



# Academic Freedom & Freedom of Expression

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**Version 5.0**

Approved by the Board of Governors

For Public Use

# 1. Academic Freedom and Freedom of Expression Policy

- 1.1. The School's governing body has due regard for the need to ensure that staff and students have freedom within the law to question and test received wisdom and put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or any privileges they may have at the School.
- 1.2. In support of this principle, the School has published a Code of Practice to guide members of its academic community on its expectations. Each and every member of the School's academic community should be aware of their obligations and responsibilities which are consistent with the principles in 2.1 and the law.

*The Code of Practice is given in Appendix A*

*A summary of the legal framework underpinning this Policy is given in Appendix B*

## 2. Definitions

This policy considers the following definitions:

- i. **Freedom of Expression** is a fundamental right under Article 10 of the Human Rights Act, to hold one's own opinions and to express them freely without government interference. The law also protects your freedom to receive information from other people by, for example, being part of an audience or reading a magazine.
- ii. **Academic Freedom** is the conviction that the freedom of inquiry is essential to the mission of education, and that scholars should have freedom to teach or communicate ideas or facts without being targeted for repression, expulsion from their institution, or imprisonment.

## 3. Principles

- 3.1. This policy is underpinned by the following core principles and ideas which are based on the *Equality and Human Rights Commission: Freedom of expression: a guide for higher education providers and students' unions in England and Wales*<sup>1</sup>:
  - i. Everyone has the right to freedom of expression within the law.

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<sup>1</sup> <https://www.equalityhumanrights.com/sites/default/files/freedom-of-expression-guide-for-higher-education-providers-and-students-unions-england-and-wales.pdf>

- ii. The School will always work to broaden debate and challenge, rather than narrow it.
  - iii. Any decision about speakers and events will seek to promote and protect the right to freedom of expression.
  - iv. Peaceful protest is a protected form of expression; however, protest should not be allowed to shut down debate or infringe the rights of others.
  - v. Freedom of expression should not be abused for the purpose of unchallenged hatred or bigotry. The School will always aim to encourage balanced and respectful debate.
- 3.2. This policy does not remove the obligation on employees to act at all relevant times in accordance with the School's other policies, in particular those relating to the conduct of individuals, including its Anti-bullying and Harassment Policy, its IT Regulations and its Social Media Policy. Breach of this or any other School policy may render employees and students liable to disciplinary action up to and including dismissal from the School.
- 3.3. Where the School is made aware that breaches of this policy may have broken the law it will, where appropriate, assist prosecution authorities in their enquiries.
- 3.4. Nothing in this policy shall be deemed to affect the rights of any person taking any steps pursuant to lawful industrial action or peaceful protest.

## 4. Responsibility

- 4.1. The Governing Body of FSB shall keep under review the School's provisions and safeguards for assuring academic freedom and freedom of expression in accordance with the relevant legal frameworks in Appendix B, and the requirements placed upon institutions registered with the Office for Students. The development and implementation of these provisions shall be delegated to its Academic Board and its learning and teaching forums.
- 4.2. As a recipient of public funds in the form of student tuition fee loans, the School recognises that Academic Freedom and Freedom of Expression are matters of the public interest and are critical to the reputation of higher education in the UK.
- 4.3. It is the responsibility of each and every member of the School's academic community to familiarise themselves with the Code of Practice in Appendix A, and to engage with colleagues in respectful and constructive way.

## 5. Raising Concerns

- 5.1. Concerns about breaches of this policy should be reported to the appropriate Course Leader, or where they regard the Course Leader, the Principal.
- 5.2. Alternatively, the School's complaints procedures can be used to report and address risks associated with academic freedom and freedom of speech.
- 5.3. Serious or systematic breaches of this policy may be reported through the School's Protected Disclosures (Whistleblowing) Policy and Procedures

## 6. The Prevent Duty

- 6.1. As a Recognised Higher Education Body, the School has a statutory duty to have due regard for the need to prevent people from being drawn into terrorism (the Prevent Duty). Nothing in this, or any other of the School's policies is intended to obstruct the FSB's duty of care to safeguard vulnerable members of its academic community from harm.

## 7. Review and Update

- 7.1. The School's Academic Freedom and Freedom of Expression Policy is reviewed and updated annually by the Academic Board; any changes made to this policy will be reviewed and authorised by the School's Board of Governors.

## 8. Related Policies

- 8.1. The School's **External Speakers and Events Policy** covers how sets out how the School approves and manages external speaker events and off-campus events.
- 8.2. The **Social Media Policy** sets out FSB's expectations regarding the use of social media by its students and staff, as well as agency staff, volunteers.
- 8.3. The School's **Code of Conduct** sets out its broader expectations in terms of students' conduct as scholars and members of its academic community,

- 8.4. The School's ***Dignity (Anti-bullying and Harassment Policy)*** sets out how it will investigate instances of abuse and which harms, intimidates, threatens, victimises, offends, degrades or humiliates people, or undermines their dignity, and support those who have been affected by such behaviour.
- 8.5. The School has a ***Complaints Policy and Procedure***, which explains how students can complaint if they think the School has failed to uphold their right to free speech or uphold its duty of academic freedom; these procedures describe how such concerns can be raised with the School's award validating partner universities.

