Approval History

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Document History

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Freedom of Speech Policy

This Policy sets out UCEM’s approach to freedom of speech for the benefit of students and staff of the Institution. This is applicable for UCEM events held on UCEM premises or through the Virtual Learning Environment, as well as external events including CPD events.

UCEM is committed to the freedom of speech, and this commitment is stated in the UCEM Royal Charter, as well as the UCEM Code of Practice: Research and Advanced Scholarship:

UCEM will provide opportunities for members of the academic team, including associate tutors, within the principle of academic freedom\(^1\), to undertake their own research to ensure the development of a vibrant disciplinary and interdisciplinary culture. This will also be in the spirit of the QAA (2013) documents highlighted herein.

1. Background

1.1 Article 10 of the Human Rights Act

Freedom of expression is enshrined within Article 10 of the Human Rights Act which states the following:

“1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2 The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are 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, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

1.2 Education (No 2) Act 1986

Freedom of speech in universities, polytechnics and colleges is set out in Education (No. 2) Act 1986 section 43 which states the following:

“1 Every individual and body of persons concerned in the government of any establishment to which this section applies shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.

2 The duty imposed by subsection (1) above includes (in particular) the duty to ensure, so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with:

a) the beliefs or views of that individual or of any member of that body; or

b) the policy or objectives of that body.

\(^1\) In line with UCEM Royal Charter (section 11.3) and Section 43 of the Education Act 1986, as amended by the Further and Higher education Act 1992.
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3 The governing body of every such establishment shall, with a view to facilitating the discharge of the duty imposed by subsection (1) above in relation to that establishment, issue and keep up to date a code of practice setting out:

a) the procedures to be followed by members, students and employees of the establishment in connection with the organisation:
   i) of meetings which are to be held on premises of the establishment and which fall within any class of meeting specified in the code; and
   ii) of other activities which are to take place on those premises and which fall within any class of activity so specified; and

b) the conduct required of such persons in connection with any such meeting or activity; and dealing with such other matters as the governing body consider appropriate.

4 Every individual and body of persons concerned in the government of any such establishment shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the requirements of the code of practice for that establishment, issued under subsection (3) above, are complied with."

1.3 Prevent Duty*

The Counter Terrorism and Security Act 2015 means the Institution must "have due regard to the need to prevent people from being drawn into terrorism" (Section 26). The Institution must also "have particular regard to the duty to ensure freedom of speech" and "to the importance of academic freedom" (Section 31). Under Section 29, we must "have regard to any such guidance in carrying out that duty."

The Institution is complying with this duty in all its aspects, which in practice means striking a fine balance between concerns around extremism and concerns around censorship. The work in promoting British Values and the Institution's values, and its Code of Practice: Equality and Diversity, all aim to positively address this challenge. It covers many areas of activity, including pastoral support for students, staff training, information sharing and assessing speakers.

2. Introduction

2.1 The Institution supports the principle of freedom of speech and expression within the law as one of the fundamental principles upon which an Institution is founded. It also has regard to the need to ensure that students and staff have freedom to question, test and to put forward new ideas and controversial or unpopular opinions, without placing themselves at any risk. Every person employed at the Institution and every student enrolling at the Institution should be aware that joining the Institution community involves obligations and responsibilities which are consistent with the above principle and the law.

2.2 This Policy sets out the rights and obligations inherent in supporting the principle of freedom of speech and expression within the law. The Policy's obligations and rights apply to:

a) the Institution (which includes all bodies or persons having authority to determine any matter relevant to this Policy);

b) all trustees and staff of the Institution;

c) all students of the Institution;

d) any visiting or guest lecturers invited by the Institution;
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e) any alumnus invited by the Institution;
f) honorary fellows; and
g) any person or organisation wishing to hire premises controlled by the Institution for an event.

In relation to the holding of any events on premises controlled by the Institution, the Policy’s right shall also apply to:
h) persons invited or otherwise lawfully on the premises for the purposes of the event; and
i) persons who, if it were not for the provisions of this Policy, would have been invited to the event.

2.3 Nothing in this Policy will affect the rights of any person taking any steps pursuant to lawful industrial action.

2.4 Subject to clause 2.2, those who are under a duty to observe and uphold the principal of freedom of speech within the Institution shall do so at all times, irrespective of whether or not they are on property owned or controlled by the Institution.

3. Academic Freedom

3.1 The principle of freedom of speech set out in this Policy shall extend to the performance by all staff of their duties and responsibilities (including International Representatives) and to any visiting or guest lecturer invited by the Institution. It shall also extend to students presenting or exhibiting work produced during the programme of their studies with the Institution.

