

Free Speech and Academic Freedom Code of Practice

1. Introduction

- 1.1 This code of practice sets out the University's approach to securing freedom of speech within the law and protecting academic freedom across its activities.
- 1.2 This code applies to staff, students, and visiting speakers (including Visiting Lecturers, Visiting Professors, Honorary Award holders, and external researchers).
- 1.3 Freedom of speech is defined as the freedom within the law to impart ideas, opinions, or information by means of speech, writing or images (including in electronic form).
- 1.4 Academic freedom – in relation to academic staff - means 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 being adversely affected either by losing their jobs or privileges or a reduction in the likelihood of their securing promotion or different jobs.
- 1.5 The Code applies to:
 - (i) Activities undertaken on University premises in the normal course of the University's provision of teaching and learning, research and knowledge exchange, and administrative and support services;
 - (ii) All other activities that are held on University premises including events at which visiting speakers have been invited to present.

2. Values

- 2.1 Freedom of speech and academic freedom are fundamental to the success of our academic community and must be protected. The University is an academic community that engages in open debate, critical creativity, and the creation, sharing, and dissemination of knowledge.
- 2.2 Our vision as outlined in our [Strategy 2022-2027](#) states that Norwich University of the Arts will be the place where the debate about the future of creativity and creative arts education is most passionately engaged. We will support this through a culture that supports all our staff and students in their intellectual, creative and personal growth, mindful that their health and wellbeing is at the core of our project and the delivery of our ambitions.
- 2.3 At the core of our mission is a belief that diversity in all its forms – national, cultural, socio-economic, political, sexual, physical, neurological, and experiential – is the very heart of creative endeavor, enabling us to debate with one another,

see the world differently, and create new possibilities for a more equal and sustainable future.

- 2.4 Freedom of speech within the law and academic freedom underpin our whole academic endeavor and runs through the core of what we do.

3. Legal framework

- 3.1 The Higher Education (Freedom of Speech) Act 2023 requires the governing body to take all steps as are reasonably practicable to secure freedom of speech and academic freedom within the law. The provisions of the Act apply to;

- (1) Staff of the provider
- (2) Members of the provider
- (3) Students of the provider
- (4) Visiting speakers

- 3.2 Article 10 of the European Convention on Human Rights (as enshrined in the Human Rights Act 1998) states that everyone has the right to freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of these freedoms may be subject to formalities, restrictions or penalties *as are prescribed by law* and are necessary in a democratic society for reasons that are set out in the convention.

- 3.3 In considering its duty to secure freedom of speech and academic freedom, the University must also take account of:

- (1) The University's obligations to prevent any activity that may constitute a criminal or civil offence under any legislation, in which case the requirement to secure freedom of speech in circumstances that may result in a breach of criminal or civil law, or incite others to commit a criminal or civil offence, will not apply;
- (2) The University's obligation under the Equality Act 2010 to eliminate unlawful discrimination on grounds of ethnicity, race, nationality, religion or belief, sexual orientation, gender or gender reassignment, marital status, disability or age;
- (3) The University's obligations under the Public Sector Equality Duty as set out in the Equality Act 2010 to have due regard to the need to advance equality of opportunity and to foster good relations between people who share protected characteristics and those that do not;
- (4) The University's obligations under the Prevent Duty to have due regard to the need to prevent people from being drawn into terrorism under Section 26(1) of the Counter-Terrorism and Security Act 2015.

- 3.4 The requirements on universities in relation to the above duties are defined within the relevant legislation. For freedom of speech, the University must 'take such steps as are reasonably practicable' to **secure** freedom of speech within the law. For other duties, including PSED and the Prevent duty, universities are required

to 'have due regard' to the need to achieve the aims of these pieces of legislation. In balancing these obligations and making decisions, the University must keep in mind that it has a particular responsibility to protect freedom of speech and academic freedom.

4. Governance

- 4.1 The governing body must take reasonable and practicable steps to secure and promote freedom of speech within the law for all members of the community (staff, members, students, and visiting speakers) and academic freedom for academic staff.
- 4.2 The governing body shall consider, at least annually, a report on compliance with the Code.
- 4.3 The Academic Board is responsible for approving this code and ensuring that the provisions of this code are implemented across the University community.

