**BIRMINGHAM CITY UNIVERSITY**

**CODE OF PRACTICE ON FREEDOM OF SPEECH**

**Version 1.0**

**Document Profile and Control**

**Purpose of this Document:** This Code of Practice sets out Birmingham City University’s commitment to freedom of speech and academic freedom within the law.

##

**Sponsor Department:** Secretariat & Legal Services

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**CODE OF PRACTICE ON FREEDOM OF SPEECH**

1. **INTRODUCTION**
	1. Section 43 of the Education (No. 2) Act 1986 (and, where relevant, any subsequent legislation) requires universities and colleges and all concerned in their government to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for its members, students and employees and for visiting speakers.
	2. Birmingham City University (the “University”) takes its responsibilities to promote freedom of speech and academic freedom, as codified in the Higher Education (Freedom of Speech) Act 2023, seriously and is committed to doing it all that it can to promote and protect these principles.
	3. As part of this, the University is required to produce a Code of Practice. This Code of Practice sets out the University’s commitment to freedom of speech and academic freedom within the law.
2. **SCOPE**
	1. This Code of Practice applies to:
3. all members, staff and students of the University;
4. visiting speakers and all other persons invited or otherwise lawfully on the University’s premises; and
5. the organisation of meetings, conferences, assemblies, or similar events that take place on any University premises; 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.
	1. References in this Code of Practice to the “University’s premises” means those premises over which the University exercises control (including online or virtual classrooms and communication spaces).
6. **KEY CONCEPTS**
	1. Freedom of speech means that everyone has the right to express lawful views and opinions freely, in speech or in writing, without interference.
	2. Freedom of speech within the law is protected. This means that freedom of speech will not be protected if it contravenes some other law and illegal or unlawful acts will not be tolerated by the University.
	3. The University has a duty to protect its staff and students from unlawful discrimination, harassment, intimidation or threats of violence on the grounds of race, sex, age, religion or philosophical belief, sexual orientation, disability, gender reassignment, marriage and civil partnership, or pregnancy or maternity. However, the provisions of the Equality Act 2010 should not be interpreted to undermine freedom of speech and academic freedom. As a result, students’ learning experience and the working environment of staff may include exposure to research, course material, discussion or speaker’s views that they find offensive, contentious or unacceptable, but are nonetheless within the law, and unlikely to be considered unlawful harassment or discrimination under the Equality Act 2010.
	4. Academic freedom means freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without being at risk of being adversely affected. An individual would be deemed to have been adversely affected if they had either lost their job or privileges at the University, or experiences a reduction in the likelihood that they would secure a promotion or different job at the University.
	5. The University is committed to ensuring that academic staff have the freedom to question and test received wisdom and put forward new ideas and opinions without placing them at risk of using their job, privileges or future opportunities. Academic freedom shall extend to all academic staff and to any visiting or guest lecturer invited by the University.
7. **VALUES**
	1. As an academic community, the 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 unpopular. Where events may include the expression of potentially controversial or unpopular views, the University shall act in accordance with its wider legal duties set out in the Annex 1 to this Code of Practice.
	2. The University recognises the fundamental role it plays in society as a place of debate and discussion within the law, where ideas can be tested and where students learn to debate and challenge concepts and ideas.
	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.
	4. Our approach to ensuring freedom of speech and academic freedom within the law will be based on the following values:
		1. freedom of speech is at the heart of all democratic societies and a foundation stone of higher education;
		2. 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;
		3. the need, on occasion, to balance the right to freedom of speech against the need reasonably to protect the rights of others; and
		4. that any restriction that may be required shall be an exception.
8. **STEPS THE UNIVERSITY TAKES TO ENSURE FREEDOM OF SPEECH**
	1. The University will ensure that its teaching, curriculum, policies and procedures reflect its duties to ensure, so far as is reasonably practicable, freedom of speech and academic freedom within the law. In particular:
		1. its processes for programme development and approval, quality assurance and academic assessment will respect the rights of freedom of speech and academic freedom;
		2. its processes for facilitating research will respect the rights of freedom of speech and academic freedom; and
		3. no individual will be subjected to disciplinary action or other less favourable treatment by or on behalf of the University because of the lawful exercise of freedom of speech or academic freedom.
	2. The University does not enter into non-disclosure agreements related to complaints about sexual misconduct, bullying or harassment.
	3. The University is aware that the terms of certain overseas funding, including funding from endowments, gifts, donations, research grants and contracts, and educational or commercial partnerships, from any overseas country, may present a risk to freedom of speech and academic freedom. Therefore, the University has processes in place to ensure that risks to freedom of speech or academic freedom are identified and appropriately managed.
	4. To deliver its responsibility to promote and secure freedom of speech and academic freedom, the University shall:
9. ensure that this Code of Practice is brought to the attention of new students at registration and new staff during induction;
10. draw the attention of students to the code annually;
11. ensure that all staff receive training on freedom of speech and academic freedom;
12. periodically survey staff, students and other stakeholders to secure their views on whether freedom of speech and academic freedom at the institution are being adequately protected and take the findings into account;
13. ensure that there are adequate measures in place to raise concerns about freedom of speech and academic freedom;
14. ensure that when new policies and procedures are introduced consideration is given to their impact on freedom of speech and academic freedom;
15. monitor any concerns that have been raised about freedom of speech and academic freedom to ensure that they are addressed so far as is reasonably practical and that any lessons learned are incorporated into a review of relevant policies practices and procedures; and
16. take steps to secure compliance with this Code of Practice, including where appropriate disciplinary action.
17. **EVENTS AND MEETINGS**
	1. Where any individual or body subject to the obligations of this Code of Practice wishes to hold an event, meeting or other activity for the expression of any views or beliefs held or lawfully expressed on University premises, consent shall not be unreasonably refused. Any conditions imposed on the holding of the meeting shall be kept to the minimum necessary in light of any risks identified in holding the meeting.
	2. Where any person or body to whom this Code applies is seeking to hold an event or meeting outside of the normal academic curriculum the University’s Visiting Speaker and Event Policy and Procedure (set out at **Annex 2**) shall be followed. This sets out:
18. the procedures to be followed by staff and students in connection with the organisation of events or other activities on the University’s premises;
19. the conduct expected of staff and students in connection with any such event or activity;
20. the criteria to be used by the University in making decisions about whether to allow the use of premises and on what terms; and
21. the criteria for determining the exceptional circumstances in which the costs of security for using the premises might be passed on to those arranging the relevant activity or event.
22. **BREACHES AND COMPLAINTS**
	1. If an offence is allegedly committed at or in connection with an event or activity to which the provisions of this Code of Practice apply, in addition to any internal disciplinary procedures for staff (see [here](https://icity.bcu.ac.uk/HR) and [here](https://mailbcuac.sharepoint.com/sites/HR/Shared%20Documents/Policies%20and%20Procedures/Disciplinary%20Policy.pdf)) or students (see [here](https://icity.bcu.ac.uk/Student-Affairs/Appeals-and-Resolutions/Student-Disciplinary-Procedure-Non-Academic) and [here](https://www.bcu.ac.uk/student-info/student-contract)) that may be appropriate, the University may take steps to assist the police in identifying any persons committing offences.
	2. Any concerns or complaints regarding this Code of Practice or the actions of the University in respect of it can be found [here](https://reportandsupport.bcu.ac.uk/).
	3. Where the University receives a concern about the exercise of academic freedom or freedom of speech or there has been an infringements of or departure(s) from the procedures set out in this Code, the University shall investigate accordingly. Subject to the outcome of the initial investigation, such allegation may lead to further investigation in accordance with the University’s disciplinary procedures, which could be under the Disciplinary Policy and Procedure for staff or the Student Disciplinary Procedure, or the University’s grievance or complaints procedures.
23. **MONITORING AND REVIEW**
	1. 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: November 2023**

