

Code of Practice on Freedom of Speech

THE LEGAL CONTEXT

1. New College of the Humanities (the College) is fully committed to the principle and promotion of freedom of speech and expression. Section 43 of the Education (No 2) Act 1986 places a legal duty on universities to protect freedom of speech; the Education Reform Act 1988 protects academic freedom, and the Higher Education and Research Act 2017 Chapter 29 includes the principle that academic staff have freedom within the law to put forward new ideas and controversial or unpopular opinions.^{1 2 3} The European Convention on Human Rights safeguards freedom of thought, conscience and religion (Article 9); freedom of expression (Article 10); and freedom of assembly and association (Article 11). These were incorporated into UK law by the Human Rights Act 1998.^{4 5}
2. Under section 26(1) of the Counter-Terrorism and Security Act (2015), educational institutions are required to have robust policies and procedures in place to mitigate the risks of people being drawn into terrorism. This includes taking a proportionate and risk-based approach to these matters.
3. The application of the Prevent Duty to Higher Education institutions is different from its application to any other category of public body. Section 31 of the Counter Terrorism and Security Act requires universities to have particular regard to their pre-existing statutory obligation (under Section 43 (1) of the Education (No 2) Act 1986) to 'take such steps as are reasonably practicable ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers'.⁶
4. Section 31 of the Counter Terrorism and Security Act specifies that under the Prevent Duty, universities must 'have particular regard' to both 'the duty to ensure freedom of speech' and 'the importance of academic freedom'.
5. The College is committed to ensuring that Prevent is implemented in such a way that does not undermine free expression and academic freedom or the

¹ <https://www.legislation.gov.uk/ukpga/1986/61/section/43>

² <https://www.legislation.gov.uk/ukpga/1988/40/contents>

³ <https://www.legislation.gov.uk/ukpga/2017/29/introduction/enacted>

⁴ http://www.echr.coe.int/Documents/Convention_ENG.pdf

⁵ <https://www.legislation.gov.uk/ukpga/1998/42/contents>

⁶ <https://www.legislation.gov.uk/ukpga/2015/6/section/31>

autonomy of academics, staff and student or confidence in relationships within the College or result in discriminatory outcomes.

6. The College, in compliance with its duties under the Counter-Terrorism and Securities Act 2015, the Education (No 2) Act 1986 and the Higher Education and Research Act 2017, has approved the following Code of Practice on Freedom of Speech.

MEETINGS AND EVENTS

7. This Code of Practice on Freedom of Speech must be followed by all members of the College and external speakers in respect of all meetings and other events, including those organised by third parties. It should be read in conjunction with the Prevent Policy and the Managing External Speakers Policy (in draft).
8. It is not anticipated that events and meetings which have been organised as part of the academic curriculum, or as part of the College's research seminars, will cause concern under the provisions of this Code.
9. As required by section 12 of the Terrorism Act 2000, the College will not give permission to hold a meeting or event where it is known that the proposed speaker belongs to, or professes to belong to, a proscribed organisation, or the proposed speaker will use the event to support or to further the activities of a proscribed organisation.
10. Students, staff and board members of the College who are organising events are responsible for considering, in the first instance, whether there are any major risks or issues, with particular respect to the duties to protect freedom of speech and academic freedom outlined above; to values of equality, diversity, and the dignity of all members of the College; to the Prevent Strategy; and to the potential for infringements of these duties and values.
11. The College will, in addition to the assessment of the external speaker, carry out a health and safety risk assessment and reject the application, if it is in the interests of public safety, the prevention of disorder or crime, or the protection of those persons lawfully on College premises, that the event (including fund raising and/or charitable organisations) does not take place.
12. Where there are concerns that a meeting may give rise to an environment in which people will experience, or could reasonably fear, discrimination, harassment, intimidation, verbal abuse or violence, or is likely to pose a risk to the safety of those lawfully on College premises, or may prompt a risk to public safety, the Prevent Officer (PO) will be informed and report such concerns to the Facilities Manager (FM). The FM will undertake a risk assessment and report the findings to the relevant parties.
13. If any member of the College is dissatisfied with the outcome of a decision then they may appeal to the College Boards Liaison Committee (CBLC).
14. The PO shall review the operation of this Code after its first twelve months and report to Academic Board any recommended changes.

FREE SPEECH AND OFFENSIVE SPEECH WITHIN THE COLLEGE

15. In addition to its statutory obligations in this connection, the College is committed to freedom of expression as an intellectual value. It recognises that this might result in the expression of political, social, religious, historical, artistic, cultural or philosophical opinions that others might find offensive. The taking of offence by itself cannot be cited as a ground for silencing or sanctioning the expression of opinion.
 16. 'Hate Speech', as defined in law as part of a Hate Crime, in some circumstances, can be a criminal offence. If an alleged serious incident is brought to the attention of the College, the College will report any such incidents to the Office for Students (OfS), and follow the College's internal disciplinary procedures, ([Student Code of Conduct and Disciplinary Procedures](#) and Staff Handbook).
 17. Where expression by one or some members of College is regarded as offensive by another or other members of College, but does not fall within the statutorily proscribed forms of speech connoted in paragraph 16 above, the College encourages steps to be taken to debate and resolve the matter in a forum deemed suitable: for example, within a Faculty, in a meeting convened under the Chair of a member of staff agreed by the disputants, under facilitation by an outside body agreed by the disputants, or within the Student Union.⁷
 18. In the event that the expression of views that offend another member or members of College is persistent, clear and serious enough as to create an atmosphere of harassment, the College will follow in the first instance, its internal disciplinary procedures.
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Title	Code of Practice on Freedom of Speech	Author	Prevent Officer
Location	NCH Academic Handbook	Approved by	Academic Board
Version	1	Last updated	April 2018
Publication date	April 2018	Review date	April 2019
Related policies	Student Code of Conduct and Disciplinary Procedures; Staff Handbook; Managing External Speakers Policy		
External Reference Point(s)	Education (No 2) Act 1986; Education Reform Act 1988; Higher Education and Research Act 2017; Human Rights Act 1998; Counter-terrorism and Security Act 2015.		

⁷ The College is committed to promoting respect and tolerance.