



Birmingham Newman University

Code of Practice on Freedom of Expression

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Code of Practice on Freedom of Expression

Policy Owner: University Secretary, University Secretary's Office

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1. Statement of Purpose

- 1.1 Birmingham Newman University (the “University”) has a proud record of being an inclusive, multicultural and diverse community in which staff and students learn from and work with each other in a spirit of mutual respect and collaboration. The University promotes the search for knowledge and the questioning of ideas through open debate and investigation. Its commitment to freedom of expression and academic freedom are enshrined in its Articles of Association:

“The University shall take such steps as are reasonably practical to ensure that freedom of speech within the law is secured for its students and staff and for visiting speakers and that the use of the Premises is not denied to any individual or body of persons on any ground connected with their beliefs or views, or their policy or objectives.”¹

- 1.2 This Code of Practice (the “Code”) sets out the University’s approach to, its institutional values regarding, and expectations for lawful freedom of expression.
- 1.3 It states how the University’s principles around freedom of expression operate in practice across its activities, for example events with visiting speakers or in teaching and research settings, curricula and teaching materials, and field trips.
- 1.4 This Code is aligned with the guidance issued by the Office for Students in Regulatory Advice 24: Guidance Related to Freedom of Speech.²
- 1.5 In accordance with the Articles of Association the Vice-Chancellor is responsible for the organisation, direction and management of the University and for exercising effective supervision and discipline over staff and students within the framework set by the University Council. The Vice-Chancellor is authorised to exercise responsibility for implementing this Code within the guidelines set down, delegating responsibility as necessary.
- 1.6 This Code should also be read in conjunction with other policies and procedures (highlighted in Appendix A), particularly the External Speakers and Events Procedure.³ Nothing in these documents should be read as undermining or conflicting with this Code; in the case of any conflict the Code will take precedence.

2. Scope

- 2.1 **The Purpose** of the Code is to:

- 2.1.1 Describe the University’s framework regarding the right to freedom of expression;
- 2.1.2 Manage events on the University’s campus, off-campus and online; and
- 2.1.3 Manage the use of all University premises.

- 2.2 **What** is covered by the Code:

- 2.2.1 The University’s values relating to freedom of expression and an explanation of how those values uphold freedom of expression;

¹ See: [University Articles of Association](#)

² [Office for Students’ Regulatory Advice 24: Guidance Related to Freedom of Speech](#)

³ See: [External Speakers and Events Procedure](#)

- 2.2.2 The criteria used by the University in making decisions about whether to allow the use of premises and on what terms;
 - 2.2.3 The organisation of meetings, conferences, assemblies or similar events that take place on any University premises; as well as those that are organised and sponsored/approved by the University but held on other premises, whether for University staff or students, the public or a discrete group or association; and
 - 2.2.4 The conduct required at such events.
- 2.3 **Who** is covered by the Code:
- 2.3.1 All employees and those working on behalf of the University (including agency workers and contractors);
 - 2.3.2 All students of the University (whether full/part-time, including students enrolled on distance learning programmes and visiting (e.g. Erasmus) students and any students studying for a University award under an agreement with a partner organisation;
 - 2.3.3 All other members of the University and including independent members of Council and its Committees;
 - 2.3.4 Visiting speakers and all other persons invited or otherwise lawfully on the premises; and
 - 2.3.5 Newman Students' Union and its affiliated clubs and societies.
- 2.4 All persons to whom this Code applies are under an obligation to take no action which would hinder freedom of speech within the law or academic freedom, or which would prevent the University from discharging its duty to secure freedom of speech within the law and academic freedom.
- 2.5 This Code also applies to informal or social activities as well as to any more formal meeting or lecture, in person and online. Examples include visiting lecturers invited by academic staff, religious or political representatives speaking on campus, and events such as debates, speeches and conferences taking place using University facilities that have been organised by staff, students or external bodies.
- 2.6 References in this Code to the "University's premises" means those premises over which the University exercises control (including online or virtual classrooms and communication spaces and the Students' Union).
- 2.7 This Code also applies to events hosted by or on behalf of the University on non-University premises.
- 2.8 For the avoidance of doubt, this Code does not apply to purely commercial meetings or events on University premises.
- 2.9 This Code will be posted in a prominent position on the University's intranet and website.

