

**UNIVERSITY OF SUNDERLAND**

**CODE OF PRACTICE**

**ON**

**FREEDOM OF SPEECH**

Approved by Board of Governors on  
19 May 2016

# UNIVERSITY OF SUNDERLAND

## CODE OF PRACTICE – FREEDOM OF SPEECH

### INTRODUCTION

- 1 The Education (No. 2) Act 1986, section 43, imposes a statutory duty on the University:
  - (i) 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 University and for visiting speakers, and
  - (ii) to ensure, as far as is reasonably practicable, that the use of any premises of the University is not denied to any individual or body or persons on any ground connected with:
    - (a) the beliefs or the views of that individual or of any member of that body; or
    - (b) the policy or the objectives of that body.
- 2 Freedom of Speech as established within the law is to be protected in particular within an institution of Higher Education. The holding and expression of views which are unorthodox or even offensive should not of itself prevent the holding of an event to express those views. Within an academic community, opposition to opinions should be by reasoned refutation, and not by denial of all opportunity to be heard, or by disruption of meetings or other events. In addition, freedom of thought, expression and of assembly and association are enshrined in law.
- 3 By this Code of Practice, the University of Sunderland, as an academic community of staff and students, seeks to uphold freedom of speech and academic freedom within the legal parameters.
- 4 The Act requires the Board of Governors to issue and keep up to date a Code of Practice setting out:
  - (i) the procedures to be followed by members, students and employees in connection with the organisation:
    - (a) of meetings of such types as may be specified in the Code which are to be held on University premises, and
    - (b) of any other activities so specified, and
  - (ii) the conduct required of such persons in connection with any such meeting or activity.
- 5 For the purposes of the Act premises occupied by the University of Sunderland Students' Union are deemed to be University premises.

## **SCOPE AND GENERAL PRINCIPLES OF THE CODE OF PRACTICE**

6. This Code applies to all events, meetings, demonstrations, poster campaigns, online campaigns including use of social media and other visual material and activities (“events”) which are to be held on University premises or campus (including events held in the open air or on premises occupied by University of Sunderland Students’ Union) whether or not they include an external speaker, other than those which form part of regular course provision, together with all events held off campus which are organised, funded or branded by the University, including events organised by individuals, groups or societies using the University name or resources.
7. For the purposes of this Code, ‘events’ includes events arranged as part of the teaching programme where these involve the participation of visiting speakers, and/or other persons who are not members, students or employees of the University
8. Freedom of speech is not an unqualified privilege and must operate within the law. The University is subject to a range of legislation and obligations to ensure the safety and well-being of its students, staff and visitors. Universities also have a duty under the Counter-Terrorism and Security Act 2015 to “have due regard to the need to prevent people from being drawn into terrorism”, known as the ‘Prevent’ duty. The University will take all of this into consideration when determining whether the request to hold an event is approved or declined. An event will be declined where the substance or purpose of the event as proposed is likely, in the opinion of the University, to cause a breach of the law or cause the University to breach any of its statutory duties or where the arrangements for the orderly conduct of the event are considered by the University to be inadequate. For illustration purposes only (not an exhaustive list):
  - i. examples of breaches of law which might arise include offences against public order, incitement to racial hatred, or to sexual or racial discrimination or harassment, and infringements of the health and safety requirements, or the provisions of entertainment and other licences applicable to the event;
  - ii. examples of what might cause a breach of statutory duty by the University include failure to reasonably prevent discrimination or harassment of a particular person or group of people or the incitement of people to racial or cultural hatred by permitting an event to go ahead without due consideration or mitigation;
  - iii. examples of inadequate orderly conduct might be a demonstration on campus without appropriate consideration, or inability to demonstrate consideration of security such that it may be considered likely to cause a public order offence.
9. In order to meet its legal obligations or to otherwise support it in the safe and secure management of the event and where it is appropriate and legal to do so, the University may share data with third party organisations.
10. All events must be authorised in accordance with the University of Sunderland Events and External Speakers Policy (“Policy”) and related Event Guidance which can be found at <http://services.sunderland.ac.uk/mac/events/supportforyourevent/>. Failure to observe

the Policy and Guidance constitutes a breach of this Code.