5. General expectations governing University activities

- 5.1 The University will take all steps as is reasonably practicable and lawful to secure freedom of speech within the law to University members and visiting speakers to ensure that:
 - (i) it will not deny the use of its premises or its facilities to any individual or body on the grounds of that individual's or body's (including its individual members) policies, objectives, ideas or opinions; and
 - (ii) access may only be limited if there is a legitimate justification to do so.
- 5.2 In relation to 5.1 above, this objective will also apply to securing the academic freedom of the University's staff.
- 5.3 The [OfS Regulatory Advice 24](#) recommends the adoption of a 3 step process:
 - Step 1: Test whether the speech is "within the law";
 - Step 2: Test whether there are any "reasonably practicable steps" that we need to take (or not take) to secure the speech;
 - Step 3: Test whether there are any restrictions "prescribed by law" and proportionate under the European Convention on Human Rights.

The University will adopt this framework when considering issues of whether it has fulfilled its duty to secure freedom of speech and/or protect academic freedom.

- 5.4 The University shall not impose conditions on the use of premises on terms that require an individual or body to bear some or all of the costs of security relating to the use except in exceptional circumstances – which are activities or events that:
 - (i) raise controversial issues which may result in unlawful activity without mitigation, or;

- (ii) present a risk to the health and safety of University members, visitors or members of the public, or;
 - (iii) place unreasonable risk to the security of the University's premises or property.
- AND
- (iv) give rise to additional security costs that exceed £1000

If an organiser of an event is concerned that these circumstances might apply, they should refer the event to the Chief Operating Officer in the first instance (aro@norwichuni.ac.uk).

5.5 The University must not enter into a non-disclosure agreement in relation to a complaint made by an individual or body under this code.

5.6 In engaging in events, debates, and other activities we expect participants to behave in a professional and reasonable manner and pay due regard to the impact and effect that their views and opinions may have on others. All parties should treat each other with respect even where opinions differ. Allegations of speech that may constitute harassment or bullying will be investigated under the relevant University harassment and bullying policy.

6. Procedures for the approval of speakers and events

6.1 The full procedures are set out in the **Freedom of Speech - Procedure for approving external events and speakers** included as Appendix 1.

6.2 **Visiting Lecturers on taught programmes** – Programme Directors are responsible for approving all Visiting Lecturers. Course Leaders will be required to identify any specific event that covers material that may be considered controversial or subject matter that may contravene the provisions of this code. A record of Visiting Lecturers and speakers will be maintained by Academic Registry for monitoring and reporting purposes.

6.3 **Research seminars and related events** – Participation of visiting speakers at Research Seminars or other research events must be approved by the Dean of Research & Knowledge Exchange. A record of all external speakers will be maintained by the Research Office for monitoring and reporting purposes.

6.4 **Ad-hoc events (other than those held in the normal course of the University's teaching, learning and research activity)** - formal approval must be obtained, in advance, for any event or activity to be held on the University's premises, which is not held in the normal course of the University's business, including teaching, learning and research, from the relevant member of the Senior Management Team.

6.5 **Students' Union events and speakers** – the Students' Union (SU) will be responsible for approving events and speakers associated with its activities, or

those of its clubs and societies. The SU should include a provision within its approval procedures to escalate any circumstance where (i) the Union has approved a speaker that might need additional security measures in place because of its subject matter or (ii) the Union has not approved a speaker on grounds relating to their opinions/beliefs or associations. This only applies to events held on University premises.

- 6.6 **Escalation of requests deemed to risk contravening this Code** – The refusal of a speaker request should only be made in exceptional circumstances. The approving staff member will be required to refer any external speaker that he/she has reason to believe may result in a contravention of this Code to the relevant member of the Senior Management Team as outlined in the **Freedom of Speech - Procedures for approving external events or speakers**.

7. Published material

- 7.1 Material may not be displayed or distributed (including distribution using the University's IT systems) that is considered in any way illegal, offensive, insulting, intimidating, threatening or indecent or which is likely to be understood to be directly or indirectly encouraging terrorism, racial hatred or other forms of illegal discrimination. Referral of material deemed to fall into this category should be made to the relevant SMT member, who will seek appropriate advice. In coming to a decision about the application of this paragraph, the University will take account of relevant legislation.

8. Breach of this Code

- 8.1 A breach of this Code will be considered where the University or a member of the University community has taken steps that restrict freedom of speech within the law or academic freedom. Where this is deemed to have happened, the complainant may make a complaint (see section 9).

9. Complaints procedure

9.1 Students

Students should refer to the Student Complaints Procedure in Section K of the Student Regulations and Procedures on **Making a complaint**.

9.2 Staff or visiting speakers

Complaints made against this implementation or operation of this code may be brought by a staff member or visiting speaker, on the following grounds:

- (i) That there has been a procedural irregularity in exercising the provisions of the Code, whereby an action has resulted in a failure to uphold free speech within the law; OR
- (ii) In the case of academic staff, where an action has resulted in a suppression of academic freedom

- 9.3 Stage 1 complaints should be addressed to the Chief Operating Officer at Norwich University of the Arts, email aro@norwichuni.ac.uk. The University will seek to

provide a response as soon as possible and within 90 days.

