



Freedom of Speech Code of Practice 2023 - 2024

Equality Impact Assessment: Askham Bryan College recognises the importance of the Equality Act 2010 and its duties under the Act. This document has been assessed to ensure that it does not adversely affect staff, students or stakeholders on the grounds of any protected characteristics.

1. DOCUMENT HISTORY

Date of Issue: 30th November 2023

Approved on: 8th November 2023 at HEAB and 15th November 2023 at Policies Group

Next review: May 2024

SLT Owner: HE Academic Registrar

Author: Legal and Compliance Adviser

Publication requirements: PUBLIC

2. POLICY STATEMENT AND SCOPE

“If liberty means anything at all, it means the right to tell people what they do not want to hear.” — George Orwell

- 2.1 Askham Bryan College is committed to the principles of free speech and freedom of expression and in particular, the principle of free academic debate and discussion, to the fullest extent permitted by law. This extends to a wide range of issues, including, but not limited to social, political, economic and religious issues, and legal and moral issues, and subject to 2.3 below, ideas that have the potential to offend, shock or disturb the listener. Ideas and opinions should be capable of being expressed in an atmosphere of mutual respect and tolerance.
- 2.2 This Code of Practice (“the Code of Practice”) sets out the rights and obligations inherent within the principles of freedom of speech and freedom of expression and academic freedom and the Code of Practice shall be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law. The Code of Practice also covers freedom of speech and expression in whatever form that may take including (but not limited to) speeches, debates, meetings, demonstrations, written publications and through the use of social media.
- 2.3 The College, however, will not tolerate or countenance an environment of fear, harassment, intimidation, verbal abuse or violence. Freedom of speech also means freedom from intimidation, harassment and fear.

3. SCOPE

- 3.1 The Code of Practice applies to all staff (including non-teaching staff), Governors, members of the Corporation, students (full or part time, and whether studying under an agreement with a partner organisation or not), College Student Union and visiting speakers to the College.

4. CODE OF PRACTICE

- 4.1 The Higher Education (Freedom of Speech) Act 2023 imposes a duty on the governing body of a registered higher education provider to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for:

- (a) staff of the provider,
- (b) members of the provider,
- (c) students of the provider, and
- (d) visiting speakers.

- 4.2 This also extends to securing academic freedom for academic staff. “Academic freedom”, in relation to academic staff at a registered higher education provider, means their freedom within the law—

- (a) to question and test received wisdom, and
- (b) to put forward new ideas and controversial or unpopular opinions,

without placing themselves at risk of being adversely affected, either (a) through loss of their jobs or privileges at the provider; or (b) the likelihood of their securing promotion or different jobs at the provider being reduced.

- 4.3 However, all staff, not just academic staff, have the right to freedom of expression, as enshrined in Article 10 of the European Convention on Human Rights and Article 10 of the Human Rights Act 1998.

- 4.4 The governing body of a registered higher education provider must also, with a view to facilitating the discharge of its duties, maintain a Code of Practice setting out:

- (a) the provider’s values relating to freedom of speech and an explanation of how those values uphold freedom of speech;

- (b) the procedures to be followed by staff and students of the provider and any students’ union for students at the provider in connection with the organisation of—

- (i) meetings which are to be held on the provider’s premises and which fall within any class of meeting specified in the code, and

- (ii) other activities which are to take place on those premises and which fall within any class of activity so specified,

- (c) the conduct required of such persons in connection with any such meeting or activity, and

(d) the criteria to be used by the provider in making decisions about whether to allow the use of premises and on what terms (which must include its criteria for determining whether there are exceptional circumstances where use of its premises by any individual or body is on terms that require the individual or body to bear some or all of the costs of security relating to their use of the premises.

