

## FREEDOM OF SPEECH

### CODE OF PRACTICE

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1. This Code of Practice sets out our institutional commitment to freedom of speech. It applies both on campus, and to any event or activity conducted in the University's name off campus.
2. As an academic community Birmingham City University is committed to creating a welcoming and inclusive learning environment. Core to that concept is the ability to share views and perspectives, to challenge received wisdom, to question and debate, and to put forward ideas that may be unorthodox.
3. We encourage staff and students to share ideas and perspectives and to be tolerant and respectful of those with views different from their own. No individual or group should be harassed or bullied because of their views, and we do not allow discrimination in any form on grounds of religion, ethnicity, gender, or disability.
4. Our approach to ensuring freedom of speech within the law will be based on the following principles:
5. Freedom of speech is at the heart of all democratic societies and a foundation stone of higher education.
6. The promotion of a culture of tolerance of differing views and perspectives and an acceptance that, in a free and open environment of academic debate, ideas will be robustly contested and challenged.
7. The need, on occasion, to balance the right to freedom of speech against the need reasonably to protect the rights of others.
8. The need, when balancing rights, to ensure that this is done in a way that is proportionate (thus meeting a high and evidenced benchmark of appropriateness) and legal and informed by an assessment of whether any balancing action could be undertaken in a way that is less restrictive.
9. That any restriction that may be required shall be an exception.

## What does the law say?

- **Education Act 1986**  
English and Welsh universities must protect freedom of speech within the law under section 43 (No. 2) of the **1986 Education Act**. This Act requires the University to publish a Code of Practice, which sets out the procedures our members, students and employees should follow to uphold free speech. Lawful free speech should never be prevented or inhibited on campus. We are also obliged to protect freedom of speech across the campus. This includes on student union premises, even if these are off-campus and/or owned by the students' union.
- **European Convention on Human Rights**  
All universities and colleges must also comply with the right to freedom of expression (Article 10) and the right to freedom of assembly and association (Article 11) of the **European Convention on Human Rights (ECHR)**. The ECHR is incorporated into UK law by the Human Rights Act 1998.
- **Higher Education and Research Act 2017**  
The (HERA) makes it clear that all universities and colleges which register with the Office for Students must uphold the existing laws around freedom of speech. Where they are registered, universities and colleges must follow the **OfS regulatory framework**. The framework requires the governing bodies of registered universities and colleges to take 'such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.'
- The University also has a moral obligation to encourage dialogue and tolerance and to minimise the scope for extremism on campus. In particular, the Prevent Duty 2015 requires the University to "have due regard to the need to prevent people from being drawn into terrorism". In that context the University has a particular duty to ensure that all events involving external speakers are adequately managed, to ensure that the principles of freedom of speech and anti- extremism are observed.
- As an academic institution firmly rooted in the City of Birmingham, we do not shy away from controversy or the discussion of controversial subjects. However, in keeping with this code, such discussion should always be conducted in an atmosphere of tolerance and respect for the views and beliefs of others. Wherever possible opportunities should be provided for views from both sides of any intellectual argument to be heard and discussed.

## Speakers and Events

A crucial part of our approach to promoting freedom of speech within the law is the way in which we encourage a culture of open debate through inviting external speakers onto our campuses to discuss important and sometimes challenging issues. To support and promote external speakers and associated events, the University and our student unions' have developed speakers and events policies.

The University will always seek to allow a speaker to speak and an event to go ahead with minimal oversight, but we recognise that, in certain cases, it will be necessary to put in place arrangements to ensure fair and open debate within the law, a balance of viewpoints and the safety of our students and staff.

The University works closely with our student unions to ensure that we have robust, fair and transparent arrangements in place to manage speaker events within the expectations of the law and regulation that take place on its premises. Our approach is set out below:

- (a) The Birmingham City University Speakers and Events Policy , which can be found [here](#).

#### Examples of improper or illegal speech

The University regards the following as examples of improper or illegal speech:

- (i) Speech that encourages or supports violence against specific groups or individuals.
- (ii) Speech that encourages support for or participation in terrorism as defined by the Terrorism Act 2001.
- (iii) Speech that encourages or supports any other form of criminal activity.

Normally, speech that may cause offence to individuals or specific groups and is not illegal speech as defined in (i) and (ii) above, while not necessarily supported or encouraged by the University, will be permitted, although under certain circumstances only with appropriate mitigation (see section 3).

The University recognises that its legal duties must on occasion be balanced against one another, particularly with regard to our general duty of care to staff and students, and we will ensure that any decision taken is subject to a reasonableness test (for example: where a complaint is made about a speaker or event on the grounds of perceived harassment or offence). This will include an assessment of the potentially disproportionate impact upon those who are vulnerable and protected under the Equality Act 2010.

### **3. Our Policies and Procedures**

We will ensure that there is no hindrance beyond the requirements of the law placed on a member of the University's right to freedom of speech through any relevant policy or procedure, particularly the following:

- (a) Our disciplinary procedures for [students](#) and [staff](#).
- (b) Our contractual arrangements for staff, which can be found [here](#).
- (c) Our contractual arrangements with students, which can be found [here](#).
- (d) Our arrangements for the management of speakers and events on University property (see Section 2)
- (e) Our processes for the reporting of concerns, which can be found [here](#).

#### **1. This code of practice applies to:**

- All student and staff exchanges and communication whether face to face, in writing, via traditional or social media;
- The organisation of meetings, conferences, assemblies, or similar events that take place on any University campus; as well as those that are organised and sponsored/ approved by the University but held on other premises, whether for University staff or students; the public, or a discrete group or association; and

- Any event that involves outside speakers i.e. not staff or students of the University.

For details of arrangements for events see: *External Speaker and Event Procedures*

## **6. Review**

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The University Secretary or designated nominee will review this Code of Practice every three years or sooner where new developments in relevant legislation, or changes to operational practices make such a review necessary. We will carry out reviews in consultation with all relevant internal stakeholders.

Last reviewed: December 2022

Code of Practice owner: University Secretary