- 9.4 If, following the outcome of the Stage 1 complaint, the complainant remains dissatisfied, the complainant may make a Stage 2 complaint to the Deputy Vice-Chancellor. Stage 2 complaints should be addressed to dvc@norwichuni.ac.uk.
- 9.5 The University may decide not to consider a complaint if the content is vexatious, frivolous or unmeritorious relating to speech. Examples of complaints that may fall into this category include:
- complaints which are obsessive, harassing or repetitive in nature;
 - complaints where the outcome being requested is unreasonable or unrealistic; or
 - complaints which we think have been made solely to cause trouble or to waste the University's time.

Freedom of Speech - Procedure for approving external events and speakers

1. General principles

- 1.1 This procedure applies to all events and activities which involve external speakers or external organisations which are held on University premises.
- 1.2 Refusal of events and speakers for reasons that are not connected with free speech or academic freedom, such as reasons related to normal business considerations, budgetary constraint and/or educational or research priorities do not need to be escalated under the following procedures.
- 1.3 Where an event or speaker may be refused on grounds of views, beliefs or opinions, the procedure under section 5 should be followed.

2. Application for approval of a Visiting Lecturer

- 2.1 Applications for approval of a Visiting Lecturer must be submitted by the Course Leader to the Programme Director prior to the event taking place. Course Leaders should complete the Pro-Forma for Requesting a Visiting Lecturer Contract.
- 2.2 The Programme Director will consider applications for approval of Visiting Lecturers, and may consult with colleagues as required to obtain sufficient knowledge of the Visiting Lecturer, before making a decision to either approve or decline the speaker.
- 2.3 Where the Programme Director has a reasonable reason to believe that the proposed Visiting Lecturer(s) may pose a risk as outlined in section 6, the Programme Director will refer the application to the Dean of Creative Education for further consideration.
- 2.4 The Dean will consider the application in accordance with section 5 to 6 of these procedures.
- 2.5 A record of all Visiting Lecturer sessions will be maintained by Academic Registry for monitoring and reporting purposes.

3. Approval of visiting speakers at Research events

- 3.1 The Dean of Research & Knowledge Exchange will be responsible for approving all external speakers at research events.
- 3.2 Where the Dean of Research & Knowledge Exchange has a reasonable reason to believe that the proposed speaker(s) may pose a risk as outlined in Section 7, he/she will refer the speaker to the Deputy Vice-Chancellor for further

consideration.

3.3 The Deputy Vice-Chancellor will consider the application in accordance with section 5 to 7 of these procedures.

3.4 A record of all visiting speakers at research events will be maintained by the Research Office for monitoring and reporting purposes.

4. Application for approval of an event or external speaker (not covered by section 2 or section 3)

4.1 The event organiser must submit a written request to the relevant SMT member confirming the following information:

- (i) Date and time of the event
- (ii) Room(s) and/or facilities required
- (iii) Name and contact details of visiting speaker(s), including website URL (where applicable)
- (iv) Title and subject matter of the event
- (v) Where controversial subjects are likely to be covered, arrangements for ensuring that alternative views are being covered
- (vi) Target audience (and whether the event is open to the public)
- (vii) Number of participants

4.2 Applications must be made at least 6 weeks in advance of the event being planned using the relevant approval form.

4.3 The relevant SMT member will consider applications for approval of events. The approving SMT member may seek any further information from the event organiser, and/or other colleagues, as required, in order to facilitate their decision.

5. Escalation of events that require additional consideration before approval

5.1 Where the relevant Dean or approving SMT member is unable to approve the event on grounds related to the opinions, beliefs or viewpoints of the participants, this should be escalated to the Deputy Vice-Chancellor (DVC) or Chief Operating Officer (COO) for further consideration. The DVC or COO shall consult with the Senior Leadership Team and other relevant SMT colleagues (as required) and will either:

- (i) approve the event with or without conditions
- (ii) refuse approval for the event

5.2 The DVC or COO will apply the 3 step process outlined in the [OfS Regulatory Advice 24](#):

- Step 1: Test whether the speech is “within the law”;
- Step 2: Test whether there are any “reasonably practicable steps” that we need to take (or not take) to secure the speech;
- Step 3: Test whether there are any restrictions “prescribed by law” and proportionate under the European Convention on Human Rights.

APPENDIX 1

5.3 The DVC or COO may set any conditions or restrictions deemed necessary to ensure that the University fulfils its statutory duty with regard to the duty to secure protection of the speech or academic freedom.

