

Code of Practice on Free Speech

Quality Management

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1. Principles and Values

- 1.1. Solent University recognizes and values the fundamental importance of protecting freedom of speech in both academic life and the wider community and the University's core value of respect and inclusivity. The University is committed to upholding and promoting the right of the freedom of speech for its students, staff and visiting speakers within the law.
- 1.2. At the same time, the University has a duty to provide a healthy and safe environment and must consider its legal obligations regarding activities on its premises which might lead to incitement of violence, racial or religious hatred or a breach of the peace, or otherwise transgress the bounds of lawful speech.
- 1.3. The University expects all students and staff to demonstrate our six values: respect, Ownership, Inclusivity, Engagement, Integrity and Teamwork.
- 1.4. In addition, at the heart of Professional Apprenticeships, British Values are of paramount importance. The Department of Education's definition of British Values includes: Democracy, The rule of law, Individual Liberty, Mutual respect, and Tolerance of those with different faiths and beliefs.

2. Definitions

- 2.1. **Freedom of speech** means everyone has the right to express lawful views and opinions freely, in speech or in writing, without interference.
- 2.2. **Academic freedom** means protecting the intellectual independence of academics to question and test received views and wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in danger of losing their jobs or privileges or reducing the likelihood of them securing promotion or different roles at the university.

3. Background

- 3.1. The Higher Education (Freedom of Speech) Act 2023 strengthens the legal requirements on universities in relation to free speech and academic freedom and replaces Section 43 of the Education (No 2) Act 1986. Universities are required to protect and now "actively promote" freedom of speech and take reasonably practicable steps to secure freedom of speech for its staff, members, students and visiting speakers. The Act also provides that staff should have freedom within the law to question and test received wisdom and to put forward unpopular opinions without placing themselves at risk of losing their jobs or privileges.
- 3.2. The Act gives the Office for Students (OfS) powers and duties to regulate universities and colleges, and their students' unions, on free speech issues and provide a complaints scheme. Under the scheme, past or present students, members of staff, applicants for academic posts and visiting speakers will be able to make complaints to the OfS about free speech issues.
- 3.3. Section 26(1) of the Counter-Terrorism and Security Act 2015 imposes a duty on Higher Education Institutions (HEI) when exercising their functions, to have "due regard to the need to prevent people from being drawn into terrorism" (the 'Prevent' duty) and to exclude those promoting extremist views or views that are conducive to terrorism, while having particular regard to the duty to secure freedom of speech.

4. The Code

4.1. This Code of Practice sets out the rights and obligations arising from freedom of speech within the law and the statutory duty.

4.2. The Code's rights and obligations apply to:

- the University;
- all persons (whether academic staff or otherwise) working for the University or undertaking duties on behalf of the University;
- all registered students of the University;
- all students studying at the University under an agreement with a partner organisation;
- all persons invited to speak or otherwise take part in events to be held either on University premises or online, in accordance with the provisions of this Code.

4.3. Solent Students' Union has its own duty to secure freedom of speech within the law and has its own Code of Practice.

5. Freedom of Speech

5.1. The University has a duty to secure freedom of speech within the law and shall take reasonably practicable to ensure that freedom of speech within the law is secured for every person to whom this Code applies, even if that speech is considered controversial or offensive. Incitement to harassment, unlawful discrimination, racial or religious hatred, or public disorder are not within the law.

5.2. The Code of Practice is not intended to police unlawful speech.

5.3. It is the responsibility of all persons to whom this Code's obligations apply to assist the University in upholding the Code of Practice.

5.4. The University shall ensure, so far as is reasonably practicable, that the use of University premises is not denied to any individual or group seeking to express freedom of speech within the law on any grounds connected with:

- the beliefs or views of such individual or any member of such body; or
- the policy or objectives of such body.

5.5. Every person to whom this Code applies 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.

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

6. Promoting and securing freedom of speech and academic freedom

6.1. The University will ensure that, so far as is reasonably practicable, its curriculum, teaching, policies and procedures reflect its duties to ensure freedom of speech and academic freedom within the law. In particular:

- Processes for programme development and approval, quality assurance and assessment;
- Processes for facilitating research;

6.2. No individual will be subject to disciplinary action or less favourable treatment by the University as a result of the lawful expression of freedom of speech or academic freedom.

7. Prohibition on the use of non-disclosure agreements

7.1. The University is committed to not enter into non-disclosure agreements related to complaints about sexual misconduct, bullying or harassment.

8. Overseas Funding

8.1. The Higher Education (Freedom of Speech) Act 2023 confers on the Office for Students (OfS) the duty to monitor the extent to which any overseas funding presents a risk to freedom of speech and academic freedom. The University will ensure that any risks are considered and mitigated.

9. Procedure to be followed by event organisers

9.1. This code applies to any externally organised meeting or other activity involving a visiting speaker which is to be held on University premises or within the University's online provision e.g. speakers hosted virtually by the University. In addition, this Code applies to off-campus branded events where the University is the lead organiser, for example, recruitment events and networks, and forums hosted in an external venue.

9.2. In this context, University premises include those owned, operated, and/or managed by the University, and includes the Student Union buildings or facilities and will apply to third party providers operating a service within the University.

9.3. For all such events and speakers, it is mandatory for the event organiser to use the Events and Speakers Process Pathway (see Prevent Portal pages). The appropriate risk assessment will be undertaken and assessed and determined using the table below. A record of all events and speakers assessed as medium and high risk will be maintained by the Prevent leads for audit and regulatory purposes.

9.4. It is the responsibility of all Services and Departments to ensure their staff are up to date with this process and policy and understand that not providing full information in a timely manner renders risk that the event will not be able to proceed.

