



## **CODE OF PRACTICE ON FREEDOM OF SPEECH AND EXPRESSION**

Originator: Clerk to the Board of Governors. Based on Eversheds' template *Code of Practice on Freedom of Speech in Further and Higher Education Institutions* (Sept. 2015)

Date: 26<sup>th</sup> November 2014 (approved), 27<sup>th</sup> January 2016 (revised & approved). Updated for university title, August 2017

Approved by: Board of Governors

Type: Code of practice

## 1. Introduction

- 1.1 Leeds Arts University recognises and endorses that freedom of speech and expression within the law has fundamental importance for institutions as places of education, learning and the disinterested pursuit of truth. In particular, institutions are obliged under section 43 of the Education (No. 2) Act 1986 to take reasonable measures to protect freedom of lawful speech.
- 1.2 In addition, a principle of freedom of lawful expression is enshrined in Article 10 of the European Convention on Human Rights.
- 1.3 The University is also required under clause 7.2 of the Articles of Government to have regard to the need to ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without placing themselves at risk of losing their jobs or any privileges they may have at the University. Institutions have a responsibility, so far as is reasonably practicable, to protect and advance the principle of academic freedom.
- 1.4 This Code of Practice sets out the rights and obligations inherent within the principles of freedom of speech and expression and academic freedom and the Code shall be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law. Staff are also referred to the University's Policy on the use of Social Media.
- 1.5 The Code of Practice covers freedom of speech and expression in whatever form that may take including (but not limited to) speeches, debates, meetings, demonstrations, written publications and through the use of social media.
- 1.6 The Code's rights and obligations shall apply to:
  - 1.6.1 the University, including members of the Board of Governors;
  - 1.6.2 all persons (whether academic staff or otherwise) working for the University whether for payment or otherwise
  - 1.6.3 all duly enrolled students of the University (whether full or part-time);
  - 1.6.4 all students studying with the University (whether full or part-time) under an agreement with a partner organisation of the University (e.g. a university or school) even if they are not enrolled as students at the University;
  - 1.6.5 the students' union and any societies, clubs or associations which normally operate on the University's premises; and

- 1.6.6 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 University's premises or through its ICT systems in accordance with the provisions of section 3 of this Code.
- 1.7 References in the Code to “the University's premises” and/or “the University's facilities” include premises and/or facilities which are owned by the University, premises and/or facilities which the University does not own but over which it exercises some degree of control, and premises and/or facilities occupied or controlled by the University's students' union whether or not the University owns or has control of such premises and/or facilities.
- 1.8 References in the Code to any University employee (e.g. the Vice-Chancellor) includes reference to their nominee.
- 2. Freedom of Speech and Expression**
- 2.1 The University shall take such steps as are reasonably practicable to ensure that freedom of speech and expression within the law is secured for every person to whom this Code's rights apply.
- 2.2 Every person to whom this Code's obligations apply shall assist the University in upholding this Code of Practice.
- 2.3 The University will not suppress freedom of speech and expression, however abhorrent certain expressions may be to the majority of the members of the University, provided that:
- such speech and expressions do not go beyond the articulation of points of view and are within the law and do not constitute incitement to riot, insurrection, racial hatred, religious hatred, sexual harassment or other activities which are likely to cause a breach of the peace or public disorder or otherwise be unlawful, significantly increase the risk of an individual being drawn into terrorism or otherwise to be unlawful, and
  - by allowing such views to be expressed, and by allowing the activity to take place in the format proposed the University would not be failing in its wider legal duties, in particular to have due regard in carrying out its functions to the need to—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010<sup>1</sup>;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it and

(d) prevent people being drawn into terrorism and extremism, including non-violent extremism.

2.4 The University shall ensure, so far as is reasonably practicable, that the use of its premises and facilities is not denied to any individual or body of persons on any ground connected with:

2.4.1 the beliefs or views of such individual or any member of such body; or

2.4.2 the policy or objectives of such body.

2.5 Every person to whom this Code's obligations apply shall refrain from organising or engaging in or otherwise being associated with any conduct (other than by lawful, reasonable and peaceful persuasion) intended to prevent the enjoyment of rights under this Code of Practice.

2.6 The University shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the obligations under this Code of Practice are complied with.

<sup>1</sup> *An example of an activity format which would conflict with the University's duty under the Equality Act 2010 is the use of segregated seating at non-religious events. The Equality & Human Rights Commission has issued guidance (Gender Segregation at Events and Meetings: Guidance for Universities and Students' Unions, July 2014) that a non-religious event being held with men and women in segregated seating would generally be unlawful. Such segregation would be prohibited under section 2.3 of this Code of Practice on Freedom of Speech and Expression. See: <http://www.equalityhumanrights.com/publication/gender-segregation-events-and-meetings-guidance-universities-and-students-unions>*

### 3. The Holding of Activities

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 University's premises or through its ICT systems.

