

## CODE OF PRACTICE ON FREEDOM OF SPEECH

This Code of Practice sets out the University of Suffolk and Students' Union approach to freedom of speech for the benefit of the Institution's students and staff and external visitors.

### Introduction

1. The University of Suffolk supports the principle of freedom of speech and expression within the law as one of the fundamental principles upon which higher education is founded. The University will ensure that students, staff and visiting speakers/lecturers have freedom to question, test and to put forward new ideas and controversial or unpopular opinions, without placing themselves at risk. Whilst we defend this freedom, we also expect that challenge, critical debate and the exploration of such ideas will be conducted within a spirit of dignity and respect.

2. So far as is reasonably practicable, access to University premises shall not be denied to any registered student or employee of the Institution or to any individual or body of persons invited to the premises by a registered student or employee of the University of Suffolk or Students' Union on any grounds relating to:

- a) the beliefs or views of that registered student, employee or person so invited; or
- b) the policies or objectives of that body;

except insofar as the expression of such belief, views, policies or objectives shall be unlawful and where it is reasonably anticipated that the unlawful expression of such beliefs, views, policies or objectives might occur on the relevant occasion.

3. Save for the provisions in paragraph 5 below, 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 University or Students' Union, 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 University of Suffolk failing in its wider legal duties.

4. The University reserves the right to refuse access to its premises or impose such conditions upon the grant of access to its premises as it considers are reasonably necessary for the discharge of its obligations relating to the safety, health and welfare of its students, employees and other persons lawfully upon the premises or for the efficient conduct and administration of its functions.

5. Where it concludes that imposing conditions would not be sufficient for the discharge of its obligations relating to the safety, health and welfare of its students, employees and other persons lawfully upon the premises or for the efficient conduct and administration of its functions, the University may decline to permit such events to be held.

6. Every person employed at the University and the Students' Union, every student enrolling at the University and external visitors/speakers should be aware that joining the University of Suffolk community involves obligations and responsibilities which are consistent with the above principles and the law.

7. This Code of Practice shall be adhered to by all persons relating to meetings or other activities which it is proposed shall be held on behalf of the University or on University premises and which fall within the class of meeting or activities defined as a designated meeting or activity in paragraph 8 below.

8. A designated meeting or activity is one which it is proposed shall take place in which the University has a reputational interest and at which the organisers of the meeting or activity, or the Registrar and Secretary, reasonably anticipate a real likelihood of unlawful conduct on the part of any person present at the meeting or activity or relating to the access to or egress from the meeting or activity of any person attending or concerned in the organisation or conduct of the meeting or activity.

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

## **The Legal Context**

### **Human Rights Act 1998**

10. The Human Rights Act 1998 includes the following articles which are relevant to freedom of speech:

- Article 9: freedom of thought, conscience and religion. This right includes an individual's freedom, either alone or in community with others and in public or in private, to manifest his religion or belief, in worship, teaching, practice and observance.
- Article 10: freedom of expression. This right includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
- Article 11: freedom of assembly and association.

11. The exercise of these freedoms, since it carries with it duties and responsibilities, are qualified and may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law or are considered necessary in a democratic society, for the protection of the health, reputation or rights of others.

### **Education (No 2) Act 1986**

12. Section 43 of the Education Act 1986 states that every individual and body of persons concerned in the government of universities shall take 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.

13. This 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 objectives of that body.

14. The Act requires that the University's governing body shall, with a view to facilitating the discharge of this duty 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 connections with the organisation:
  - i. of meetings which are to be held on the 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.

15. Additionally, the Act states that every individual and body of persons concerned in the governance of the University 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 the University are complied with.

### **Equality Act 2010**

16. Simplifying previous equalities legislation, the Equality Act 2010 prohibits unlawful discrimination in relation to certain 'protected characteristics', namely age, disability, gender

reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Unlawful discrimination can occur in various ways:

- through direct discrimination (less favourable treatment because of a protected characteristic);
- through indirect discrimination (the application of a provision, criterion or practice which has a discriminatory effect on someone with a protected characteristic);
- through harassment (engaging in 'unwanted conduct' related to a protected characteristic, which includes verbal harassment);
- through victimisation (subjecting someone to detrimental treatment because they seek to bring proceedings under the Equality Act, for example).

17. The Act also created a Public Sector Duty for public authorities, including higher education institutions, the aims of which are, across all protected characteristics, to:

- a) eliminate discrimination, harassment and victimisation;
- b) advance equality of opportunity between persons who do and do not share a protected characteristic; and
- c) foster good relations between persons who do and do not share a protected characteristic.

18. Additionally, institutions should pay regard to their responsibilities in relation to gender segregation as outlined in the 2014 Equality and Human Rights Commission guidance.