3. Definitions and Key Concepts

- 3.1 Whilst they are often used interchangeably and relate to one other, freedom of expression and academic freedom are different terms:

3.1.1 **Freedom of expression:** the right to freely express views and opinions that are within the law, whether through speech, writing, or other forms of expression, and to do so without interference.

3.1.2 **Academic freedom:** the right that academic staff at the University have freedom within the law:

- to question and test received wisdom; and
- to propose new ideas and controversial or unpopular opinions

without being at risk of being adversely affected. An individual would be deemed to have been adversely affected if they had either lost their job or privileges at the University or experienced a reduction in the likelihood that they would secure a promotion or different job at the University.

3.2 Whilst many higher education providers use freedom of speech and freedom of expression interchangeably, this Code adopts the term freedom of expression as it captures the full possible range of lawful expression, whether through the spoken or written word, or through other forms of expression (e.g. graphic).

3.3 The governing bodies of higher education providers in England have a duty to take such steps as are reasonably practicable to ensure freedom of speech and academic freedom within the law is secured for its members, students and staff and for visiting speakers. This is enshrined in the Higher Education and Research Act 2017, as amended by the Higher Education (Freedom of Speech) Act 2023. This Code sets out the University's approach and procedures regarding freedom of expression and academic freedom, including the University's expectations of conduct, and details the approach to be taken with regard to visiting speakers and in respect of teaching, the curriculum and research activities.

4. Our Values and Expectations

4.1 The University recognises that there is a very high level of protection for the lawful expression of a viewpoint and for speech in an academic context, and the University is committed to maintaining and promoting the rights of freedom of expression and academic freedom within the law.

4.2 The University acknowledges that freedom of expression is fundamental to the debate and challenge within the University's academic and research agendas. This means everyone should feel able to question widely accepted views, challenge others' opinions and share ideas within the law that may be shocking, disturbing or offensive. These freedoms help ensure that students develop the skills to question, debate, think critically and develop confidence in forming and discussing their own views and opinions. Freedom of expression and academic freedom therefore receive a very high level of protection.

4.3 The starting point is that speech is permitted, unless otherwise restricted by law. The University will ensure that the use of University premises is not denied on grounds connected with the beliefs, views, policies or objectives of an individual or body of individuals, as long as such use always is within the law. All events taking place on the University's premises are private, unless the public is expressly invited to attend.

4.4 The University recognises that sometimes viewpoints and ideas shared, whether by members of the University community or visiting speakers, may conflict with those held by other members of the community. Such viewpoints may be considered disagreeable, or even offensive, and may involve broader philosophical, political, or religious contentions. It is not the role of the University to protect or shield members of its community from viewpoints with which they may disagree, or which they may find uncomfortable, shocking or disturbing but are nonetheless lawful, and the University affirms students' and staff members' rights to make such lawful statements.

- 4.5 The University encourages staff and students to share ideas and perspectives and to be tolerant and respectful of those with views different from their own. No individual or group should be harassed or bullied because of their views.
- 4.6 Everyone to whom this Code applies is expected to observe the principles of freedom of expression while on University premises or when engaged in off-campus University events, and to show tolerance towards the expression of views, opinions and beliefs of others, even if they happen to be contrary to their own or deemed offensive, shocking or disturbing but are nonetheless lawful.
- 4.7 The University's approach to ensuring freedom of speech and academic freedom within the law will be based on the following values:
- 4.7.1 freedom of speech is at the heart of all democratic societies and a foundation stone of further and higher education;
- 4.7.2 the promotion of a culture of tolerance of differing views and perspectives and an acceptance that, in a free and open environment of academic debate, ideas will be robustly contested and challenged; and
- 4.7.3 that there is a high level of protection for lawful expression of a viewpoint and any restriction that may be required shall be an exception.
- 4.8 Nothing in this Code shall be construed as restricting the rights of individuals or groups of staff and employees in pursuance of industrial action.
- 4.9 The University will offer no platform to those who are intolerant of the free expression of others both generally and where it includes the denial of the right to hold or express an opposing opinion. This also includes those who have, in the past, engaged in the active prevention of permitting others to speak, such as the interruption - violent or otherwise - of meetings.
- 4.10 The University shall take any concerns raised about freedom of expression and academic freedom seriously, in recognition of the high level of protection for lawful expression, and to ensure that they are addressed as far as is reasonably practicable.
- 4.11 Any action by a member of staff or student, whether individually or in a group, which may be thought by the Vice-Chancellor to infringe or be contrary to the Code:
- 4.11.1 may be liable to such investigation as the Vice-Chancellor may require to establish the prima facie facts; and
- 4.11.2 subsequently may lead to an informal or formal disciplinary process, in accordance with the established disciplinary procedures for staff and students, depending upon the seriousness of the alleged offence. Examples of such actions that the University considers as being in breach of this Code (not exhaustive) may include:
- any action by members of staff or students individually or collectively to prevent or intimidate a member of staff or a guest lecturer from carrying out their teaching, research or other function in accordance with their contract of employment, or from having access to facilities which they may use as a member of staff or student;
 - any action by members of staff or students individually or collectively to prevent a student from pursuing their studies, attending classes and other academic activities connected with their course, or participating in curricular activities and the social and other activities provided by the University;