**Code of Practice owner: University Secretary**

**ANNEX 1**

# What does the law say?

Universities in England have a range of legislative and regulatory duties in relation to free speech, including:

* + - The Higher Education (Freedom of Speech) Act 2023 requires that higher education institutions promote the importance of freedom of speech within the law for staff, students, and visiting speakers, and academic freedom. This includes in teaching settings. It requires that institutions have a Code of Practice (this document) setting out their approach to freedom of speech;
		- Section 43 of the Education (No. 2) Act 1986 places universities under a statutory duty to take reasonably practicable steps to ensure that freedom of speech within the law is secured for staff, students and visiting speakers;
		- The Human Rights Act 1998 incorporated the European Convention on Human Rights (ECHR) in domestic legislation and includes the right to freedom of expression, which includes freedom of speech; and
		- The Office for Students (OfS), through its Regulatory Framework requires the University to comply with a set of public interest governance principles, two of which are freedom of speech and academic freedom. The Framework also regulates free speech and academic freedom by means of Conditions E1 (public-interest governance) and E2 (management and governance).

Universities are also subject to a number of other duties that must be considered in addition to freedom of speech, including:

* + - compliance with the Public Sector Equality Duty as set out in the Equality Act 2010, which requires the University to have due regard to the need to eliminate discrimination, harassment, victimisation, and to advance equality of opportunity and foster good relations between people who share ‘protected characteristics’ (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation) and those who do not;
		- compliance with the ‘Prevent’ duty which requires universities ‘to have due regard to the need to prevent people from being drawn into terrorism’; and
		- other legal responsibilities, such as those relating to preventing discrimination, harassment and victimisation, maintaining public order, and the health, safety and welfare of employees, students, visiting speakers and visitors.