3.2 Any person or body to which this Policy applies shall not take any action (other than by reasonable and peaceful persuasion) to prevent the holding or continuation of any lecture, tutorial, exhibition, or other academic activity because of the views held or expressed or which are reasonably likely to be expressed, (whether or not within the Institution) by the lecturer or tutor or student concerned, except as provided for in paragraph 4.3.

3.3 Any person or body to whom this Policy applies shall not take any action (other than reasonable and peaceful persuasion) to prevent any student or group of students from attending any academic activity required by, or properly associated with, the programme for which they are enrolled because of the views or beliefs held or lawfully expressed (whether or not within the Institution) by that student or because of the reasonable likelihood that such views will be expressed.

4. Events

4.1 Where any person or body subject to the obligations of this Policy wishes to hold any event for the expression of any views or beliefs held or lawfully expressed on premises (or virtual learning environment) controlled by the Institution, consent shall not be unreasonably refused.

4.2 Save for the provisions in paragraph 4.3, it shall not be a reasonable ground of refusal of permission or facilities for any event that the views likely to be expressed there may be controversial or contrary to any policy of the Institution, or Central or Local Government, provided that the expression of such views is lawful. Expression of opinions which are annoying, offensive, in bad taste, or ill-mannered is not automatically unlawful and should not be the sole ground for refusal unless this would result in the Institution failing in its wider legal duties (for example, to promote equality of opportunity and good relations between persons of different racial groups).
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The fact that disorder may result at any event is not of itself a ground for refusal of permission or facilities unless the creation of such disorder is the intention of the organisers of, or speakers at, any such event or public safety and order might be jeopardised.

4.3 It shall be accepted as reasonable to refuse consent, or withhold facilities for any event to which this Policy applies where the Institution reasonably believes (from the nature of the speakers or from similar events in the past whether held at the Institution or otherwise) that:

a) the views likely to be expressed by any speaker are contrary to the law;
b) the intention of any speaker is likely to be to incite breaches of the law or is to intend breaches of the peace to occur;
c) the views likely to be expressed by any speaker are for the promotion of any illegal organisation or purpose;
d) the views likely to be expressed by any speaker are for the promotion of any organisation subject to the Section 5 as amended from time to time;
e) it is in the interests of public safety, the prevention of disorder or crime or the protection of those persons lawfully on premises under the control of the Institution, that the event does not take place.

By ‘speaker’ this Policy means any organiser or other person invited to address the meeting other than members of any audience at that meeting.

4.4 Subject to paragraphs 6.3 and 6.5, where the Institution is reasonably satisfied that the otherwise lawful expression of views at any event is likely to give rise to disorder, the Institution shall consider what steps it is necessary to take to ensure:

a) the safety of all persons;
b) the maintenance of order; and

c) the security of premises controlled by the Institution.

4.5 The Institution may impose such conditions and requirements upon the organisers as are reasonably necessary in all the circumstances. These may include, but are not limited to, requirements as to provision of stewards, variation of location and time, and whether the event shall be open to the public at large.

4.6 Where the Institution concludes that imposing conditions would not be sufficient to prevent serious disorder within premises subject to their control, it may decline to permit such events to be held. However, before doing so, the Institution will generally consult the police with a view to establishing whether the serious disorder can be prevented or otherwise dealt with appropriately by attendance of police officers or alternative conditions.

4.7 Where any person or body to whom this Policy applies is engaged in the organisation of any event on premises controlled by the Institution at which it is reasonably suspected that disorder is likely to occur, the organiser shall normally give the Deputy CEO not less than 28 days’ notice in writing of such a proposed event. The Deputy CEO, following consultation with the Principal, shall inform the person or body organising the event in writing within seven days of the date of the notice whether the meeting may go ahead.

4.8 If any person or organisation believes that the actions of the Deputy CEO in refusing permission or facilities for the holding of any event, or the actions of the Institution in imposing conditions are unreasonable, it shall have a right to make representations. Any representation shall be made to the Principal within seven days of the date of the letter confirming the original decision.
The Principal shall consider such representations and within seven days shall confirm in writing to the relevant person or organisation whether the original decision is to be upheld or varied. If the event organiser has been unable, for legitimate reasons, to comply with the normal requirement to provide 28 days’ notice to the Deputy CEO the Principal shall, at his/her absolute discretion, have the right to vary this procedure in order to ensure that a final decision is provided to the organiser prior to the date of the meeting.

