

Code of Practice on Freedom of Speech including Guidance on Visiting Speakers

1. Introduction, Context, and Scope

- 1.1. Oxford Brookes University is an open environment where academic freedom and freedom of speech are fundamental to our functioning; where debate, challenge and dissent are not only permitted but expected, and where controversial and offensive ideas may be advanced within the context of legitimate and encouraged academic debate. Intellectual and academic freedom is fundamental to our mission, our teaching and our research. We believe these values are not simply conducive but absolutely essential to the effective operation of any institution of higher education. Our Articles of Government reflect these values and require our Board of Governors to 'ensure that 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' (paragraph 11.2).
- 1.2. All freedoms also have limits imposed by law, in order to protect the rights and freedoms of others. The rules are neither simple nor always easy to apply; and they evolve over time. The key legal issues as identified by Universities UK in its publication "External speakers in higher education institutions" that are considered in relation to external or visiting speakers are as follows.
- a) The duty to secure freedom of speech within the law
 - b) Human Rights law
 - c) Equality law
 - d) Criminal law (including anti-terrorism laws)
 - e) The duty of care to staff, students and visitors
 - f) Civil law claims relating to spoken words
 - g) Data sharing
 - h) Charity law
 - i) Law relating to security staff
 - j) Students' Unions
 - k) Third party bookings of university/students' union premises

These legal issues are discussed in the UUK publication, which should be consulted for initial guidance on the concepts involved.¹

¹ The Universities UK's guidance, "External speakers in higher education institutions", was published on 22 November 2013 and is available from the UUK web-site: <http://www.universitiesuk.ac.uk/>.

- 1.3. In addition, effective from 18 September 2015, the University is also subject to statutory guidance issued under section 29 of the Counter-Terrorism and Security Act 2015. This Act places a duty on the University, in the exercise of our functions, to have 'due regard to the need to prevent people from being drawn into terrorism'. This Code of Practice therefore describes the University's system for assessing and rating risks associated with any planned events.
- 1.4. The Education Reform Act 1988 requires universities to ensure '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'.
- 1.5. The Education Act (No. 2) 1986 requires the Board of Governors to maintain and update a Code of Practice covering the organisation of meetings where free speech is likely to be an issue, and to ensure that University premises are not denied to anyone on the grounds of their beliefs or views.² This Code of Practice has been drawn up by the Board in fulfilment of this obligation.
- 1.6. This Code of Practice has also been agreed with the Oxford Brookes Students' Union. The Students' Union and Oxford Brookes University support the diverse range of clubs and societies at the University and will act to ensure that students have the same freedom of speech within the law as members of staff.
- 1.7. This Code of Practice shall apply to all activities on University premises, including meetings, arranged by any member or group of members of the Board, the staff or the student body including the Students' Union. Similarly, observance of the Code of Practice will be required of any other persons, groups or organisations permitted to hire or otherwise use University premises for events arranged or sponsored by them.
- 1.8. Nothing in this Code of Practice was intended nor should be interpreted as limiting or negating the University's obligations under any relevant law or statutory guidance.

2. Policy

- 2.1. As far as the University's teaching and research activities are concerned, the Board expects staff and students to observe the requirements of the law on freedom of speech. Those failing to do so will render themselves liable to disciplinary action under the relevant disciplinary procedures.
- 2.2. The University will not unreasonably refuse the holding of events on its premises, and the expression of controversial views which are not unlawful per se will not normally constitute reasonable grounds for withholding facilities for an event. The suppression or attempted suppression of controversial views by violence or intimidation is contrary to the nature of this and other institutions dedicated to learning and will be treated as a breach of discipline liable to disciplinary action under the relevant disciplinary procedures.
- 2.3. Gender segregation is not permitted in any academic meetings or at events, lectures or meetings provided for students, or at events attended by members of the public or employees of the university or the Students' Union.³

3. Visiting Speakers

- 3.1. The following definitions are used in this Code of Practice:

² Section 43 of the Education Act (No. 2) 1986 is included in an appendix to this Code of Practice for ease of reference.