- any act designed to prevent the holding or continuance of any course lecture, tutorial or other academic activity or any meeting duly authorised within the provision of this Code where disruption, intimidation or threats are uttered or implied.

5. Steps the University takes to Promote and Secure Freedom of Expression

- 5.1 The University will ensure that its curriculum, teaching materials and policies and procedures reflect its duties to secure, so far as is reasonably practicable, freedom of expression and academic freedom within the law, including but not limited to:
- 5.1.1 its processes for programme development and approval, quality assurance and academic assessment will respect the rights of freedom of expression and academic freedom;
 - 5.1.2 its processes for admission, appointment, reappointment and promotion will respect the rights of freedom of expression and academic freedom;
 - 5.1.3 its policies relating to equality, diversity and inclusion (including the public sector equality duty) and the Prevent duty will respect the rights of freedom of expression and academic freedom;
 - 5.1.4 no individual will be subjected to disciplinary sanction or other less favourable treatment by or on behalf of the University because of the lawful exercise of freedom of expression or academic freedom; and
 - 5.1.5 it will not restrict the exposure of students to ideas because they are controversial or unpopular or because some (or many) find them offensive.
- 5.2 It should be noted that association with the University, as an academic institution, confers a degree of authority and legitimacy on views and provides privileged access to a scholarly audience for the speakers it hosts. In assessing what it is reasonably practicable to do to secure and promote freedom of expression and academic freedom in any particular case, the University does not regard itself as obliged to provide a platform to individuals who wish to promote views that are manifestly at odds with empirically verifiable objective facts or not susceptible to reasoned enquiry and debate. Staff and students making decisions about invitations to speakers should always assess carefully the contribution that a discussion or event will have to the advancement of education in a university setting, and what form the event should take to best deliver that outcome.
- 5.3 The University does not enter into non-disclosure agreements related to complaints about sexual misconduct, bullying or harassment. The University is aware that the terms of certain overseas funding, including funding from endowments, gifts, donations, research grants and contracts, and educational or commercial partnerships, from any overseas country, may present a risk to freedom of expression and academic freedom. Therefore, the University has processes in place to ensure that risks to freedom of expression or academic freedom are identified and appropriately managed. To deliver its responsibility to promote and secure freedom of expression and academic freedom, the University shall:
- 5.3.1 ensure that this Code is brought to the attention of new students at registration and new staff during induction;
 - 5.3.2 draw the attention of students to the Code and the accompanying statement about the Code annually;
 - 5.3.3 ensure that all staff receive training on freedom of expression and academic

freedom;

