

## **Code of Practice relating to Freedom of Speech and all Planned, Affiliated, Funded or Branded Events taking place Off Campus**

### **1. Preamble**

- 1.1 The Education (No 2) Act 1986 requires the University to “take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees and for 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 beliefs, views, policies or objectives.
- 1.2 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 a Code of Practice setting out the procedures to be followed by members, students and employees, and their conduct, in connection with all meetings on University Premises. As an extension to the existing Code of Practice, the Board of Governors has approved this Code of Practice relating to Freedom of Speech and all Planned, Affiliated, Funded or Branded Events taking place Off Campus.
- 1.3 This 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 all planned, affiliated, funded or branded events to be held off campus.
- 1.4 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.

### **2. Principles**

- 2.1 The University believes that higher education has a role to play in “shaping a democratic, civilised, inclusive society”<sup>1</sup>. 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.
- 2.2 The principle of academic freedom, which encompasses freedom of speech, vigorous and open debate, and the freedom to follow lines of enquiry, no matter how unpopular or controversial, is an essential requirement for the pursuit of higher level learning and research, which leads to the creation of new knowledge and understandings. The University affirms its commitment to ensuring that staff, students and visiting speakers can exercise their right to freedom of speech as guaranteed in UK law by the Education (No. 2) Act 1986 and by Article 10 Human Rights Act 1998; and the freedom of academic staff within the law to 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.
- 2.3 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 is not required to provide a platform for activity, for 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.

### **3. Procedures**

- 3.1 The University is under no legal obligation to allow planned, affiliated, funded or branded events held off campus to be open to members of the public. Meetings held off campus 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 event are sent out.
- 3.2 The University will not unreasonably refuse planned, affiliated, funded or branded events held off campus. Reasonable grounds for refusal shall include, but are not limited to, those events:

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

- (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.
- 3.3 Meetings or activities to which this Code of Practice applies are those which are likely to take place outside teaching time or relate to non-teaching activity. Any organiser must consider whether 3.2 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 this Code of Practice may apply is set out in Appendix 2.
- 3.4 In the case of meetings or activities referred to the Registrar under 3.3, 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, if appropriate, in order to decide whether to grant or withhold permission for the event. The University has the responsibility to maintain good order 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.
- 3.5 The Registrar is entitled to designate a meeting or activity as being subject to this Code of Practice.
- 3.6 Any meeting or activity must have a named organiser with full authority to act on behalf of the group in all matters concerned.
- 3.7 The Registrar may declare the meeting or activity to be a public event, which would permit the police to be present.
- 3.8 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.
- 3.9 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 event and for control and access to it. Payment will be in accordance with the booking terms and conditions.

- 3.10 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 event 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 event. 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 event 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.
- 3.11 University employees and University security staff designated by the Registrar are entitled to enter events taking place off campus to which this Code of Practice applies.
- 3.12 Stewards and/or security staff shall have the right to prohibit those attending an event from bringing any article or object likely to cause injury or damage.
- 3.13 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.

#### **4. Related Policies and Procedures**

The following policies and procedures are related to the Code of Practice relating to Freedom of Speech and all Planned, Affiliated, Funded or Branded Events taking place Off Campus:

- Code of Practice Relating to Freedom of Speech and Meetings on University Premises.
- Prevent Policy.

## APPENDIX 1

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

### Relevant legislation<sup>2</sup>

#### 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 any 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 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

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<sup>2</sup> 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)*

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.

### **Anti-Discrimination legislation**

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 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 blasphemous<sup>3</sup> 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.

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

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