³ The Equalities and Human Rights Commission guidance, "Gender segregation at Events and Meetings: guidance for Universities and Students' Unions", was published on 30 July 2014 and is available from the Commission's web-site: <http://www.equalityhumanrights.com/>.

- a) "Visiting speaker" (also called external speaker) includes any person or group of people who is not a member, student, or employee of the University and who is invited on to the premises of the University in any capacity to an event devoted to or including hearing their speech either on their own or with others, including others attending an event.
- b) A relevant "event" includes lectures, seminars, discussions, meetings, or similar. Events may be provided for a wider audience than the University community of staff and students. Events may be held on or pass through University premises.
- c) "Facilities" includes physical resources, premises, and grounds under the control of the University, and extends to embrace virtual facilities controlled by or under the management of the University, e.g. virtual lectures, seminars, on-line chat rooms, or webinars. This includes external facilities used by the University in the conduct of its business. Use of facilities also includes the promotion of or dissemination of information about an event to be held elsewhere.

3.2. Visiting speakers will be offered the same freedom of speech within the law as staff and students. The University will not provide facilities for visiting speakers that breach its obligations as noted in section 1 above, including but not limited to withholding facilities for proposed visitors who:

- a) advocate or incite unlawful discrimination or hatred on any grounds, including on grounds of race, religion, sex, class, sexual orientation, age, disability or special needs;
- b) advocate, glorify or incite violence or harassment of any individual or group, or damage property that would render them liable to prosecution or extradition under UK law;
- c) incite those attending to commit a criminal act;
- d) express views contrary to the criminal law;
- e) are in direct support of an organisation whose aims and objectives are illegal;
- f) incite a breach of the peace.

3.3. Consideration will also be given to whether an event should be not allowed on the basis that it would put the safety of persons attending the event and/or of persons in the vicinity at risk; or that would put the security of University facilities at risk.

4. Visiting Speakers and Approval for use of University Facilities

- 4.1. All applications for the use of University facilities for relevant events including visiting speakers shall be made by the event organiser in accordance with any procedures set out for that purpose.
- 4.2. Organisers should not publicise the details of an event until they have received a positive confirmation of the event from the University Timetabling and Room Bookings team.
- 4.3. Where an event is to include a visiting speaker a completed booking form must be submitted to the University Timetabling and Room Bookings team at least 10 working days in advance of the event taking place.
- 4.4. However, this requirement will be waived if the relevant academic Head of Department is able to certify that the contribution of the external speaker is likely to be of direct relevance to some aspect of the University's academic programme and will as a consequence be of value to students in their study of a particular subject.
- 4.5. Where an event organiser recognises that a visiting speaker may be considered to be controversial, they may submit brief arguments with their booking form to assure the University that they will not be likely to breach this Code of Practice, including the University's obligations as described in section 1 above.
- 4.6. The Head of Timetabling and Examinations (or alternate nominee in their absence) will initially

consider all applications, and determine whether there is any reasonable expectation that the University may be in breach of its obligations as described in section 1 above.

- 4.7. The Head of Timetabling and Examinations may decide an application should be referred for consideration because there is a reasonable expectation that the University may be in breach of its obligations as described in section 1 above. In such situations, the decision whether or not any particular application shall be approved shall rest with the Registrar, Academic Registrar or other senior officer nominated by the Vice-Chancellor.
- 4.8. In making this decision, the Registrar, Academic Registrar or other senior officer shall consult with such other staff and/or authorities external to the University as they may feel is necessary and appropriate. This may include the:
- a) Oxford Brookes Students' Union
 - b) Director of Estates and Campus Services (ECS) and/or other relevant staff from ECS
 - c) University Health and Safety Officer
 - d) Assistant Communications Director and/or other relevant staff in Marketing and Communications
 - e) Equalities, Diversity, and Inclusion Officer
 - f) University Chaplain
 - g) Thames Valley Police (or other relevant Police authority)
 - h) South East Region FE and HE Prevent Coordinator
- 4.9. The event organiser may also be asked to undertake research on the proposed visitor to clarify their views to help inform a decision whether to approve the event.
- 4.10. Where the application is accepted, this will be communicated to the event organiser via the University Timetabling and Room Bookings team.
- 4.11. Where the application is accepted, this will be communicated to the event organiser via the Head of Timetabling and Examinations. An acceptance may include such requirements on the event organiser as seem necessary and proportionate, including but not limited to the following:
- a) that the event can be filmed by the University for monitoring and evidential purposes;
 - b) that the talk and accompanying literature must be in English;
 - c) that the text of the speech to be delivered is submitted to the University in advance;
 - d) that the visiting speaker accepts questions from the audience on the subject of the talk for a specified time;
 - e) that the event only proceed on the condition that an opposed platform is accepted, i.e. that a speaker with an alternative and opposing view is given equal time and status at the event;
 - f) that admission will be only by means of tickets issued in advance;
 - g) that the audience be restricted to University and/or Students' Union members
 - h) that the meeting be deemed public and that the presence of the police and members of the public be allowed;
 - i) that the organisers cover the costs of additional security arrangements.