## **PROCEDURE**

- 11 It is the responsibility of the Event Organiser (as defined in the Policy and for the purpose of this Code is also defined to include the host/hirer where the event is a third party event) to apply in writing for authorisation for events covered by this Code and that Policy by following the procedure set down in the Policy. Where the premises or any part of them are hired for the event by a third party, that third party must also complete the appropriate booking form accepting the University's standard conditions of facility hire and any other special conditions stated at the time of the booking.

## **CONDUCT OF EVENTS**

- 12 All duly authorised events are entitled to proceed without disruption, without interference with the entrance or exit of the speakers or the audience, without intimidation and without threat to the safety of those attending.
- 13 When arranging or conducting any event, or when issuing an invitation to speak at an event, Event Organisers must be mindful that equality law prohibits universities, students' unions and student societies from acts of direct or indirect discrimination against or harassment of student members or guests. Attendees must normally have the freedom to choose where they may sit (except where specific seating is designated for speakers, or space is designated for other legitimate reasons, (for example to meet disability access requirements) or where the activity is within the exemptions specified in the Equality Act 2010, such as a meeting held for the purposes of religious observance undertaken by the adherents of a particular faith). Event Organisers or external speakers must not place pressure on any woman to sit separately from men or vice versa as involuntary segregation will constitute unlawful discrimination. Genuine voluntary segregation is permissible, but the Event Organiser and the University would need evidence to satisfy themselves that any gender segregation was wholly and demonstrably voluntary, both at the booking stage and during the event.<sup>1</sup>
- 14 At all events:
- (i) The Event Organiser has a duty to ensure as far as reasonably practicable that nothing in the preparation for or the conduct of the event infringes the law, and to secure that the audience and speaker(s) act in accordance with the law throughout the event. In the event of unlawful or disruptive conduct the Event Organiser should give appropriate warnings and, if the conduct continues, require the withdrawal of the persons concerned or their removal. If necessary, the Event Organiser should terminate the event, and shall do so if so requested by a senior authorised officer of the University.
  - (ii) It is the duty of all persons attending the event to act in accordance with the law, and to recognise and observe the rights of others to freedom of speech and expression within the law.

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<sup>1</sup> The advice in this section is based on the 'Gender Segregation at Events and Meetings: Guidance for Universities and Students' Unions' issued by the Equality and Human Rights Commission (last updated 30th July 2014) pp 9-10.

- (iii) Any external speaker (as defined in the Policy) must observe the Code of Conduct for External Speakers, a copy of which is appended to the Policy.
- (iv) In the case of a breach of this Code, every effort is to be made to identify the offenders in order that appropriate action may be taken.

## **GENERAL**

- 15 Any breach of this Code may constitute a disciplinary offence which:
- (i) if committed by a member of staff shall be subject to the University's Disciplinary Procedure for staff;
  - (ii) if committed by a student shall be subject to the Rules in Respect of Student Conduct and Discipline;
  - (iii) if committed by an outside user shall normally lead to refusal of subsequent requests for the use of University premises;
  - (iv) in addition to sub-sections 15 (i)-(iii) above, if any breach of this Code also involve a breach (or breaches) of the law, the University will assist the relevant authorities to implement the processes of law.
- 16 The process for appeals in connection with the decision on a request to hold an event is as set out in the Policy.
- 17 Any matters arising in connection with this Code may be reported to the Board of Governors and to the Higher Education Funding Council for England (HEFCE), as the University's principal regulator for charity law purposes.
- 18 This Code of Practice is established in accordance with the provisions of S.43 of the Education (No. 2) Act 1986 and is issued under the authority of the Board of Governors. It will be kept under review by the Board of Governors and will be amended when necessary, after prior consultation with interested parties.