



Freedom of Speech Policy and Code of Practice for Higher Education

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Policy Statement

This statement outlines the principles of free speech and freedom of expression which apply to all staff of the College, all Higher Education (HE) students registered at the College, the Governors of the College and visiting speakers (i.e. speakers who are not students, staff or Governors at Wirral Met College). All of which will be known as 'members of the college' for the purposes of this policy.

This policy is Wirral Met College's response to the requirement of the Education (No 2) Act 1986 (the "Act") that the governing body of further education institutions should issue a code of practice setting out the procedures to be followed by HE students and employees of the establishment in connection with the organisation of meetings and other activities which are to be held on College premises, and the conduct required of such persons in connection with any such meeting or activity.

Context

Freedom of Speech and the Law:

Colleges and Universities are required by law to outline principles for their staff and students in relation to their right to freedom of speech in the context of other legal responsibilities of the College. This Statement takes into account the specific legal responsibilities, as set out

1. In Section 43 of the Education (No 2) Act 1986, the Equality Act 2010 and the Counter-Terrorism and Security Act 2015, which places a duty upon universities and colleges to take reasonably practicable steps to ensure freedom of speech on their premises. This duty also applies to student unions where college premises are being used to host a union speaker/event. The Education Act 1994, places financial and governance oversight duties upon universities and colleges with regard to student unions.
2. The Human Rights Act 1998, establishes the individual's right to freedom of expression in UK Law.
3. Charity Law (mainly Charities Act 2011), that includes a duty placed upon charities to ensure freedom of speech within the law.
4. The Equality Act 2010 (including the public sector equality duty), that places duties upon public authorities to prevent discrimination on the basis of protected characteristics as set out in the Act. The College also has a duty to advance equality of opportunity, and foster positive relations between communities.
5. Health and Safety Law, which places duties upon public authorities to ensure compliant arrangements for safe and healthy working and operations within its premises.

6. The Prevent Duty, which places a duty under the powers of the Counter-Terrorism and Security Act 2015 on relevant higher education bodies to prevent students and staff from being drawn into support for or participation in terrorism.

Introduction

The College is committed to the principle of freedom of speech and expression. It fosters an environment where all of its members can participate fully in their subject specialism and education, and where each member feels confident and able to research, question and test perceived wisdom, and to express new ideas and controversial or unpopular opinions, without fear of isolation, marginalisation or discrimination.

Equally, the College expects its members to receive and respond to intellectual and ideological challenges in a constructive and peaceable way. The College also acknowledges its statutory duties in protecting its students, staff, governors and visitors from “radicalisation”, which in this context means being drawn in by others to offer ideological or practical support for terrorism, or to commit acts of terrorism.

College will take into account its obligations regarding freedom of speech, the management of the health and safety of its members and the general public, the promotion of equal opportunities and prevention of discrimination on the grounds of belief, race, gender or sexual orientation or other legally-protected characteristics, and its duties associated with preventing people from being drawn into terrorism or the promotion of terrorist activities.

The College therefore reserves the right to refuse access to its premises if it is of the opinion that a visiting speaker intends, or that a meeting is intended, to encourage people to commit a breach of the peace and/or to engage in any criminal activity, or that the visiting speaker intends to engage in illegal speech as defined below. The use of premises of the College will not be denied to any member or body of members by reason of the beliefs or views of that individual or of that body or the policy or objectives of that body.

Our approach to ensuring freedom of speech within the law will be based on the following principles:

- Freedom of speech is at the heart of all democratic societies and a foundation stone of HE.
- The promotion of a culture of tolerance, differing views and perspectives and an acceptance that, in a free and open environment of academic debate, ideas will be robustly contested and challenged.
- The need, on occasion, to balance the right to freedom of speech against the need reasonably to protect the rights of others.

- The need, when balancing rights, to ensure that this is done in a way that is proportionate (thus meeting a high and evidenced bench mark of appropriateness) and legal, and informed by an assessment of whether any balancing action could be undertaken in a way that is less restrictive.
- That any restriction that may be required shall be an exception.

