

**Code of Practice on**

**Freedom of Speech**

**Document Control:**

|  |  |
| --- | --- |
| **Policy Title** | Code of Practice on Freedom of Speech |
| **Lead contact email** | [JLStorey@Cardiffmet.ac.uk](mailto:JLStorey@Cardiffmet.ac.uk) |
| **Date Approved** | 11 March 2021 |
| **Approving Body** | Board of Governors |
| **Version** | 2.2 |
| **Previous Review Dates** | Spring 2014 |
| **Next Review Date** | February 2024 |
| **Outcome of Equality Impact Assessment** | Proceed with no major change |
| **Related Policies / Procedures / Guidance** | Prevent Policy  Equality, Diversity & Inclusion Policy |
| **Policy Owner** | Head of Compliance |
| **Unit / Service** | Secretariat |

**Version Control:**

|  |  |  |
| --- | --- | --- |
| **Version** | **Date** | **Reason for Change** |
| 1.0 | Spring 2014 |  |
| 2.0 | Dec 2020 | Review over-due: changes in legislation (Prevent Duty), update to sector good practice (HEPI Cracking the Code report and the EHRC guide on Freedom of Expression), and to ensure alignment with the University’s Prevent Policy updated in 2020. |
| 2.1 | Jan 2021 | Minor amendments following responses to consultation with staff, Students’ Union, staff unions |
|  | 17.02.21 | Version approved by Prevent Duty Co-ordination Group |
| 2.2 | 18.02.21 | Addition of section on grievances following publication of the policy paper “Higher Education: free speech and academic freedom” (17.02.21) |

1. **Purpose**

The Human Rights Act 1998 seeks to protect freedom of speech and expression.[[1]](#footnote-1) All citizens of the UK enjoy these rights. In addition, universities and colleges in England and Wales have a specific legal duty to secure freedom of speech under Section 43 of the Education (No 2) Act 1986.[[2]](#footnote-2) The University is required to “issue and keep up to date” a Code of Practice setting out the procedures to be followed.

This Code of Practice meets the duty outlined above and describes the University’s approach and procedures for balancing its responsibilities for freedom of speech with other relevant legal requirements, including laws that protect national security and public safety, for the prevention of crime and for the protection of the legal rights of others (e.g. in relation to harassment and discrimination). This Code of Practice should be read in conjunction with the University’s [Prevent Policy](https://www.cardiffmet.ac.uk/about/policyhub/Pages/default.aspx) and [Equality, Diversity and Inclusion Policy](https://www.cardiffmet.ac.uk/about/policyhub/Pages/default.aspx).

1. **Scope**

This Code of Practice relates to all members of Cardiff Metropolitan University, defined as the Chancellor, Pro-Chancellor, members of the Board of Governors, Vice-Chancellor and President, all employees of the University, and its registered students.

The principles outlined apply to all activities, meetings and events carried out in the name of the University, or affiliated thereto, whether on or off-site, face-to-face or online and whether or not external speakers are involved. The procedures outlined in section 6 apply to all meetings and events as defined in that section.

The Students’ Union at Cardiff Metropolitan University are also subject to rules and regulations relating to free speech as set out by the Charity Commission. However, in booking and utilising University spaces and digital networks for meetings and events, the principles and procedures described herein also apply to Students’ Union activities.

1. **Definitions**
   1. *Freedom of Speech*:

The duty on universities under the Education Act 1986 is to ensure, 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:

* The beliefs or views of that individual or of any member of that body; or
* The policy or objectives of that body.
  1. *Freedom of Expression*: Article 10 of the Human Rights Act states that:

*Everyone has the right to freedom of expression. This right includes 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, 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.*

3.3 *Academic Freedom*:

In section 9 of the University’s Articles in relation to the Conduct of Staff, the following statement is made:

*… the Board of Governors shall have regard to the need to ensure that the academic staff of the University 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 any privileges they may have at the University.*

1. **Principles**

4.1 Cardiff Metropolitan University considers that a healthy Higher Education environment is one where debate is positively encouraged, where a wide range of ideas can be considered and examined both in the academic curriculum and in the wider public life of the institution.

4.2 We believe that a culture of free and open discussion is essential in order to help students develop lively, enquiring minds and the ability to question and argue rationally.

4.3 Cardiff Metropolitan University is fully committed to the principles of freedom of speech and academic freedom and will take all reasonable steps to ensure that it is protected within the University’s context.

4.4 Our commitment to freedom of speech and expression is balanced with our duties for the prevention of crime and disorder, for ensuring the safety of the public, our staff and students, and in relation to our commitments and responsibilities for equality, diversity and inclusion.

4.5 The University expects all people taking part in activities in its name to be sensitive to the diversity of its learning community. In upholding its commitment to Freedom of Speech, the University is also mindful of its Public Sector Equality Duty to foster good relations amongst different communities and people.

1. **Lawful Restrictions on Freedom of Speech**

5.1 The University will not unreasonably refuse to allow events to be held on its premises or networks unless there is a conflicting legal provision which is deemed to provide a compelling reason for refusal and/or restriction.

5.2 In general, the expression of controversial views which do not breach the law will not constitute reasonable grounds for withholding permission for an event to go ahead.

5.3 Grounds for refusal may include that the event is deemed to be likely to:

* Incite individuals attending to commit a criminal act (e.g. in breach of the Terrorism Acts 2000 and 2006)
* Give rise to a breach of the peace (in contravention of the Public Order Act 1986)
* Lead to the unlawful expression of views (e.g. in breach of the Racial and Religious Hatred Act 2006 or which opens the University to challenge under the 2010 Equality Act or Protection from Harassment Act 1997)
* Provide support for an organisation whose aims and objectives are illegal and/or on the UK Government’s proscribed list (in breach of the Terrorism Acts 2000 and 2006)
* Promote radicalisation and extremism (in contravention of the University’s duty to prevent people from being drawn into terrorism, Counter-Terrorism and Security Act 2015)

This list is for illustrative purposes and is not exhaustive.

