Freedom of Speech – Code of Practice

Background

The University of Sussex is proud to offer all our staff, students, and visitors, the opportunity to engage with a democratic teaching and learning environment that encourages rational debate and challenges received wisdom. Our aim is to provide a tolerant and equitable context in which knowledge is acquired, shared and applied and where personal and academic growth take place. These are fundamental principles for the University of Sussex.

As a truly international institution we encourage all members and visitors to our campus and community to express opinions, freely, within the law, and to enjoy open access to information. Sussex continues to build on its long tradition of offering scholarships and bursaries, employment and conference places to those who would not otherwise be in a position to enjoy the freedom to learn and to research, without fear of restriction or reprisal.

Legislation

 Freedoms come with responsibilities and there is a range of legislation within which Higher Education Institutions must operate whilst cherishing both freedom of speech and academic freedom. There is a delicate balance to be maintained when some of these duties appear to be at odds with others, or where issues overlap. The legal framework of rights and duties is complex.

One of the key tenets for universities is contained within Article 10 of the European Convention on Human Rights (ECHR1) which states that everyone has the right to freedom of expression. This is reflected in the University’s Statutes which indirectly refer to two major pieces of legislation: the Education Act (no.2) 19862 and the Education Reform Act (1988)3, which oblige us to uphold and promote academic freedom and freedom of speech ‘within the law’.

There is also a requirement, in the 1986 Act (section 43.1), for universities to maintain and update a code of practice that covers procedures for organising meetings and events which include external speakers, whether these are internally or externally-organised. These include Sussex-brand events not held on campus. Ensuring freedom of speech and

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1 ECHR 1950 Article 10 details the rights to freedom of expression, along with restrictions and penalties as prescribed by law, in certain circumstances.

2 The Education Act (no.2) 1986 places a direct obligation on universities in England and Wales to ‘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’.

3 The 1988 Act requires pre-1992 universities to ensure that academic staff have freedom within the law to ‘question and test received wisdom’ and put forward ‘new ideas and controversial or unpopular opinions’ without fear of dismissal or losing privileges.
expression at these events, is also a matter for practical consideration with regard to maintaining the safety and welfare of those present.

The university recognises that, on occasion, the views of some who exercise the right to freedom of expression may cause offence, shock or disturb others who do not hold those views. That, in itself, is not a matter for constraint and is not breaking the law. Allowing opposing views to be heard will continue to be encouraged by the university, with appropriate and timely risk assessments undertaken as required. We will be anticipatory, as far as possible, and proportionate in our assessments of risk, and in how we might manage identified risks.

Only in limited circumstances will the university refuse permission for an event to be held. These may include:

- where there is serious concern that the safety of the speaker and/or others in this assembly cannot be reasonably guaranteed;
- where there is evidence that a speaker is likely to: incite violence; harass the assembly by using hate speech; cause a breach of the peace or is likely to transgress the bounds of lawful free speech or assembly.

Organisations designated ‘proscribed’ by H.M. Government will not be allowed to use our premises (or speak on a University of Sussex “platform” off-campus). Otherwise, we encourage a transparent recording system for requests to host events and/or invite external speakers and if there are concerns, these shall be discussed and considered by the appropriate authority, in an equitable manner, as set out in the External Speakers’ Procedure document.

Underpinning all activities and central to the ethos of our community is the commitment to equality and diversity. The Equality Act 2010\(^4\) and the Public Sector Equality Duty\(^5\) require us to prevent unlawful discrimination and promote equality of opportunity, fostering good relationships between different groups, including those with ‘protected characteristics’, as designated in the Act.

Finally, duties of care to both students and employees, and our approach to equalities and diversity continue to inform our response to our “Prevent Duty”. Under the Counter Terrorism and Security Act (CTSA) 2015\(^6\), this existing duty was substantively reframed and,

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\(^4\) The Equality Act 2010 prohibits unlawful discrimination in relation to the nine ‘protected characteristics’.
\(^5\) The Public Sector Equality Duty 2011 requires the university to ‘eliminate discrimination, harassment, victimisation and other conduct prohibited by the (Equality) Act. The Duty requires us to integrate considerations of equality and good relations into our day-to-day business.
\(^6\) Section 26 (1) of the CTSA 2015 imposes the Prevent Duty on universities, which is intended to be implemented in a ‘proportionate and risk-based way’.
as such, we are required to have “due regard to the need to prevent people from being
drawn into terrorism”. This is now incorporated into the risk assessment for holding events
and the associated procedures. Across campus, staff training in the Prevent Duty is
accompanied by training in Unconscious Bias and we are confident that in complying with
our Prevent Duty, we will continue to handle events and speakers with a robust and
proportionate approach and uphold our values.