## Appendix A: Code of Practice

In relation to academic freedom, all staff, students, governors and any external parties that contribute to the delivery of learning opportunities are expected to demonstrate the following actions:

- i. To be impartial, fair and open to new ideas and opinions,
- ii. To challenge the opinions of others in a respectful way, using scholarly discourse and appropriate academic language,
- iii. To provide room for academic debate that is organised by rational exploration and supported by reliable evidence,
- iv. To appropriately consider ethical concerns when conducting research,
- v. To understand the difference between one's personal beliefs from unbiased academic gatherings and knowledge,
- vi. To avoid all forms of discrimination and do not ostracize others from academic activities on the grounds of gender, race, age, sexual orientation, religion, disability, marital status or any other personal characteristics,
- vii. To be considerate of cultural differences, personal beliefs and opinions of others and do not cause any unnecessary distress when faced with contrary ideas or opinions,
- viii. Not to attempt to impose a set of beliefs on others
- ix. To listen and take account of views and arguments contrary to one's own beliefs and opinions, whether these be personally or institutionally held;
- x. To guarantee that professional and academic activities do not interfere with applicable laws and statutes,
- xi. When communicating in public or on a public forum, staff and students should illustrate that they are not speaking on behalf of the School unless authorised to do so.

The School's commitment to resolving issues and differences through rational discussion. The School will not accept any acts or threats of physical violence or disturbing matters that involve campus activities, freedom of movement on campus or freedom for students to pursue their studies.

## Appendix B: Legal Framework

**The Education (No. 2) Act 1986 (section 43(1))** places a statutory obligation on Higher Education Providers in England and Wales to 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.

This duty 'within the law' extends to ensuring 'so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with (a) the beliefs or views of that individual or of any member of that body; or (b) the policy or objectives of that body.'

Under section 43(3), the School is also required to issue, and keep up-to-date, a policy of practice on freedom of speech, setting out the procedures to be followed by students and staff in connection with the organisation of meetings and activities which fall within any class specified within this policy, together with the conduct required of staff and students in connection with such meetings and activities.

For the purposes of the Act, the School's duty extends to Student Union activities.

**The Higher Education and Research Act 2017 (HERA)** makes it clear that all universities and colleges which register with the Office for Students (OfS) must uphold the existing laws around freedom of speech and follow the OfS's regulatory framework. Under the framework the governing bodies of registered universities and colleges should take 'such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.'<sup>4</sup> HERA also includes a general duty for the OfS to protect institutional autonomy including academic freedom.

**The Education Reform Act 1988 (section 202) (reinforced by the Higher Education and Research Act 2017)** makes clear 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 in jeopardy of losing their jobs or privileges they may have at their institutions.

**The Public Order Act 1986** creates criminal offences relating to public order; to control public processions and assemblies; to control the inciting of racial hatred or on the grounds of religion or of sexual orientation.

**The Protection from Harassment Act 1997** creates both civil and criminal offences for harassment and makes provision for protecting persons from harassment and similar conduct.

**The Human Rights Act 1998** in particular Article 9 (freedom of thought, conscience and religion); Article 10 (freedom of expression); and Article 11 (freedom of assembly and association).

**The Equality Act 2010** requires the School, in the exercise of its functions, to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations between different groups.

**The Terrorism Act 2006** creates offences relating to the encouragement of terrorism and dissemination of terrorist publications, including publishing, or causing another to publish, a statement likely to be understood as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism with the intent that members of the public will be directly or indirectly encouraged or otherwise induced by the statement to commit, prepare or instigate acts of terrorism, or being reckless as to whether that effect will be caused. 4 Office for Students: Advice and guidance – Freedom of Speech 8

**The Counter-Terrorism and Security Act 2015** creates a general duty on the School when exercising its functions to have due regard to the need to prevent people from being drawn into terrorism having particular regard to the duty to secure freedom of speech imposed by section 43(1) of the Education (No. 2) Act 1986 when carrying out that duty.





## Version Tracking:

Version	Author / revisions by	Changes summary	Approved by	Date
1.0 - 3.0	Principal Academic Board	Original version and subsequent updates.	Board of Governors	Sep 2016 Sep 2017 Sep 2018
4.1	Quality Unit Legal Counsel Principal Academic Board	General revision of content; addition of Code of Practice; revised guidance for reporting policy breach.	Board of Governors	Sep 2019
4.2 - 4.3	Quality Unit Principal	Annual review and factual procedural amendments.		Sep 2020 Oct 2021
5.0	Principal Quality Unit Academic Board	Document redacted to appropriate length, extensive allusion to statutory references.	Board of Governors	Jan 2022