- 4.12. Final programme details including speaker and content must be confirmed not less than 14 working

days prior to the event taking place.

- 4.13. Where facilities for a proposed event are withheld, the reasons for this will be explained in writing to the event organiser within 5 working days of receipt of the full event details.
- 4.14. In organising an event, the event organiser accepts a duty as far as is reasonably practical to ensure that the audience, visiting speaker, and any other persons presents act in accordance with the law during the meeting. In the case of conduct in breach of this Code from any audience member, speaker, or other person present, the event organiser should issue appropriate warnings, and if the unacceptable conduct continues, takes steps to remove the persons concerned from the meeting by stewards or security staff. If necessary, an event may need to be closed.
- 4.15. If the event organiser should wish to appeal against a decision to withhold facilities from an event, such appeal is to be made within 2 days of the written decision from the Registrar, Academic Registrar or other senior officer. This appeal should be made in writing to the Registrar, Academic Registrar or other senior officer who made the decision. The original decision will stand until the matter has been considered by an appeal committee.
- 4.16. The Registrar, Academic Registrar or other senior officer who made the decision will refer their written decision with the appeal from event organiser to a panel constituted of two members of the University Executive Board. Within 2 working days the panel will decide either to uphold the original decision or to overturn it.
- 4.17. An appeal will not normally be considered if the grounds for refusal are simply that the facilities required are not available or that the event cannot be held in the light of the overall demands on the University's premises at any particular time.
- 4.18. Failure to give sufficient notice of an event could in itself be grounds for refusal to permit an event and may render the event organiser(s) to be subject to relevant disciplinary procedures.

5. Visiting Speakers and Approval for use of Students' Union Facilities or requests from Students' Union Societies

- 5.1. All applications for the use of Students' Union facilities, or from official societies of the Students' Union, for relevant events including visiting speakers shall be made by the event organiser on the official booking form provided, and in accordance with any procedures set out for that purpose.
- 5.2. Organisers should not publicise the details of a meeting until they have received a positive confirmation of the event from the Students' Union.
- 5.3. Where an event organiser recognises that a visiting speaker may be considered to be controversial, they may submit brief arguments with their booking form to assure the Students' Union that they will not be likely to breach this Code of Practice, including the University's obligations as described in section 1 above.
- 5.4. The Students' Union Activities Development Coordinator (or alternate nominee in their absence) will initially consider all applications, and determine whether there is any reasonable expectation that the University may be in breach of its obligations as described in section 1 above.
- 5.5. The Students' Union Activities Development Coordinator may decide an application should be referred for consideration because there is a reasonable expectation that the University may be in breach of its obligations as described in section 1 above. In such situations, the decision whether or not any particular application shall be approved shall rest with the:
 - a) Students' Union Chief Executive (or reasonable alternate in their absence); and
 - b) Students' Union President (or reasonable alternate in their absence); and
 - c) either the Registrar, Academic Registrar or other senior officer nominated by the Vice-Chancellor.