5.4 The DVC or COO shall inform the Dean or approving SMT member of the decision.

6. Refusal of approval

6.1 Events or speakers may be refused where there is a reasonable belief that the event/speaker may:

- (i) incite those attending to commit a criminal act
- (ii) lead to unlawful expression of views, use of threatening or abusive language or behaviour or cause incitement to racial hatred or hatred towards specific groups or individuals
- (iii) be in direct support of an organisation which is proscribed or whose aims and objectives are illegal
- (iv) be likely to give rise to a breach of the peace or public disorder
- (v) compromise the University's ability to comply with its statutory, legal or regulatory duties as a higher education institution or exempt charity
- (vi) compromise the health and safety of persons attending the event or other persons on the University premises who may be put at risk, and that cannot be reasonably mitigated by the University
- (vii) compromise the security of the University's premises or its property

7. Approved events

7.1 Where an event has been approved, the event organiser(s) will be responsible for the organisation of the event, including meeting all normal business costs associated with the event, ensuring liaison with University staff as appropriate, and booking rooms and other facilities.

7.2 The event organiser(s) must comply with any conditions set, or restrictions imposed, in relation to the management and staging of the event. The organiser(s) will be responsible for ensuring that the event does not infringe the law in any way.

7.3 Where the University has reason to believe that disruption may occur at the event, the University shall be entitled to consult with the police as to the measures necessary to prevent disruption, including, where necessary, cancellation of the event.

7.4 Where an event is in progress, the University shall have the right to require the event organiser(s) to terminate the event if the conduct of the event gives rise to concern that the safety of those attending the event, or other University members, cannot be guaranteed, or that a breach of the law is likely to occur.

8. Liability

- 8.1 In refusing to approve an event, the University shall have no liability to the organiser(s) of the proposed event for any costs or other obligations incurred by the organiser(s) in connection with the event.

APPENDIX 2

INTERNAL GUIDANCE – RELEVANT LEGISLATION

Communications Act 2003

<https://www.legislation.gov.uk/ukpga/2003/21/contents>

Counter-Terrorism and Security Act 2015

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

Education (No. 2) Act 1986

<https://www.legislation.gov.uk/ukpga/1986/61/contents>

Equality Act 2010

<https://www.legislation.gov.uk/ukpga/2010/15/contents>

Higher Education and Research Act 2017

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

Higher Education (Freedom of Speech) Act 2023

<https://www.legislation.gov.uk/ukpga/2023/16/enacted>

Human Rights Act 1998

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

Malicious Communications Act 1988

<https://www.legislation.gov.uk/ukpga/1988/27/contents>

Obscene Publication Acts 1959 and 1964

<https://www.legislation.gov.uk/ukpga/Eliz2/7-8/66/contents>

<https://www.legislation.gov.uk/ukpga/1964/74/section/1>

Online Safety Act 2023

<https://www.legislation.gov.uk/ukpga/2023/50>

Protection from Harassment Act 1997

<https://www.legislation.gov.uk/ukpga/1997/40/contents>

Public Order Act 1986

<https://www.legislation.gov.uk/ukpga/1986/64/contents>

Public Order Act 2023

<https://www.legislation.gov.uk/ukpga/2023/15/contents>

Terrorism Act 2000

<https://www.legislation.gov.uk/ukpga/2000/11/contents>

Terrorism Act 2006

<https://www.legislation.gov.uk/ukpga/2006/11/contents>

INTERNAL GUIDANCE – RELEVANT LEGISLATION

Communications Act 2003

<https://www.legislation.gov.uk/ukpga/2003/21/contents>

Focuses on the misuse of public electronic communications networks. Content is illegal if it is included in a message (social media, messaging apps, emails) that is grossly offensive, indecent, obscene, or menacing, or is knowingly distributing false information to cause annoyance, inconvenience or needless anxiety. There is no requirement to prove intent, and the nature of the message can be enough. Speech that is illegal under this Act is not protected.

Counter-Terrorism and Security Act 2015

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

This Act places a Prevent Duty on higher education providers to have due regard to the need to prevent people from being drawn into terrorism. This requires providers to balance the duty with the duty to secure freedom of speech and academic freedom. This places a requirement on providers to assess, and if necessary, mitigate risks that a speaker or event could promote terrorism.

Education (No. 2) Act 1986

<https://www.legislation.gov.uk/ukpga/1986/61/contents>

The Act introduced the original duty on higher education providers to protect and secure freedom of speech within the law.