1. **Procedures**

6.1 Cardiff Metropolitan University’s Board of Governors authorises the Vice-Chancellor and President to appoint the Head of Compliance (who also acts as the University’s Prevent Co-ordinator) to act on its behalf to ensure, as far as is reasonably practicable, that all members, students and employees of the University, and visiting speakers, comply with the provisions of this Code.

6.2 Any named University officer referred to in this Code of Practice is as to be read as including any of their appointed nominees.

6.3 Meetings or events to which these Procedures apply are those where the topic or speaker(s) may be deemed to be controversial. This includes meetings where there is a possibility that the speaker(s) or attendees may not be able to enter or leave the building safely and/or deliver their speech, and/or where it is possible that a breach of the peace may occur. It applies to all meetings carried out in the name of the University, or affiliated thereto, whether on or off-site, face-to-face or online.

6.4 The organisers of any such event will ensure that a single person is appointed as principal organiser.

6.5 The principal organiser will ensure that notice is given to the Head of Compliance at least four weeks before the date proposed for the event. Such notice will contain a written statement of the name of the speaker(s), any organisations the speaker is known to be associated with, the subject of the address, and the planned timing and location of the event.

6.6 The principal organiser must not confirm or promote the event until approval to go ahead has been granted.

6.7 In coming to a judgement, the Head of Compliance will seek expert guidance from key partners, including the police, as appropriate. The University’s Co-ordinating Chaplain will be consulted on all matters relating to religion and belief. If the judgement reached is that the planned event should not be permitted, or it should be restricted in some way, a recommendation will be made for approval by the University Secretary. Any recommendation to cancel a speaker or event completely will normally only be approved on the advice of the police or security services.

6.8 Within ten working days of receiving such notice, the Head of Compliance will issue a statement to the principal organiser granting or withholding permission for the event to go ahead.

6.9 Permission may be granted subject to conditions or restrictions deemed necessary to secure fulfilment of the University's statutory responsibilities for freedom of speech under the law. Such conditions might include, for example, the introduction of an opposing speaker, an independent Chair, controls in relation to security and ticketing, and/or conditions or exclusion of press or broadcasting personnel.

6.10 The principal organiser and every other person concerned with the organisation of the event for which permission has been granted will be required to comply with any condition outlined by the Head of Compliance.

6.11 The principal organiser and the Chair of the meeting have a duty so far as possible to ensure that both the audience and the speaker act in accordance with the law during the meeting. In case of unlawful conduct, the principal organiser and the Chair are required to give appropriate warnings and, in case of continuing unlawfulness, to require the stewards or security staff to remove the individual(s) concerned.

6.12 Infringements of, or departures from, these procedures may result in action being taken under the Disciplinary (Misconduct and Unsatisfactory Performance) Procedure (staff) or under the Student Disciplinary Procedure as appropriate. Additionally, if any such actions involve a breach of the law, the University will assist the appropriate authorities in their investigations.

6.13 An annual report on events considered under the Code of Practice on Freedom of Speech will be provided to the Board of Governors.

1. **Complaints**
   1. Any complaints that the University has not appropriately discharged its responsibilities in relation to the organisation of events should be referred to the Director of Registry Services to be considered under the University’s Complaints Policy and Procedure.

7.2 Any member of staff who considers that their freedom to put forward new ideas or express controversial or unpopular opinions has been curtailed by the University, or that they have received unfavourable treatment as a result of so doing, should refer to the [Staff Grievance Procedure](https://www.cardiffmet.ac.uk/about/policyhub/Pages/default.aspx).

1. **Students’ Union**

The Students’ Union have agreed that all external speakers addressing student groups and societies will be assessed by the University’s Head of Compliance / Prevent Co-ordinator under the provisions of this Code of Practice as outlined in point 6 above and the University’s Prevent Policy.

1. **Administration**

8.1 All internal booking of rooms on Cardiff Metropolitan University premises must be made in accordance with the University’s room booking procedures via the Timetable Unit or Conference Services as appropriate.

8.2 Any booking of Cardiff Metropolitan University facilities by or on behalf of an external person or organisation will be made subject to the [Conditions of Hire of the University Facilities](https://www.cardiffmet.ac.uk/about/conferenceservices/PublishingImages/Pages/Conference-and-Events/Conference%20Services%20General%20Terms%20and%20Conditions%20Bi-lingual.pdf). Such bookings are administered by Conference Services.

8.3 All bookings of rooms by both internal and external persons are subject to compliance with this Code of Practice.

8.4 Any external organisation with a political, philosophical, religious or spiritual affiliation who wishes to book on the University’s premises for the first time must be referred to the Head of Compliance by the Conference Services for an initial assessment before the booking is taken.

8.5 If the staff member who accept bookings on Cardiff Metropolitan University’s behalf has any reason to think that the event organiser has not followed the procedure outlined at point 6 above, and that there may be a breach of the peace or other difficulties associated with the planned event, they shall refer the matter to the Head of Compliance before the booking is confirmed.

1. **Review**

This Code of Practice will be reviewed over three years unless there are changes to legislation or sector guidance requiring earlier review. Oversight will be provided by the Board of Governors.

1. <https://www.legislation.gov.uk/ukpga/1998/42/crossheading/other-rights-and-proceedings> [↑](#footnote-ref-1)
2. <https://www.legislation.gov.uk/ukpga/1986/61/section/43> [↑](#footnote-ref-2)