- 5.6. In making this decision, the Students' Union Chief Executive shall consult with such other staff and/or authorities external to the University as they may feel is necessary and appropriate. This may include the:
- a) Head of Timetabling and Examinations
 - b) Director of Estates and Campus Services (ECS) and/or other relevant staff from ECS
 - c) University Health and Safety Officer
 - d) Assistant Communications Director and/or other relevant staff in Marketing and Communications
 - e) Equalities, Diversity, and Inclusion Officer
 - f) University Chaplain
 - g) Thames Valley Police (or other relevant Police authority)
 - h) South East Region FE and HE Prevent Coordinator
 - i) Legal Services

The event organiser may also be asked to undertake research on the proposed visitor to clarify their views to help inform a decision whether to approve the event.

- 5.7. Where the application is accepted, this will be communicated to the event organiser via the Students' Union Activities Development Coordinator. An acceptance may include such requirements on the event organiser as seem necessary and proportionate, including but not limited to the following:
- a) that the event can be filmed by the University for monitoring and evidential purposes;
 - b) that the talk and accompanying literature must be in English;
 - c) that the text of the speech to be delivered is submitted to the University in advance;
 - d) that the visiting speaker accepts questions from the audience on the subject of the talk for a specified time;
 - e) that the event only proceed on the condition that an opposed platform is accepted, i.e. that a speaker with an alternative and opposing view is given equal time and status at the event;
 - f) that admission will be only by means of tickets issued in advance;
 - g) that the audience be restricted to University and/or Students' Union members
 - h) that the meeting be deemed public and that the presence of the police and members of the public be allowed;
 - i) that the organisers cover the costs of additional security arrangements.

5.8. Where facilities for a proposed event are withheld, the reasons for this will be explained in writing by the Students' Union Chief Executive to the event organiser within 5 working days of receipt of the application.

5.9. In organising an event, the event organiser and society president (if relevant) accept a duty as far as is reasonably practical to ensure that the audience, visiting speaker, and any other persons present act in accordance with the law during the meeting. In the case of conduct in breach of this Code from any audience member, speaker, or other person present, the event organiser and society president (if relevant) should issue appropriate warnings, and if the unacceptable conduct continues, takes steps to remove the persons concerned from the meeting by stewards or security staff. If

- necessary, an event may need to be closed.
- 5.10. If the event organiser should wish to appeal against a decision to withhold facilities from an event, such appeal is to be made within 2 days of the written decision from Students' Union Chief Executive. This appeal should be made in writing to the Students' Union Chief Executive. The original decision will stand until the matter has been considered by an appeal committee.
- 5.11. The Students' Union Chief Executive or reasonable alternate who made the decision will refer their written decision with the appeal from event organiser to a panel constituted of two members of the University Executive Board. Within 2 working days the panel will decide either to uphold the original decision or to overturn it.
- 5.12. An appeal will not normally be considered if the grounds for refusal are simply that the facilities required are not available or that the event cannot be held in the light of the overall demands on the University's premises at any particular time.
- 5.13. Failure to give sufficient notice of an event could in itself be grounds for refusal to permit an event and may render the event organiser(s) to be subject to relevant disciplinary procedures.

6. Visiting Speakers and Approval for Commercial use of University Facilities

- 6.1. All applications for the use of University facilities on a commercial basis from third parties, for relevant events including visiting speakers shall be made by the event organiser on the official booking form provided, and in accordance with any procedures set out for that purpose.
- 6.2. Organisers should not publicise the details of a meeting until they have received a positive confirmation of the event from Conference Services.
- 6.3. Where an event organiser recognises that a visiting speaker may be considered to be controversial, they may submit brief arguments with their booking form to assure Conference Services that they will not be likely to breach this Code of Practice, including the University's obligations as described in section 1 above.
- 6.4. Conference Services will initially consider all applications, and determine whether there is any reasonable expectation that the University may be in breach of its obligations as described in section 1 above.
- 6.5. Conference Services may decide an application should be referred for consideration because there is a reasonable expectation that the University may be in breach of its obligations as described in section 1 above. In such situations, the decision whether or not any particular application shall be approved shall rest with the:
- a) The Director of Estates and Campus Services (or reasonable alternate in their absence); and
 - b) either the Registrar, Academic Registrar or other senior officer nominated by the Vice-Chancellor.
- 6.6. In making this decision, Conference Services shall consult with such other staff and/or authorities external to the University as they may feel is necessary and appropriate. This may include the:
- a) Head of Timetabling and Examinations
 - b) Relevant staff from ECS
 - c) University Health and Safety Officer
 - d) Assistant Communications Director and/or other relevant staff in Marketing and Communications
 - e) Equalities, Diversity, and Inclusion Officer
 - f) University Chaplain

- g) Thames Valley Police (or other relevant Police authority)
- h) South East Region FE and HE Prevent Coordinator

The event organiser may also be asked to undertake research on the proposed visitor to clarify their views to help inform a decision whether to approve the event.