- 3.1 The University 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 therefore, must comply with this Code of Practice.
- 3.2 Any person to whom this Code's rights apply must submit a request, in writing, to the University's Pro-Vice-Chancellor Academic (the PVC Academic) for permission for an activity to take place where it is reasonably foreseeable (in the reasonable opinion of the PVC Academic) that the activity may be attended by 20 or more people and/or will raise issues which may be controversial in some way. Any such request should be submitted to the PVC Academic not less than 10 working days before the proposed date of the activity and must contain details of the proposed subject matter and the purpose and format of the activity, including seating arrangements, the name and identity of any speakers or authors and the proposed timing and location of the activity.
- 3.3 Any organisers of any activity shall, if there is any doubt as to whether the activity may, in the reasonable opinion of the PVC Academic, be controversial, consult the PVC Academic at the very earliest opportunity so that the correct procedures may be followed.
- 3.4 Save in exceptional circumstances where more time is required before a decision can be made, within 10 of working days of receiving a written request pursuant to paragraphs 3.3 above the PVC Academic shall issue a written decision in reply which shall either grant or withhold permission for the activity to take place on The University's premises or through its ICT systems. Where the required information is not provided the PVC Academic will issue a decision (which is likely to be refusal to allow the activity to go ahead) before the date of the planned activity. Until permission is received no activity subject to this Code may take place. Permission granted under this Code may be subject to such conditions or restrictions (for example, as to security precautions, payment of charges, limits on numbers of people to be admitted, seating arrangements or form of publication) as the PVC Academic reasonably sees fit.

- 3.5 The University 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 University* and/or the scope of its ICT systems there would be:
- 3.5.1 incitement to commit a criminal act;
  - 3.5.2 the unlawful expression of views;
  - 3.5.3 support of an organisation whose aims and objectives are illegal;
  - 3.5.4 the foreseeability that an individual might be drawn into terrorism (including non-violent extremism) and/or
  - 3.5.5 a breach of the peace.
- 3.6 In determining whether permission for an activity to take place on the University's premises and/or through its ICT system might reasonably be refused, consideration may be given by the PVC Academic (as is appropriate in the circumstances) to:
- 3.6.1 the safety of persons attending the activity or otherwise affected by the activity and/or on the University premises who might foreseeably be put at risk;
  - 3.6.2 the security of the University's premises; and
  - 3.6.3 the good name and reputation of the University.
- 3.7 A request for an appeal against a decision of the PVC Academic may be made, in writing, to the Vice-Chancellor within 10 days of the issue of the PVC Academic's decision. The appeal must clearly state the grounds for the appeal against the decision and will only be considered if the appellant can demonstrate a serious factual inaccuracy or that a relevant point of law has not been addressed in what has been considered by the PVC Academic, or that the PVC Academic has failed to follow the correct procedure in considering the request. To ensure a transparent process appeals will be sifted on the Vice-Chancellor's behalf by the head of Human Resources. The decision of the Vice-Chancellor shall be final and binding. The Vice-Chancellor may also impose such conditions or restrictions on the activity taking place as he/she reasonably sees fit.

#### **4. Practical Measures**

- 4.1 The University shall permit the use of its premises and ICT systems only by organisers or other individuals otherwise involved in an activity or proposed activity who undertake in writing to comply with all lawful instructions and conditions issued by the University in relation to (but not limited to) the location, arrangements, form and conduct of such activities, including adequate stewarding, chairing and provision of adequate control over entry.
- 4.2 In cases in which it is reasonable to assume that there is a possibility of disruption arising from the taking place of an activity, the University may consult with the police. If the activity is a public one the police may be prepared to be present throughout the event to minimise any disruption.
- 4.3 Any organisers or other individuals otherwise involved with an activity to take place on the University's premises or through its ICT systems shall be responsible for any costs involved in organising and holding such activities and for ensuring, as far as reasonably possible, that nothing in the organisation and holding or arrangements of such activities infringes the law or any University rule, regulation or procedure in any way.

#### **5. Sanctions and Penalties**

- 5.1 Any member of the Board of Governors who breaches this Code may be removed from office under clause 6.3(b) of the University's Instrument of Government.
- 5.2 Where those responsible for the breach are students or staff of the University action may be taken against them under the relevant disciplinary procedure.
- 5.3 Where those responsible for the breach are students or staff of a partner organisation of the University the Vice-Chancellor shall consider whether to inform the partner organisation with a view to that partner organisation taking action (whether as well as or instead of) under its relevant disciplinary procedure.
- 5.4 Where a breach of this Code of Practice takes place at an activity or as a result of an activity taking place, the University may take steps to assist the police to secure identification of the persons suspected of committing offences with a view to appropriate action being taken against them.

#### **6. Review and Amendment of Code**

The University 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 Board of Governors will receive a

report on the operation of the Code by the Vice-Chancellor, together with any recommendations for revision of it, at intervals not exceeding 3 years.

**Related policies:** Ethics Policy