**ANNEX 2**

**Visiting Speaker and Event Policy and Procedure**

# Introduction

This document sets out the University’s policy governing events involving visiting speakers. It is relevant to any individual or organisation wishing to organise an event involving a visiting (i.e. non- University) speaker. It explains what the University will or will not allow when booking visiting speakers at an event[[1]](#footnote-1) and sets out the procedure that the organiser should follow.

Although the Visiting Speaker and Event Policy and Procedure (the “Policy and Procedure”) relates primarily to visiting speaker event bookings that take place on any University campus, it also apply to events that are organised with University sponsorship/ approval, or under University auspices on other premises.

This Policy and Procedure should be read in conjunction with the Code of Practice on Freedom of Speech (as set out above and available on iCity) and the Equal Opportunities Statement (URL - <http://www.bcu.ac.uk/about-us/corporate-information/equality-and-diversity> ). If you do not have access to iCity or the website, please email the University Secretariat (secretariat@bcu.ac.uk ) who can provide copies.

# Scope

This Policy and Procedure applies to all Birmingham City University students and staff; and to individuals and organisations external to the University who wish to organise a visiting speaker event on University premises.

A visiting speaker is any non-curriculum linked speaker and includes speakers organised for conferences, events and/or speeches held at or in the name of Birmingham City University, whether booked by University Staff, students or external parties. This includes events held virtually via collaboration tools such as MS Teams or Zoom.

# Policy

# The University has adopted a Code of Practice on Freedom of Speech. The University will only permit events to be held which are consistent with the Code of Practice. Where any individual or body who falls under the scope of this Policy and Procedure wishes to hold an event, meeting or other activity for the expression of any views or beliefs held or lawfully expressed on University premises, consent shall not be unreasonably refused. Any conditions imposed on the holding of the meeting shall be kept to the minimum necessary in light of any risks identified in holding the meeting.

# It shall be reasonable to refuse consent where the University reasonably believes (from the nature of the speakers or from similar activities in the past whether held at the University or otherwise) that:

# the views likely to be expressed by any speaker are contrary to the law;

# the intention of any speaker is likely to be to incite breaches of the law or to intend breaches of the peace to occur;

# the meeting will include or is likely to include the denial of the right to hold or to express an opposing opinion;

# the speaker and/or the organisation they represent advocates or engages in violence or non-violent extremism in the furtherance of their political, religious, philosophical or other beliefs;

# the views likely to be expressed by any speaker are for the promotion of any illegal organisation or purpose, including organisations listed on the government's list of proscribed terrorist groups or organisations; or

# it is in the interest of public safety, the prevention of disorder or crime or the protection of those persons lawfully on premises under the control of the University, that the meeting does not take place.

# Where the University is reasonably satisfied that the otherwise lawful expression of views at an event or meeting on University premises is likely to give rise to disorder or threats to the safety of participants or the wider University community, the University shall consider what steps it is necessary to take to ensure the safety of all persons and the security of the premises controlled by the University. The University may impose such conditions and requirements upon the organisers as are reasonably necessary in all the circumstances, ensuring that the conditions and requirements go no further than is necessary to address the risks it has identified.

# Where the University concludes that imposing conditions would not be sufficient to prevent serious disorder within premises subject to their control, it may decline to permit the meeting to proceed.

# Procedure

This procedure enables the University to assess the potential risks of an event involving a visiting speaker. Faculties and Professional Services are responsible for ensuring that these procedures are followed when making arrangements for an event.

Executive Deans and Heads of Professional Services are responsible for determining where responsibility for coordinating arrangements for an event sits within their areas.

Where a person seeks to organise an event, the ‘Organiser’, which falls under the scope of this Policy and Procedure they are required to complete the *Visiting Speaker and Event Form* and send it to the Assistant Director for Security Services, who will then advise on how to proceed.

Forms should be sent at least two weeks ahead of the planned date of the event and with the support of a University Line Manager, Head of Department, Director of Service or nominee, or Chief Executive of the Students’ Union or nominee.

The Head of Security will aim to respond within one week of receipt of the completed form. The Head of Security will consider the application and conduct a risk assessment of the proposed event and the measures proposed to address any risks. If required the Head of Security will seek advice from the Prevent Champion or other member of the Vice-Chancellor’s Office; or from external contacts. The University will not unreasonably refuse the holding of events on its premises. The expression of controversial views which are not unlawful does not constitute reasonable grounds for withholding facilities for an event. Examples of potential grounds for refusal are listed in section 3 (Policy).