- 5.3.4 periodically survey staff, students and other stakeholders to secure their views on whether freedom of expression and academic freedom at the institution are being adequately protected, and take the findings into account;
 - 5.3.5 ensure that there are adequate measures in place to raise concerns about freedom of expression and academic freedom;
 - 5.3.6 ensure that when new policies and procedures are introduced consideration is given to their impact on freedom of expression and academic freedom;
 - 5.3.7 monitor any concerns that have been raised about freedom of expression and academic freedom to ensure that they are addressed so far as is reasonably practical and that any lessons learned are incorporated into a review of relevant policies, practices and procedures; and
 - 5.3.8 take steps to secure compliance with this Code, including where appropriate disciplinary action.
- 5.4 In assessing its compliance with its duties, the University shall apply a three-step framework when assessing any measure or decision that might affect freedom of expression, as follows:
- 5.4.1 **Step 1** – an assessment as to whether the speech is within the law.
 - If yes, it will consider Step 2.
 - If no, the duty to secure free speech does not apply.
 - 5.4.2 **Step 2** – consideration as to whether there are any reasonably practicable steps (positive or negative) to secure the speech.
 - If yes, those steps shall be taken.
 - If no, the University will consider Step 3.
 - 5.4.3 The following, amongst other considerations, are unlikely to be relevant when considering what steps are reasonably practicable:
 - 5.4.3.1 the viewpoint that any affected speech expresses, including but not limited to:
 - whether it aligns with University aims or values;
 - whether it is controversial or offensive;
 - whether external or internal groups (for example alumni, donors, lobbyists, domestic or foreign governments, staff or students) approve of the viewpoint that the speech expresses.
 - 5.4.3.2 the reputational impact of any affected speech on the University.
 - 5.4.4 Legal and regulatory obligations may affect whether a step is reasonably practicable. Where the University is required by law not to do something, then doing it (e.g. permitting the speech) would be unlawful and therefore not reasonably practicable.
 - 5.4.5 **Step 3** – if there are no reasonably practicable steps to secure speech, the University will ensure that its restriction/ regulation of speech is prescribed by law and proportionate under the European Convention on Human Rights.

- If yes, the restriction/ refusal is consistent with free speech obligations.
- If no, the restrictions shall not be implemented as this would be inconsistent with the University's free speech duties and the University will reconsider Step 2.

6. Meetings and Events

- 6.1 Protecting freedom of expression extends across all events organised by a member of staff or student of the University, or by an individual or body using the University's branding, name, or facilities including, but not limited to, public meetings, whether arranged internally or externally, and whether held physically or virtually; or demonstrations or protests on campus.
- 6.2 The lawful expression of controversial or unpopular views will not in itself constitute reasonable grounds for withholding permission for a University meeting or event.
- 6.3 Where any individual or body to whom this Code applies is seeking to hold an event or meeting or other activity outside of the normal academic curriculum the Speakers and Events Procedure set out at Appendix B shall be followed.
- 6.4 Where any individual or body subject to the obligations of this Code wishes to hold an event, meeting or other activity for the expression of any views or beliefs held or lawfully expressed on University premises, consent shall not be unreasonably refused. Any conditions imposed on the holding of the meeting shall be kept to the minimum necessary in the light of any risks identified in holding the meeting. The starting point for any consideration of whether to restrict or impose conditions on any event is that it should go ahead and cancellation should be exceptional.
- 6.5 Where the University Secretary is reasonably satisfied that the otherwise lawful expression of views at an event or meeting on University premises is likely to give rise to disorder or threats to the safety of participants or the wider University community, they shall consider what steps it is necessary to take to ensure the safety of all persons, the maintenance of order and the security of University premises.
- 6.6 The University will consider what proportionate and mitigating actions can be put in place to reduce or manage any identified risks to enable the request to be approved. These may include but are not limited to: requirements as to the provision of security/stewards; variation of location and time; whether such a meeting shall be open to the public at large; the speaker being part of a panel debate; the appointment of an independent chair; the recording of the meeting; or ensuring that a member of University staff is in attendance. The University shall ensure that such conditions or requirements go no further than is necessary to address the risks identified. Other than in exceptional circumstances, the costs of security relating to the use of premises shall not be passed to the person or organisation arranging the event. Circumstances shall be exceptional when the security costs exceed £700. The University's decision on whether or not to pass on costs will not be influenced by:
- An individual's ideas or opinions;
 - A body's policy or objectives, or the ideas of any of its members;
 - The ideas or opinions likely to be legally expressed at a proposed event.
- 6.7 Where the University concludes that imposing conditions would not be sufficient to prevent serious disorder within premises subject to its control, it may decline to permit an event or meeting to proceed.

- 6.8 Any restrictions on events imposed must be legitimate, proportionate, rational and justifiable.
- 6.9 In the exceptional event that the organiser(s) refuse(s) to comply with these conditions, the University has the right to cancel the meeting or event.
- 6.10 The University Secretary will communicate their decision promptly and will set out the reasons for the decision.
- 6.11 The procedures that must be followed by event organisers are set out here: [External Speakers and Events Procedure](#).

