

Code of Practice on Freedom of Speech, Freedom of Expression and Academic Freedom

HARROW, RICHMOND AND UXBRIDGE COLLEGES POLICY AND PROCEDURES



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Approved by:	Board of Governors
For action by:	All staff and students
For information to:	All staff and students

1. Introduction

- 1.1 This Code of Practice sets out the responsibilities for the College in promoting academic freedom and freedom of speech, while ensuring the College remains a safe environment for teaching, learning and research, complies with relevant legal requirements and promotes the College values.
- 1.2 This Code of Practice applies to the following: all members of the College, including members of the Governing Body; all persons (whether academic staff or otherwise) working for the College, whether for payment or otherwise; all duly enrolled students of the College (whether full or part-time); all students studying with the College (whether full or part-time) under an agreement with a partner organisation of the College (e.g. another college or school) even if not enrolled as students at the College; and all persons invited to speak and/or express views (whether in person or otherwise including through the use of social media) and/or otherwise take part in activities which take place on or are planned or proposed or due to take place on the College's premises or through its ICT systems in accordance with the provisions of section 3 of this Code.

2. Freedom of Speech

- 2.1 The 1986 Education Act states that: '...persons concerned in the government of any establishment...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.'
- 2.2 Further to this, The Higher Education and Research Act 2017 makes it clear that all universities and colleges which register with the Office for Students must uphold the existing laws and public interest principles around freedom of speech. Where they are registered, universities

and colleges must follow the regulatory framework, including in relation to academic freedom and freedom of speech. English law restricts speech in some ways. It prohibits harassment, or incitement to hatred. But it does give people the right to say things which may shock or offend.

- 2.3 The College wants to make sure that students feel safe and are free to express themselves.
- 2.4 There is no place for violence, intimidation or criminality on College campuses. However, censoring or marginalising some groups to protect others is not appropriate.
- 2.5 As an educational organisation, the College values academic freedom and is committed to encouraging free debate and enquiry, including via curriculum planning and delivery. This means tolerance of a wide range of views, both academic and political, even when they may be unpopular, but this must be applied within the law.
- 2.6 Advancing ideas and learning through debate is a critical part of what universities and colleges do. So, freedom of speech is essential to the interests of students.
- 2.7 This is why we want to protect and uphold it. It matters because it:
 - Exposes students to new and challenging ideas
 - Encourages robust but civil debate which respects and understands different viewpoints
 - Underpins the diversity of England's education sector
 - Is a key part of giving students a high-quality education
- 2.8 Our Code of Practice is written following the guidance from the Joint Committee for Human Rights inquiry into the freedom of speech in UK Universities:
- 2.9 *"Codes of practice on freedom of speech should facilitate freedom of speech, as was their original purpose, and not unduly restrict it. Universities should not surround requests for external speaker meetings with undue bureaucracy. Nor should unreasonable conditions be imposed by universities or student unions on external speakers, such as a requirement to submit their speeches in advance, if they give an assurance these will be lawful."*

Freedom of speech in universities, JCHR report, 27 March 2018, paragraph 93 (available at: <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/589/589.pdf>)

- 2.10 The College's approach is to encourage and promote academic freedom, free speech and debate by staff and students. However, the freedom to challenge or debate through freedom of expression does not give permission to break the law through incitement to violence, or through the use of threatening words or behaviour intended to provoke hatred on the grounds of any form of discrimination.
- 2.11 All members of the College's academic community have freedom within the law to:
 - Hold opinions and express them verbally, through written material, or through other media
 - Challenge established theories, ideas or received wisdom
 - Develop new ideas or proposals
 - Present or take controversial or unpopular positions
- 2.12 The College requires the whole academic community (staff and students) to be aware of its responsibilities under the Equality Act (2010) which identifies the following protected characteristics: age, disability, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation, and to have due regard for the need to:
 - Eliminate discrimination, harassment, victimisation & any other conduct prohibited under the Equality Act;
 - Advance equality of opportunity between people who share a protected characteristic and people who do not share it;

- Foster good relations between people who share a protected characteristic and those who do not share it.

3. Academic Freedom

3.1 The college recognises that all member of the academic community has freedom within the law as recognised above. The college aims to ensure that staff have:

- Freedom in teaching and discussion
- Freedom in carrying out research without commercial or political interference
- Freedom to disseminate and publish research findings
- Freedom from institutional censorship, including the right to express opinions publicly
- Freedom to participate in professional and representative academic bodies, including trade unions.