Where an event has been approved to proceed the Organiser will be required to appoint sufficient stewards to a number approved by the University Security Services to assist them to conduct an orderly visiting speaker event and comply with any other instructions which the Head of Security issues in respect of the event. The instructions, which are additional to the terms and conditions of any contract for the use of University premises in connection with the event, may cover:

1. the control over entry to the activity (including, where relevant, the admission or exclusion of the press, television or of broadcasting personnel) or ticketing;
2. the adequacy of stewarding at the activity and the name of any member of University staff appointed to oversee the event;
3. the security of University property and premises;
4. the arrangements for audio/visual aids;
5. the conduct of the chairman/leader;
6. the introduction of articles or objects from outside;
7. the state of cleanliness and property after the activity;
8. the presence of the media;
9. the presence of staff and/or students capable of challenging the views likely to be expressed; and
10. other special conditions that may be deemed necessary.

The University shall only pass on the costs of security for using the premises to those arranging the relevant event or meeting in exceptional circumstances. Whether the circumstances are exceptional shall be determined by the Vice Chancellor.

Any variation to the arrangements for visiting speakers or event should be notified in sufficient time to enable the University to assure itself that the revised arrangements are satisfactory. The University reserves the right to cancel the booking if any changes to arrangements for the event are not notified to the University in sufficient time.

Where the decision is taken to cancel visiting speakers or an event, the University will endeavour to ensure that the Organiser receive reasonable notice. It is the responsibility of the Organiser of the meeting or event to ensure that those who may have been expected to attend are notified of its cancellation.

Under no circumstances should an event be advertised or take place if this Policy and Procedure has not been followed or the event has not been approved. Failure to comply with this Policy and Procedure may result in the room booking being cancelled and the organiser may be subject to formal or informal action under the University’s relevant disciplinary policy.

# Conduct

The University expects visiting speakers to act in accordance with the law and not to breach the lawful rights of others.

Set out below are some examples of the University’s expectations. Please note that this is not intended to be an exhaustive list of unacceptable conduct by visiting speakers.

During the course of the event at which he/she or they participate, **no speaker(s) shall:**

* + act in breach of criminal law;
	+ incite hatred or violence or any breach of the criminal law;
	+ encourage or promote any acts of terrorism or promote individuals, groups or organisations that support terrorism;
	+ discriminate against or harass any person or group on the grounds of their sex, race, nationality, ethnicity, disability, religious or other similar belief, sexual orientation or age;
	+ defame any person or organisation; or
	+ raise or gather funds for any external organisation or cause without express permission of the University.

During the course of the event at which he/she or they participate, **all speaker(s) shall:**

* + - comply with the University’s Code of Practice on Freedom of Speech;
		- comply with this Visiting Speaker and Event Policy and Procedure;
		- present ideas and opinions, in particular those that may be contentious, in the spirt of academic debate, being open to challenge and question; and
		- follow the University’s policy on and instructions relating to [health and safety](https://icity.bcu.ac.uk/HR/Health-and-Safety).

# The Organiser will attend the event personally and take all reasonable steps to ensure that nothing in the preparation for or in the conduct of the event is likely to breach the law, University regulations or the instructions of or conditions imposed by the University. While an event is in progress, the University shall have the right to require the organisers to terminate the event if the conduct of the event gives rise to concerns for the University that the safety of persons attending cannot be reasonably guaranteed, or that a breach of the law or a material breach of the Code of Practice or any of the conditions imposed when permission was granted. In the event of any damage to University property arising from the visiting speaker event, the University may charge the Organiser for the repair costs.

# Booking rooms for visiting speaker events

All University space is managed through the Termtime timetabling system, which is the responsibility of the Timetabling Manager, Campus Management Services/ Academic Services.

Consequently, all requests to hold events on University premises that are additional to the core teaching timetable, whether involving visiting speakers or not, must be organised via the [University Events Team](https://icity.bcu.ac.uk/ries/University-Events-Team)

# General points

#  Banners and flags on poles are not allowed in a building where a meeting or activity is taking place and must not be used elsewhere on University premises in a manner likely to cause injury or damage, or to incite actions leading to injury or damage.

#  Food and drink are not normally allowed to be taken into an event

Members of the press, radio or television may attend a visiting speaker event provided that prior approval has given, via the organiser.

# Review

The *Visiting Speaker and Events Policy and Procedure* will be reviewed by the University Executive Group every three years or sooner where new developments in relevant legislation or operational practices require.

**Last reviewed: November 2023**

**Procedure’s owner: University Secretary**

1. An ‘event’ may also be referred as a meeting or assembly happening at a fixed time and place. [↑](#footnote-ref-1)