Examples of illegal speech

The College regards the following as examples of 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.
- iv. 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 College, will be permitted, although under certain circumstances only with appropriate mitigation.

The College 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.

While we will, as part of our duty of care to our students and staff, offer support to those who have been negatively impacted by the free expression of controversial or challenging ideas or views, we will not seek to prevent or sanction speech that is within the law. The College is committed to the active promotion of freedom of speech within the law and thus to ensure that our students and staff are able to discuss and debate ideas freely. In actively promoting freedom of speech, the College will work closely with our student union, which are also subject to clear legal expectations, with regard to the protection of freedom of speech when hosting events on College property.

Policy and Code of Practice

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 College and our student union have developed speakers and events policies. The College will always seek to allow a speaker to speak and an event to go ahead with minimal mitigation, 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 College works closely with our student union 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.

Organisation of Meetings for Higher Education events.

- i. All meetings taking place on College premises are private unless the public is expressly invited to attend.
- ii. Students and employees of the College have freedom of speech within the law, as do visiting speakers.
- iii. Where meetings are organised by students, speakers should normally come from a club, society or organisation recognised by the College. Invitations should not be sent out by individual student/s without consultation with their Programme Leader, who will then seek permission from the Head of Department (College Manager) and the Director responsible for Higher Education. The Director for HE must inform the Vice Principal for Curriculum of any invitation issued.
- iv. Where meetings are organised by staff, speakers must come at the invitation of a Programme Leader of the HE course. The member/s of staff must seek permission from their Head of Department, who will inform the Director responsible for HE, who will, in turn, inform the Vice Principal of Curriculum of any invitation issued.
- v. In the case of College-wide HE events (e.g. Graduation ceremonies), speakers must come at the invitation of the Principal.
- vi. A record must be kept of all meetings approved, disallowed or cancelled and reported to the Vice Principal with supporting information (e.g. reason disallowed) on request and at the end of the academic year.

Conditions, Refusing or Cancelling Events

- i. The Director responsible for HE has discretion to consult with the police and, if then deemed appropriate, to attach further conditions.
- ii. The Director responsible for HE may, at their discretion, refuse permission for a meeting, or later withdraw permission previously given.

- iii. The Director responsible for HE will not seek to curtail or cancel a meeting or event unless in their considered opinion the meeting or event infringes on the legitimate rights and freedoms of others or poses a significant risk to health and safety or there is some other substantial and lawful ground for the curtailment or cancellation. S/he will consult as necessary with the Vice Principal for Curriculum, and where necessary with the police about forthcoming meetings and events.
- iv. In any case where serious disruption may be anticipated which may not be effectively addressed by any conditions specified, the Director for HE shall have the power, having taken into consideration any advice received from the Vice Principal for Curriculum and / or police, to order or to advise the cancellation, postponement, or relocation of the meeting.
- v. The Organiser / organisers may appeal to the Principal against the whole or part of the Director for HE's decision within five days of receiving that decision. The Principal's ruling will be final and will be communicated to the Organiser / organisers within five days of receiving full details of the appeal.
- vi. Where a meeting proceeds, the organisers are under a duty to see that nothing in their preparations for it, or their conduct of it, infringes the law.
- vii. Any other member of the College who has concerns about a prospective meeting or event should bring his or her concerns promptly to the attention of the Director responsible for HE and Vice Principal for Curriculum and they shall together take such reasonable steps as are warranted.
- viii. It is the ongoing duty of any person involved in organising a meeting or other activity, and also the duty of any person responsible for processing the booking of rooms in the College, to inform the Director responsible for HE as soon as there are reasonable grounds to believe that:
 1. The activity may be disrupted, for example, by reason of:
 - a. the status of the speaker; or
 - b. the nature of any of the subjects to be discussed; or
 - c. the views or beliefs (whether or not related to the activity) of any person attending; or
 - d. the coincidence of the activity with another activity
 2. The personal safety or property of any person attending may be at risk by reason of their involvement in the activity; or
 3. Intimidation, duress, or harassment might be applied to any person in an attempt to prevent their attending the activity; or
 4. The activity might be picketed.