4.9 Any person or body wishing to hold an event on premises controlled by the Institution must agree to the Terms and Conditions of room hire and provide further details of the event if required. This requirement applies to external bookings for any venue controlled by the Institution. It will be a mandatory requirement that the organisers of any event indicate they accept the Terms of this Policy when making a venue booking.

4.10 All event organisers shall ensure proper security and organisation (including stewarding and chairing) of the event for the purpose of protecting the right of freedom of speech. Whilst the heckling of speakers is a right not to be disturbed, it shall be contrary to the Policy to seek, by systematic or organised heckling or disruption of such activity, to prevent the lawful expression of views.

4.11 It shall be contrary to this Policy for any person or body subject to the Policy to organise, engage in or become associated with, any conduct with the intention of preventing (other than by reasonable and peaceful persuasion) any event subject to this Policy from being held or from continuing.

4.12 The organisers of the event shall have a duty so far as is reasonably practicable to ensure that both the audience and the speaker act in accordance with the law during the event. In the case of unlawful conduct, the event organiser shall give appropriate warnings and, in the case of continuing misconduct, the event organiser shall require the withdrawal or removal by the stewards or if necessary by the police of the person(s) concerned.

4.13 It shall be the responsibility of the organisers of the event to ensure that no articles or objects shall be taken inside the venue where the event is being held in circumstances which are likely to lead to injury, damage or breach of the law.

5. **Intolerance**

5.1 The Institution will offer no platform to those who are intolerant of the free speech of others both generally and where it includes the denial of the right to hold or express an opposing opinion. This also includes those who engage in the active prevention of permitting others to speak, such as the interruption - violent or otherwise - of meetings. Those who offer no platform to others, without any reasonable or justifiable basis for doing so, should not benefit from the freedom to speak at the Institution.

5.2 The Institution will offer no platform to those who advocate or engage in violence in the furtherance of their political, religious, philosophical or other beliefs.

5.3 The Institution will offer no platform to those who hold and disseminate views which are repugnant to the maintenance of liberty under the rule of law in the UK or who advocate or engage in the violent overthrow of democracy in the UK or elsewhere.
5.4 The Institution reserves to itself the right to debar speakers or organisations from the Institution where the Institution reasonably believes that their presence on Institution property is not conducive to the good order of the Institution, or where it would offend the principles of scholarly inquiry, or where it would put at risk the safety of students, staff or the general public. The Institution further reserves the right to list the names of individuals or groups which it debars either under this general reserved right or in accordance with the principles above.

5.5 The Institution will share with other Institutions and partners as necessary information on external speakers.

6. **General**

6.1 Any breach of the provisions of the Policy shall be punishable under the Disciplinary Procedures of the Institution where applicable.

6.2 It shall be the duty of all those subject to the Policy to assist the Institution in upholding the rights of freedom of speech set out in this Policy.

6.3 Where a breach of this Policy occurs, it shall be a duty of all to whom this Policy applies to take all reasonable steps to secure the identification of persons involved in that breach.

6.4 Where breaches of the criminal law occur, the Institution shall, where appropriate, assist the Police and the Crown Prosecution Service. In respect of any criminal charges, the Institution, shall not, unless the Principal determines otherwise, proceed with any disciplinary proceedings in respect of the same matters, until the conclusion of any ongoing criminal proceedings.

6.5 The operation of the Policy shall be monitored by the Academic Board of the Institution.

7. **Review and Amendment of this Policy**

7.1 Section 43(3) of the Education (No 2) Act 1986 requires that the Board of Trustees shall issue, and keep up to date, a Policy on Freedom of Speech. In order to comply with this duty, the Board of Trustees will review formally the operation of the Policy on an annual basis.

Date for approval by Board of Trustees: 23 June 2016.

* The statutory Prevent Duty Guidance (PDF) has been issued to all 'specified authorities’, with additional guidance for universities (PDF).
8. APPENDIX A

Related and Benchmarked Policies
This chapter should be read in conjunction with the following documents:

Section 43, Education (No 2) Act 1986
The Counter Terrorism and Security Act 2015
Universities UK Freedom of Speech on Campus: Rights and Responsibilities in UK Universities
UCEM Research and Advanced Scholarship Code of Practice chapter

This chapter has been benchmarked against the following policies:

University of Reading – External Speaker Policy
University of Lincoln – External Speaker Policy
University of Westminster – External Speakers Guidance (2013)