7. Newman Students' Union (NSU) Constitution and Use of Facilities

- 7.1 NSU will support the requirements of this Code by undertaking the following measures:
- 7.1.1 the decision-making processes of NSU, particularly those relating to general meetings and meetings of the Student Council, have standing orders which comply with the provisions of this Code;
 - 7.1.2 freedom of expression for staff and students, both collectively and individually as referred to in this Code is acknowledged fully and NSU's responsibility in upholding these is affirmed;
 - 7.1.3 access to NSU's facilities will not be denied to a formally recognised NSU society or other student group on grounds relating to its policies or objectives or the ideas of any of its members, or to individual students on grounds relating to their ideas or opinions.
- 7.2 The University Council requires that the University Secretary and the Director of the NSU shall maintain close liaison on the implementation of letting arrangements as they apply to NSU sponsored societies.

8. Conduct at Events

- 8.1 Everyone has the right to free speech within the law. The University expects students, staff and visitors to ensure that freedom of expression within the law is assured.
- 8.2 The University seeks to expose its staff and students to the widest possible range of ideas and views. All persons to whom this Code applies are required to observe the principle of freedom of speech and expression while on the University's premises and to show tolerance towards the expression of views, opinions and beliefs of others, even though those views, opinions or beliefs may run contrary to their own personal views, opinions or beliefs.
- 8.3 A member of staff or student who organises an event on the University's premises shall be responsible for ensuring, as far as is reasonably practicable, that the event is conducted in such a manner as to promote freedom of expression whilst maintaining good order and academic discipline, and does not involve or lead to damage to property or an infringement of the law. Speakers remain responsible for their own compliance with the law.
- 8.4 University staff and students are required to ensure that they do not wilfully engage in conduct that prevents, obstructs or disrupts the holding or orderly conduct of any meeting or other lawful activity that takes place on the University's premises.
- 8.5 Nothing in this Code shall be taken to prohibit the lawful exercise of the right to peacefully protest. Protests against an event must be conducted without infringing the rights of others, including others' rights to freedom of expression. No protest should

prevent an event allowed under this Code from going ahead as scheduled.

9. Infringements, Complaints, and Penalties

- 9.1 A breach of this Code may lead to disciplinary action being taken under the appropriate University procedure (including staff disciplinary procedures for staff or the Student Disciplinary Procedure for students). In addition to disciplinary proceedings, breaches of the law may give rise to prosecution. All students and members of staff are under an obligation to assist with any investigation into any allegation of a breach of this Code.
- 9.2 If an offence is allegedly committed at or in connection with an event or activity to which the provisions of this Code apply, in addition to any internal disciplinary procedures for staff or students that may be appropriate, the University may take steps to assist the police in identifying any persons committing offences.
- 9.3 Any concerns or complaints regarding this Code or the actions of the University in respect of it should be directed to University Secretary's Office in the first instance.
- 9.4 Where the University receives an expression of concern or a complaint about the exercise of academic freedom or freedom of expression or where there has been an infringement of or departure from the procedures set out in this Code, the University shall investigate accordingly. The University shall implement a rapid triage process to ensure the swift dismissal of complaints about speech that do not warrant further investigation. Subject to the outcome of the initial investigation, such allegations may lead to further investigation in accordance with the University disciplinary procedures.

10. Review and Monitoring

- 10.1 The University shall record all decisions that are likely to have a substantial (positive or negative) effect on freedom of expression within the law.
- 10.2 The Code is owned by the University Council. It will be reviewed on a regular basis, at a minimum of every three years, and amendments will be recommended to Council as appropriate or necessary.

11. Related Policies

- 11.1 The list of University policies and procedures which may be appropriate to refer to when considering the Code is available on the University's website (<https://newman.ac.uk/about-us/governance-and-management/policies-and-procedures/>). If you are a student, you are encouraged to review in particular the Student Complaints Procedure, and if you are a member of staff, the staff [Grievance Policy and Procedure](#) can be found on the HR Intranet.

Annex A: External Speakers and Events Procedure

The above Code of Practice should be read in conjunction with the University's External Speakers and Events Procedure, which can be accessed via the following link: [here](#).