9.5. The Designated Prevent Lead/Officers hold responsibility for authorising events determined to be medium and high risk, there will also be additional oversight from the University Research Ethics and Integrity Committee (UREIC) Chair where there is high risk or exceptional circumstances to enable these issues to be independently considered. The designated staff reserve the right to put in place conditions or undertake action to mitigate against any identified risk or deny an event taking place where the risk is exceptionally high, or where a breach of law may occur on the premises. Where this occurs and raises dispute this can be appealed by the event organiser via the Prevent Lead/Officers to the UREIC Chair who will act as an independent arbiter. Example conditions may be, but not limited to:

- Public not being allowed to be invited
- Admission may be restricted and controlled by tickets or identity card (or both)
- Escort arrangements for the speaker
- The presence of stewards or University security staff (this has cost implications for the organiser)
- Restriction on admission of press, television, broadcasting personnel or social media publicity

- Appointment of a member of staff as a ‘controlling officer’.

10. Criteria and terms for use of University premises

10.1. The criteria to be used by the institution in making decisions about whether to allow the use of premises and on what terms is set out in the Events and Speakers Process Pathway.

11. Security costs

11.1. Use of University premises by any individual or body will not normally require that individual or body to bear some or all of the costs of security relating to their use of the premises.

12. Staff and student conduct

12.1. All participants and those attending an approved external meeting, or one where a visiting speaker is giving an address, will be required, and expected to refrain from acting in an unlawful or dangerous manner.

12.2. The principal organiser, and where relevant the chairperson for the event, will have duty to secure, as far as possible, both the audience and the speaker and ensure that they act in accordance with the law during the event. In cases where conduct is deemed to be in breach of the law the principal organiser and/or chairperson is required to give appropriate warning and in cases where it continues will be required to request the withdrawal or removal of the person concerned or to close the meeting. Security or Police may be called if required.

12.3. The University recognises that approved external speakers may represent views with which staff and students disagree. The University supports the right to peaceful protest, which is a legitimate expression of freedom of speech, and the expectations set out above do not seek to restrict that right. However, protest must not shut down debate.

12.4. Any offence or misconduct arising from the event linked to a staff member or student may result in the use of the Staff Behaviour and Disciplinary Policies or the Student Disciplinary Procedure and may also result in a report being made to the relevant authority, for example the Police.

13. Breaches of the Code of Practice

13.1. It is the duty of all parties covered by this Code of Practice to uphold the rights of freedom of speech detailed in this Code.

13.2. Breaches of the Code of Practice will be managed under the relevant University student or staff disciplinary procedure.

14. Complaints and Appeals

14.1. Where a student considers that their rights under the Code of Practice have been infringed, they have the right to submit a complaint under the University’s Student Complaint Procedure.

14.2. Where a member of staff considers that their rights under the Code of Practice have been infringed, the University would expect any concerns to be raised informally in the first instances. Where the issue cannot be resolved informally, this can be raised through the Staff Grievance Policy.

15. Office of the Independent Adjudicator for Higher Education

15.1. Current students who have exhausted the University’s internal complaints or appeals procedure can request that their case is reviewed by the Office of the Independent Adjudicator for Higher Education (OIA). Details of the OIA scheme are included in the

respective Student Complaints and Academic Appeals Procedures and in the 'Completion of Procedures' letter issued to students at the point where the internal procedures have been exhausted.

16. Office for Students (OfS) free speech complaints scheme

16.1. The Office for Students (OfS) operates a free speech complaints scheme. Under that scheme the OfS can review complaints about free speech from members, students, staff, applicants for academic posts and (actual or invited) visiting speakers. Information about the complaints that the OfS can review is available on its website www.officeforstudents.org.uk/consultations-on-free-speech/consultation-on-the-ofs-s-new-free-speech-complaints-scheme/.

16.2. Current students who have submitted a complaint to the Office of the Independent Adjudicator for Higher Education (OIAHE) are not able to submit a complaint to the OfS on the same freedom of speech issues.

17. Training

17.1. Training on freedom of speech and academic freedom will be provided to all appropriate staff.

18. Communication

18.1. The University will communicate and promote the Code of Practice and OfS complaints scheme annually to staff and to students via the staff and student portal.

19. Responsibilities

19.1. The Academic Board will oversee the implementation and ongoing revision of this Code.

19.2. The Academic Board will monitor implementation of the Freedom of Speech Code of Practice and monitor the University's approach to compliance with the Higher Education (Freedom of Speech) Act 2023 and ensure that concerns raised about freedom of speech are addressed and any lessons learned are incorporated when undertaking reviews of relevant policies, practices and procedures.

20. Advice and Guidance

20.1. Advice and Guidance on the Code can be sought from the Academic Registrar or Head of Student Success.

APPENDIX 1: LEGAL CONTEXT

- [Section 43 of the Education \(No 2\) Act 1986](#)
- [The Higher Education \(Freedom of Speech\) Act 2023](#)
- [Section 26\(1\) of the Counter-Terrorism and Security Act 2015](#) (the 'Prevent' duty)
- Equality Act 2010
- The European Convention on Human Rights
- The Human Rights Act 1998
- [Public sector equality duty](#)

APPENDIX 2. SOLENT POLICIES AND PROCEDURES

- Student Disciplinary Procedure
- Solent University Research Ethics Policy and Procedure
- Transgender Equality and Inclusion policy
- Safeguarding policy
- Event Risk Assessment - Guest speakers & VIPs
- Prevent Policy and Code of Practice (Events and External Speakers)