Conduct at meetings

- i. It is the duty of every member of the college, including guest speakers and visitors not to impede any person entitled to be present from entering or leaving a place where the right to freedom of speech is being or is to be exercised. This duty is subject only to such conditions as may have been specified in accordance with the terms of this Policy or any limitations imposed or directions given by the police or other relevant public authority.
- ii. Nothing in this Code of practice shall be taken to prohibit the exercise of the right to protest by peaceful means, provided always that such protest is conducted lawfully within the general principles and other requirements of this policy and code and other policies of the College.
- iii. No articles or objects may be taken inside the building where a meeting is taking place, or taken or used elsewhere on College premises, in circumstances where the presence or use of those articles or objects is likely to lead to injury or damage.
- iv. The responsibility for conducting a meeting rests with the appointed chairperson. This calls for a close liaison and consultation beforehand between the chairperson and the Organiser / organisers, especially if the Director responsible for HE has attached any conditions to permission to use College premises.
- v. At the meeting, the chairperson has a duty to keep order and, so far as possible, to secure that both the speaker and the audience act in accordance with the law. The chairperson should issue warnings of unlawful conduct, such as when the use of violence is threatened or takes place, and where such conduct continues, should require the offenders to withdraw or be removed by the stewards. The chairperson may call upon the help of any College or external personnel whose presence the Director responsible for HE has made a condition of holding the meeting.
- vi. However, if the chairperson has made all reasonable efforts to keep order but the meeting goes or continues out of control, the chairperson must send a member of College staff present to seek help from the Duty Manager.
- vii. The organisers and those in attendance at any meeting or event must comply with any reasonable instructions given during the course of a meeting or event by the Director responsible for HE, by any other security/facilities or Duty Manager or person authorised to act on behalf of the College in the proper discharge of his or her duties, or by police.
- viii. College premises used for meetings must be left clean and tidy. In default, the organisers may be charged for any additional cleaning and for any repairs which are

necessary. Payment in advance, or evidence of ability to pay, may be required before a meeting takes place.

Other legal requirements

The College is mindful of its pro-active duties under equality legislation. The right to freedom of speech is constrained by laws protecting others from discrimination, victimisation and harassment, protecting national security and public safety, preventing of disorder or crime, protecting the reputation and rights of others, and preventing the disclosure of information received in confidence.

Sanctions

- i. Failure to observe the requirements of this policy or of any conditions laid down by the Principal or his / her authorised representative / Director responsible for HE makes any student or member of staff concerned liable to disciplinary action by the College and, at the discretion of the College, to regard any booking of a room as void.
- ii. If any actions involve breaches of the criminal or civil law, the College will assist the prosecuting authorities as appropriate.
- iii. Where a breach of this Code of Practice takes place at a meeting or demonstration, steps will be taken by the College and/or the police to secure identification of the persons committing offences and for appropriate action to be taken against them.

Related Policies and Procedures

We will ensure that there is no hindrance beyond the requirements of the law placed on a member of the College's right to freedom of speech through any relevant policy or procedure. The following policies and procedures are relevant and should be considered when enforcing the current policy:

- Visitor's Policy
- Risk Management policy
- Equality, Diversity and Inclusion Policy
- Safeguarding Policy and Protection of Children and Adults at Risk Policy and Procedure
- Prevent Risk Assessment
- Student Anti-Bullying Policy

- Learning and Development Policy
- Teaching, Learning and Assessment Policy and Procedure
- HE Admissions Policy
- HE Student Engagement Policy and Implementation Strategy
- HE Attendance Policy
- Student Discipline Policy and Procedure
- Fitness to Study Policy
- Careers Education and Information, Advice and Guidance Strategy
- Health and Safety Policy
- Risk Assessment Policy and Procedure
- Violence and Aggression Policy and Procedure
- Staff Disciplinary Procedure
- Wellbeing at Work Policy