5. ENSURING ACADEMIC FREEDOM

- 5.1 The principle of freedom of speech set out in this Code of Practice shall extend to the performance by all staff of their duties and responsibilities and to any visiting or guest speakers invited by the College. It shall also extend to students presenting or exhibiting work produced during the course of their studies with the College.
- 5.2 Any person or body to which this Code of Practice applies shall not take any action (other than by reasonable and peaceful persuasion) to prevent the holding or continuation of any lecture, tutorial, exhibition, or other academic activity because of the views held or expressed or which are reasonably likely to be expressed by the speaker or course tutor or student concerned, unless:
- the views likely to be expressed by any speaker are contrary to the law;
 - the intention of any speaker is likely to be to incite breaches of the law or is to intend breaches of the peace to occur;
 - the views likely to be expressed by any speaker are for the promotion of any illegal organisation or purpose;
 - the views likely to be expressed by any speaker are for the promotion of any organisation subject to the College's "No Platform" policy as amended from time to time (see section 6 below);
 - it is in the interests of public safety, the prevention of disorder or crime or the protection of those persons lawfully on premises under the control of the College, that the event does not take place
- 5.3 Any person or body to whom this Code of Practice applies shall not take any action (other than reasonable and peaceful persuasion) to prevent any student or group of students from attending any academic activity required by, or properly associated with, the course for which they are enrolled because of the views or beliefs held or lawfully expressed by that student or because of the reasonable likelihood that such views will be expressed.

6. EXTERNAL SPEAKERS AND THEIR RESPONSIBILITIES

- 6.1 The College's policy and procedures on external speakers and their responsibilities are set out in and subject to the College's External Speakers Policy and Procedures.
- 6.2 Where any person or body subject to the obligations of this Code of Practice wishes to hold any event for the expression of any views or beliefs held or lawfully expressed on premises controlled by the College, consent shall not be unreasonably refused.
- 6.3 Subject to 6.4, the use of any College premises will not be denied, in relation to an individual, on grounds their ideas and opinions, and in relation to a body, will not be denied on the grounds of its policy or objectives or the ideas or opinions of any of its members.

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- 6.4 However, all speakers have a responsibility to abide by the law and the College's policies, and:
- must not advocate or incite hatred, violence or call for the breaking of the law;
 - are not permitted to encourage, glorify or promote any acts of terrorism including individuals, groups or organisations that support such acts;
 - must not spread hatred and intolerance and thus aid in disrupting social and community harmony;
 - must be mindful of the risk of causing offence to or seek to avoid insulting other faiths or groups, within a framework of positive debate and challenge;
 - are not permitted to raise or gather funds for any external organisation from staff (including non-teaching staff), Governors, members of the Corporation, or students (full or part time, and whether studying under an agreement with a partner organisation or not), or cause without express permission of the College (available from Assistant Principal (Students) or Director of Communications).
- 6.5 The College will not tolerate those who are intolerant of the free speech 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 engage in the active prevention of permitting others to speak, such as the interruption – violent or otherwise – of meetings. Those who offer no platform to others, without any reasonable or justifiable basis for doing so, should not benefit from the freedom to speak at the College.
- 6.6 The College also does not support those who advocate or engage in violence in the furtherance of their political, religious, philosophical and/or other beliefs, including advocating or engaging in the violent overthrow of democracy in the UK or elsewhere.
- 6.7 The College reserves the right to debar speakers or organisations from the College where the College reasonably believes that their presence on College premises is not conducive to the good order of the College, or where it would offend the principles of scholarly inquiry, or where it would put at risk the safety of students, staff or the general public.
- 6.8 The College will maintain a list of organisations considered by the College to be within the scope of the provisions in 6.5 – 6.7. Currently this is:
- any person or group on/or linked to the UK Government list of proscribed terror organisations <https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2>;
 - talks by organisations generally considered to be extremist;
 - a speaker who is known to have spoken previously at another institution on a topic that has caused fear or intimidation of students or staff;
 - a speaker accepted in mainstream as being highly controversial;
 - a link or links to any person or group that has been connected with any controversy of a negative or positive nature;
 - a speaker who has significant profile and attracts a following that could create crowd control and health and safety issues;
 - a speaker from a political party during an election period.