### **Counter-Terrorism and Security Act 2015**

19. Section 26(1) of the Counter Terrorism and Security Act 2015 imposes a duty on 'specified authorities', when exercising their functions to have due regard to the need to prevent people from being drawn into terrorism (the 'Prevent' duty). It is recognised that higher education institutions represent one of the most important arenas for challenging extremist views and ideologies. Nevertheless, higher education bodies (including the University of Suffolk) are subject to this duty. The Government's guidance on the application of the Counter Terrorism and Security Act within relevant higher education bodies indicates the need for appropriate policies and procedures for the management of external speakers, events on campus, use of premises and for sharing information about external speakers.

20. The Act also imposes arrangements to monitor compliance by the higher education sector with the 'Prevent' duty. Higher education bodies, including the University of Suffolk, are required to provide to the monitoring authority (HEFCE) any information required for the purposes of monitoring performance in discharging their responsibilities.

### **Academic Freedom**

21. The Education Reform Act 1988 (s202) established the legal right of academics in the UK '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 the privileges they may have'.

22. The principle of freedom of speech set out in this Code shall extend to the performance by all staff of their duties and responsibilities and to any visiting speaker participating in a designated meeting or activity. It shall also extend to students presenting or exhibiting work produced during the course of their studies with the University of Suffolk.

23. Any person or body to which this Code 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 University), by the lecturer, tutor, speaker or student concerned, except as provided for in paragraphs 5 and 29.

24. Any person or body to whom this Code applies shall not take any action (other than by 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 University), by that student or because of the reasonable likelihood that such views will be expressed.

### **Application Procedure in respect of Designated Meetings or Activities**

25. It is the duty of any student or employee of the University of Suffolk or Students' Union who is involved in the organisation of any proposed meeting or activity to have due regard to the question whether the proposed meeting may be a designated meeting or activity as defined at paragraph 8. above.

26. If any such student or employee considers that the proposed meeting or activity may fall within that definition is required to obtain a decision from the Registrar and Secretary as to whether the meeting or activity falls within that definition.

27. If the proposed meeting or activity is so considered, those involved in the organisation of the designated meeting or activity are required to proceed according to the provisions of this Code.

28. The organisers of any designated meeting or activity are required to appoint an individual, who shall be a registered student or employee of the University or Students' Union, to act as principal organiser of the event for the purposes of this Code.

29. The principal organiser shall be responsible, as far as is reasonably practicable, for ensuring that the organisation of the designated meeting or activity, the conduct of the organisers and the conduct of any person invited to participate shall be lawful and shall conform to the provisions of this Code and to any condition relating to the designated meeting or activity duly imposed under this Code.

30. An application to hold a designated meeting or activity shall be made to the Registrar and Secretary at least 28 days before the date proposed for the event. The application must state the subject of any speech and name and proposed timing of the arrival and departure of any visiting speaker who is not a member or employee of the University. The application must be signed by an individual identified as principal organiser of the event and must incorporate an undertaking by the principal organiser to accept responsibility under 29. above.

31. The Registrar and Secretary, following consultation with the appropriate Pro-Vice-Chancellor, shall inform the person or body organising the event in writing within 7 days of the date of the notice whether the meeting may go ahead.

32. Permission to hold a designated meeting or activity may be granted subject to any conditions the Registrar and Secretary may consider reasonably necessary to secure compliance with the Institution's legal obligations or to maintain or promote the efficient conduct and administration of its functions. Any failure to comply with such conditions shall constitute a contravention of this Code.

33. Premises used for designated meetings and activities shall be left clean and tidy and in good repair. Failure to leave premises in such condition may result in a charge being levied upon the principal organiser to cover the cost of any cleaning or repairs which, in the University's judgement, are required.

34. If the event organiser has, due to exceptional circumstances, been unable to provide 28 days' notice to the Registrar and Secretary, the Vice-Chancellor shall, at his/her 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.

35. If any person or organisation believes that the actions of the Registrar and Secretary in refusing permission or facilities for the holding of the event, or the actions of the University in imposing conditions are unreasonable, it shall have a right to make representations. Any representation shall be made to the Vice-Chancellor within 7 days of the date of the letter confirming the original decision. The Vice Chancellor shall consider such representations and within 7 days shall confirm in writing to the relevant person or organisation whether the original decision is to be upheld or varied. The Vice-Chancellor's ruling shall be final. The Vice-Chancellor shall report any ruling made in respect of an appeal under this Code to the next meeting of the Board.

### **General**

36. Any contravention of or departure from the provisions of this Code shall render the registered student or employee responsible liable to the appropriate Institutional disciplinary procedures.

37. The University may seek external advice when determining whether a meeting may go ahead and share event information with partners. Where this takes place it will be carried out within the law.

38. The Registrar and Secretary will report annually to the Board, at its first meeting of the academic year, on all decisions made under this Code of Practice, comment on the implementation of its provisions and recommend any amendments or additions thereto for consideration by the Board.