- 6.7. Where the application is accepted, this will be communicated to the event organiser via Conference Services. An acceptance may include such requirements on the event organiser as seem necessary and proportionate, including but not limited to the following:
- a) that the event can be filmed by the University for monitoring and evidential purposes;
 - b) that the talk and accompanying literature must be in English;
 - c) that the text of the speech to be delivered is submitted to the University in advance;
 - d) that the visiting speaker accepts questions from the audience on the subject of the talk for a specified time;
 - e) that the event only proceed on the condition that an opposed platform is accepted, i.e. that a speaker with an alternative and opposing view is given equal time and status at the event;
 - f) that admission will be only by means of tickets issued in advance;
 - g) that the audience be restricted to specified individuals;
 - h) that the meeting be deemed public and that the presence of the police and members of the public be allowed;
 - i) that the organisers cover the costs of additional security arrangements.
- 6.8. Where facilities for a proposed event are withheld, the reasons for this will be explained in writing by Conference Services to the event organiser within 5 working days of receipt of the application.
- 6.9. In organising an event, the event organiser accept a duty as far as is reasonably practical to ensure that the audience, visiting speaker, and any other persons present act in accordance with the law during the meeting. In the case of conduct in breach of this Code from any audience member, speaker, or other person present, the event organiser should issue appropriate warnings, and if the unacceptable conduct continues, takes steps to remove the persons concerned from the meeting by stewards or security staff. If necessary, an event may need to be closed.
- 6.10. If the event organiser should wish to appeal against a decision to withhold facilities from an event, such appeal is to be made within 2 days of the written decision from Conference Services. This appeal should be made in writing to Conference Services. The original decision will stand until the matter has been considered by an appeal committee.
- 6.11. The written decision with the appeal from event organiser will be referred to a panel constituted of two members of the University Executive Board. Within 2 working days the panel will decide either to uphold the original decision or to overturn it.
- 6.12. An appeal will not normally be considered if the grounds for refusal are simply that the facilities required are not available or that the event cannot be held in the light of the overall demands on the University's premises at any particular time.
- 6.13. Failure to give sufficient notice of an event could in itself be grounds for refusal to permit an event and may render the event organiser(s) to be subject to relevant disciplinary procedures.

Extract from the Education (No. 2) Act 1986

43 Freedom of speech in universities, polytechnics and colleges.

- (1) Every individual and body of persons concerned in the government of any establishment to which this section applies shall 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.
- (2) The duty imposed by subsection (1) above includes (in particular) the duty 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—
 - (a) the beliefs or views of that individual or of any member of that body; or
 - (b) the policy or objectives of that body.
- (3) The governing body of every such establishment shall, with a view to facilitating the discharge of the duty imposed by subsection (1) above in relation to that establishment, issue and keep up to date a code of practice setting out—
 - (a) the procedures to be followed by members, students and employees of the establishment in connection with the organisation—
 - (i) of meetings which are to be held on premises of the establishment and which fall within any class of meeting specified in the code; and
 - (ii) of other activities which are to take place on those premises and which fall within any class of activity so specified; and
 - (b) the conduct required of such persons in connection with any such meeting or activity;and dealing with such other matters as the governing body consider appropriate.
- (4) Every individual and body of persons concerned in the government of any such establishment shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the requirements of the code of practice for that establishment, issued under subsection (3) above, are complied with.

For further information about this policy, please contact the Academic Registrar.

Approved by: Academic Board, 27 April 2016

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Further plans for review once additional guidance on Freedom of speech is published by the OfS