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- 6.9 Any amendments made to the list from time to time by the College shall be deemed as included, or excluded as appropriate with effect from the date that the amendment is made.

See the College's External Speakers Policy for further.

Equality, Diversity and Inclusion

- 6.10 The Equality Act 2010 makes it illegal to discriminate against someone, whether directly or indirectly, because of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 6.11 The College celebrates and values the diversity brought to it by all those individuals who live, work and learn here and believes the College will benefit from attracting and retaining students and staff from a variety of backgrounds. The principles of equality and diversity are therefore also at the heart of College life and are also supported by appropriate policies, procedures and good practice.

Safeguarding and Prevent Duty

- 6.12 This Code of Practice is also written with reference to the Prevent Duty contained within Section 26 of the Counter Terrorism and Security Act 2015 (CTSA 2015). The duty states that specified authorities including further education colleges, in the exercise of their functions, must have "due regard to the need to prevent people from being drawn into terrorism".
- 6.13 The College is committed to supporting vulnerable students through its safeguarding policies and procedures and recognises that this can support the College's contribution to the Prevent duty. The guidance on Prevent is included within the College's Safeguarding Policy.

7. BREACH OF THIS CODE OF PRACTICE

- 7.1 Breach of this Code of Practice will be dealt with under the College's disciplinary procedures and, if necessary, by recourse to the law.
- 7.2 Where a breach of this Code of Practice takes place at an activity or as a result of an activity taking place, the College may take steps to assist the police to secure identification of the persons suspected of committing offences with a view to appropriate action being taken against them.

8. COMPLAINTS

- 8.1 In the event that you wish to make a formal complaint for breach of this Code (for instance, in the event you feel that your right to free speech has been infringed or you have suffered adverse consequences as a result of exercising your right to free speech, or you feel that the College has otherwise breached its duties under the Higher Education (Freedom of Speech) Act 2023 or this Code of Practice), you should contact, in writing, the PA to the Principal and Chief Executive Officer. An investigation shall be conducted and responded to, where possible, within 10 working days, in

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accordance with the College's Complaints Policy.

- 8.2 You must bring any complaint within 3 months of the incident complained of.
- 8.3 In the event that you are not satisfied with the initial reply you receive, you should contact, in writing, the Chief Executive Officer, within 10 days of the date of the decision.
- 8.4 **Please note that the Office of the Independent Adjudicator for Higher Education ("OIA") is unlikely to investigate a complaint for breach of this Code without an individual first having made a complaint to the College and exhausting the College's own internal complaints procedure first or if proceedings relating to the subject-matter of the complaint, to which you are or were a party, are being, or have been, dealt with by a court or tribunal.**

9. RESPONSIBILITIES

- 9.1 It is the responsibility of all staff and students, governors and members of the Corporation, to ensure that the principles of free speech, free academic debate and discussion, and equality, diversity and inclusiveness are respected at all times.

10. MONITORING AND REVIEW

- 10.1 The Code of Practice will be reviewed annually and will be brought to the attention of all students.
- 10.2 The Legal and Compliance Adviser, assisted by the HE Academic Registrar, will maintain oversight of the effectiveness of this Code of Practice.

11. SUPPORTING/RELATED DOCUMENTS

- External Speakers Policy
- External Speakers Procedures
- Equality and Diversity and Inclusion Policy
- Peer on Peer Abuse (Students) Policy
- Staff Code of Conduct

12. LIST OF RELEVANT LEGISLATION (NON-EXHAUSTIVE)

- Higher Education (Freedom of Speech) Act 2023
- Human Rights Act 1998 (Schedule 1, Article 10) (Freedom of expression)
- European Convention on Human Rights, Article 10(Freedom of expression)
- Equality Act 2010
- Protection from Harassment Act 1997
- Safeguarding Vulnerable Groups Act 2006
- Terrorism Act 2000
- Terrorism Act 2006
- Counter Terrorism and Security Act 2015
- Public Order Act 1986 (POA) as amended by Racial and Religious Hatred Act 2006 and Criminal Justice and Immigration Act 2008