3.2 In the exercise of the freedom during their role in delivering academic duties: research, teaching or the publication of material linked to the college, staff and students are expected to:

- Value diversity and recognise the strength that comes from people with different perspectives and knowledge linked to a diverse range of characteristics including age, disability, sex, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation and culture.
- Treat others with respect, challenge inequality and respond to the different needs and circumstances of individuals and groups of people
- Respect and defend the rights of individuals to hold different views and beliefs and their right to express those views through appropriate fora when engaging in academic discussion
- Communicate in a respectful manner and in a clear, relevant and respectful way
- Be academically rigorous, justifying their views with evidence and appropriate argument
- Minimise the risk of and harm to any person, institution or community
- Be sensitive to others when expressing opinions that may cause offence and present views in a manner that is not hostile or degrading
- Respect the right of others to challenge their views and be prepared to accept gaps and weaknesses in their own arguments
- Be aware of the legal implications of their actions

4. Free Speech and Freedom of Expression

4.1 Staff and students at the College should therefore consider whether their action or the action of invited guest speakers / visiting lecturers, the outcome of meetings, protest or demonstration or the result of academic work (including practice or artefact) will:

- Infringe the rights of others,
- Discriminate against others in a manner that constitutes a criminal offence
- Constitute a threat to public order or to the health and safety of individuals
- Incite others to commit criminal acts
- Be contrary to the civil and human rights of individuals.
- Must not unlawfully discriminate against, harass, or incite hatred toward any section of the community, while recognising that lawful views may be expressed even if some may find them offensive.

4.2 The College will not normally deny the use of facilities to individuals or groups unless the proposed use is considered likely to be contrary to the law.

5. Planning of activities

5.1 References in the Code to “activities” include (but are not limited to) meetings, demonstrations, events and publications through whatever media (including social media) which take place or

are proposed or planned or due to take place on the College's premises or through its ICT systems.

- 5.2 The College has the responsibility to take reasonable steps to maintain good order on its premises. It has the right and the power to regulate and, if necessary, to impose conditions or restrictions upon activities which take place or are planned or proposed or due to take place on its premises or through its ICT systems. The organisation and holding of any such activities, and the arrangements therefor, must comply with this Code of Practice.
- 5.3 Any external speakers must be approved by the Assistant Principal/Curriculum manager for each area and all concerns and final decisions will be the responsibility of the Designated Safeguarding Lead (DSL). In these incidences the DSL will rate the risks associated and decide on the appropriate outcome.
- 5.4 There should be sufficient information about the event including topics and any speakers and sufficient notice to allow for checks to be made and cancellation to take place if necessary, prior to the event. Any staff or students that become aware of any incidents or instances where off-campus events of concern are promoted on campus should be reported immediately to the DSL. This may be through a student's tutor/SPA or Curriculum manager/Head of School.

6. Refusal of Activity

- 6.1 If there is any question or doubt as to the subjects being raised through any activity within the academic community and the possibility that it might not be in accordance with this statement, it is the responsibility of the course leader, tutor or event/activity organiser (whether staff or student) to contact the AsP or DSL for advice on whether to proceed. Having considered the available information, the AsP or DSL will then decide to grant or withhold permission for any activity.
- 6.2 The College will not unreasonably refuse to allow activities to take place on its premises or through its ICT systems. The expression of controversial views which do not breach the law or risk a breach of the law will not of itself constitute reasonable grounds for withholding permission for an activity. Reasonable grounds for refusal would include (but are not limited to) the fact that, if the activity were to take place, a risk would arise that, within the premises of the College and/or the scope of its ICT systems there would be: incitement to commit a criminal act; the unlawful expression of views; support of an organisation whose aims and objectives are illegal; the foreseeability that an individual might be drawn into terrorism; and/or a breach of the peace.
- 6.3 The application of the Prevent duty will always be balanced with the legal requirement to uphold freedom of expression. Risk assessments will be evidence-based and proportionate.
- 6.4 *(The procedure described above is outlined in the College Preventing Terrorism Policy. This reflects the requirement under Section 43 of the Education (No 2) Act 1986: to issue and keep up to date a code of practice to be followed by members, students, and employees of the College for the organisation of meetings and other events, which are to be held on College premises, and for the conduct required of members, students, and employees of the College in connection with meetings and other events.*

Staff, visiting speakers and students of the College must conduct themselves to ensure that freedom of speech is within the law. The College believes that a culture of free, open and robust discussion can be achieved only if all concerned avoid needlessly offensive or provocative action and language.)

7. Appeals

- 7.1 If the organiser feels that refusal contravenes this statement, they have the right to appeal, in writing, to the College Principal, who will consider the arguments and decide regarding any such appeal. The final decision rests with the Principal.

8. Contravention of the statement

- 8.1 Activity that contravenes this statement will be investigated and may give rise to disciplinary procedures against the relevant staff or student(s). In addition, if relevant, information may be supplied to the police if there are grounds to believe a breach of criminal law has occurred.
- 8.2 No member of the College will be subject to disciplinary procedures solely for expressing lawful views, however controversial, provided they do not breach the law or this policy.

9. Review of Code of Practice

- 9.1 The College acknowledges its duty under subsection 3 of section 43 of the Education (No. 2) Act 1986 to issue and keep up to date a Code of Practice on freedom of speech. With this end in view the Governing Body will receive a report which will summarise any restrictions imposed, complaints received, and decisions made in relation to this Code, to support transparency and continuous improvement by the Group Principal, together with any recommendations for revision of it, at intervals not exceeding 3 years.
- 9.2 To be read in conjunction with:
 - Relevant OfS Regulatory Guidance
 - Preventing Terrorism & Radicalisation Policy
 - Safeguarding & Child Protection Policy
 - Off Site Activities Policy