	13 February 2024
Dissemination method (e.g. website)	Website
Review Frequency	As required
Reviewing Committee	
Document History (e.g. rationale for and dates of previous amendments)	