Equality Act 2010

<https://www.legislation.gov.uk/ukpga/2010/15/contents>

The Act prohibits unlawful discrimination of people with protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation). Religion means any religion including a lack of religion, and belief means any religious or philosophical belief. The Act itself does not define philosophical belief in detail, but there has been sufficient case law that has established criteria that a belief must meet to be protected: genuinely held, not just an opinion or viewpoint, concern a weighty and substantial aspect of human life or behaviour, attain cogency, seriousness, cohesion and importance, worthy of respect in a democratic society, not incompatible with human dignity and not in conflict with the fundamental rights of others. Beliefs that have been protected in case law are belief in climate change, democratic socialism, ethical vegetarianism, gender critical belief, and belief in Scottish independence.

Higher Education and Research Act 2017

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

The Act enshrined the original statutory duty outlined in the Education (No 2) Act 1986, and made the protection of free speech and academic freedom a condition of registration.

Higher Education (Freedom of Speech) Act 2023

<https://www.legislation.gov.uk/ukpga/2023/16/enacted>

This Act strengthens the duties from the 1986 and 2017 Acts to secure freedom of speech and academic freedom and introduces a new statutory duty to promote the

importance of both. The Act provides a duty on the Office for Students to regulate freedom of speech with a new condition of registration and a complaints scheme (not yet in force). The Act also introduces a ban on non-disclosure agreements for victims of sexual misconduct or bullying.

Human Rights Act 1998

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

This act enshrines Article 10 of the European Convention on Human Rights which states that

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Malicious Communications Act 1988

<https://www.legislation.gov.uk/ukpga/1988/27/contents>

This makes it an offence to send communications (hard copy or electronic) that are indecent or grossly offensive, threatening, or false for the purpose of causing distress or anxiety to the intended recipient. This will include abusive or threatening messages, false information, or posting offensive content on social media aimed at a specific individual. If speech or other expressions are unlawful under this act they are not protected. NB Parts of this Act have been replaced by the provisions of the Online Safety Act 2023.

Obscene Publication Acts 1959 and 1964

<https://www.legislation.gov.uk/ukpga/Eliz2/7-8/66/contents>

<https://www.legislation.gov.uk/ukpga/1964/74/section/1>

These Acts define the legal boundaries of obscenity and operate to regulate and remove obscene material from circulation. The Act focusses on material that causes harm, particularly around non-consensual or exploitative content, extreme or violent pornography (as defined through other legislation), material involving minors or animals, and content that incites hatred or violence.

Online Safety Act 2023

<https://www.legislation.gov.uk/ukpga/2023/50>

The Act introduces a legal framework to regulate harmful and illegal online content and introduces several new criminal offences including false communications, threatening communications, epilepsy trolling, encouraging or assisting serious self-harm, cyberflashing, and sharing or threatening to share intimate images.

Protection from Harassment Act 1997

<https://www.legislation.gov.uk/ukpga/1997/40/contents>

This links harassment to a course of conduct that gives rise to harassment as defined

(includes stalking, fear of violence, and includes harassment that causes alarm or distress). This is a different definition to that under the Equality Act 2010. The course of conduct must have happened on more than one occasion. Section 1 states that the course of conduct is prohibited if a person knows, or ought to know, that their course of conduct amounts to or involves harassment of another. Speech that amounts to unlawful harassment under this act is not within the law and so is not protected.

Public Order Act 1986

<https://www.legislation.gov.uk/ukpga/1986/64/contents>

Section 4 of the Public Order Act 1986 outlines circumstances in which it is an offence to use threatening, abusive or insulting words or behaviour towards another person, or distribute or display text or visual materials that are threatening, abusive or insulting, with the intent to cause a person to believe that immediate unlawful violence will be used against them. This excludes acts that take place inside a dwelling.

Public Order Act 2023

<https://www.legislation.gov.uk/ukpga/2023/15/contents>

This Act covers criminal offences that are related to the restriction of activities relating to protest activities including locking-on, tunnelling, obstructing major transport works, and interfering with key national infrastructure.

Terrorism Act 2000

<https://www.legislation.gov.uk/ukpga/2000/11/contents>

This act prohibits speech that invites support for proscribed organisations or expresses an opinion or belief that is supportive of a proscribed organisation and in so doing is reckless to whether a person to whom the expression is directed will be encouraged to support that organisation. This includes addressing a meeting, or arranging, managing or assisting in managing a meeting that supports the same.

Terrorism Act 2006

<https://www.legislation.gov.uk/ukpga/2006/11/contents>

This Act builds on the previous legislation and introduces new legislation that criminalises speech or publications that directly or indirectly encourage acts of terrorism and includes praising terrorist acts in a way that can be understood as encouraging others to emulate them or risks encouraging further terrorism. It includes the processing of information useful for terrorism and planning terrorist acts.