

Chapter 15 Code of practice on freedom of speech within De Montfort University

This Code is issued by the Board of Governors of the University pursuant to section 43 of the Education Act (No 2) 1986 and applies to Students of the University

Students must abide by the university policy here:

<https://demontfortuniversity.sharepoint.com/sites/DMUHome/org/POD/HR/Documents/Freedom%20of%20Expression%20and%20Academic%20Freedom.pdf> and any breach of this will be dealt with by the disciplinary procedure in Chapter 2, University General Regulations.

1 Introduction

- 1.1 The Education Act (No 2) 1986 requires the University to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for its employees, Students and visiting speakers. This also includes the duty to ensure, as is reasonably practicable, that the use of any of the University's premises is not unlawfully denied to any individual or body of persons on the grounds of their beliefs, views, policies or objectives. The University is also required to produce this Code setting out the procedures to be followed by Students and Staff in connection with the organisation of meetings and activities which fall within any class specified within this Code, together with the conduct required of Staff and Students in connection with such meetings and activities.

- 1.2 The University endorses and adopts the principle of freedom of speech and expression within the law as one of the cardinal principles upon which all institutions of learning should be founded. It also has regard to the need 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. Every person employed at the University and Students' Union and every Student registering at the University should be aware that joining the University community involves obligations and responsibilities which are consistent with the above principle and the law.

- 1.3 This Code of Practice sets out the rights and obligations inherent within the above principle and shall be construed and applied in a spirit of upholding the principle of freedom of speech wherever reasonably possible within the existing legal framework. The Code is also drafted to

comply with the University's statutory obligations outlined above. The Code's obligations shall apply to:

- The University (which shall include all bodies or persons having authority to determine any matter relevant to this Code).
- All Staff of the University (whether academic Staff or otherwise) and those whose normal place of work is on University premises.
- All Students of the University (whether full or part-time).
- The Students' Union, including its constituent societies and associations. The Students' Union shall bring this Code to the attention of its employees and take steps to ensure that they comply with it in accordance with clause 1.5.
- Staff and Students of the University should bring this Code to the attention of any outside organisations who are providing speakers or are responsible for organising meetings.

1.4 The Code's rights shall apply to:

- All Staff, Students and visiting speakers;

1.5 And in relation to the holding of academic activities within paragraph 2.1 or meetings or like events within paragraph 3.1 on premises controlled by the University or the Students' Union or an organisation affiliated to the Students' Union, the code shall apply to:

- Persons invited or otherwise lawfully on the premises;
- Persons who, if it were not for the provisions of this Code, would have been invited to the event.

1.6 Nothing in this Code shall be deemed to affect the rights of any person taking any steps pursuant to lawful industrial action or peaceful protest.

1.7 The University and the Students' Union are required to ensure that the conditions of employment for its employees include a statement which stipulates that employees have an obligation and responsibility to comply with the provision relating to freedom of speech under the Education (No.2) Act 1986 (section 43) and this Code.

2 Academic freedom

- 2.1 The principle of freedom of speech set out in this Code shall extend to the performance of the proper functions by academic Staff (which expression shall include visiting and guest lecturers lawfully present by invitation of the University or of any academic tutor). It shall be contrary to this Code for any person or body to which this Code applies to take any action (other than by reasonable and peaceful persuasion or peaceful protest) to prevent the holding of, or continuance of, any lecture, tutorial or other academic activity because of the lawful views held or expressed or which are reasonably likely to be expressed, (whether or not within the University) by the lecturer or tutor concerned, unless the expression of those views is reasonably decided by the University to be likely to jeopardise public safety and order and/or the safety of Staff and Students.
- 2.2 It shall be contrary to this Code for any person or body to whom this Code applies to take any action (other than reasonable and peaceful persuasion or peaceful protest) 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 duly registered because of the views or beliefs held or lawfully expressed (whether or not within the University) by that Student or because of the reasonable likelihood that such views will be expressed.

3 Meetings

- 3.1 Where any person or organisation subject to this Code (or, in the case of the Students' Union, any constituent society, club or association) wishes to hold a meeting or like event for the expression of views as set out in paragraph 2, on premises which the University or the Students' Union control, the University or Students' Union (as the case may be) shall not unreasonably refuse consent.
- 3.2 It shall not be a reasonable ground of refusal of permission or facilities for a meeting or like event that the views likely to be expressed there may be controversial or contrary to any policy of the University, the Students' Union, or Central or Local Government, provided the expression of such views is lawful. Expression of opinions which are annoying, offensive, in bad taste, or ill-mannered is not per se unlawful unless they amount to incitement to violence or incitement to racial hatred or they would otherwise constitute unlawful discrimination, or

harassment and victimisation on the grounds of protected characteristics defined by the Equality Act 2010.

- 3.3 It shall be accepted as reasonable to refuse consent, or withhold facilities for a meeting or similar event to which this Code applies where the University or Students' Union reasonably believes (from the nature of the speakers or from events at similar meetings in the past whether at the University or otherwise) and/or reasonably anticipates that:
- 3.3.1 The views likely to be expressed by any speaker are contrary to the law.
 - 3.3.2 The intention of any speaker at the event or meeting is likely to be to incite breaches of the law or is to intend breaches of the peace to occur.
 - 3.3.3 The views likely to be expressed by any speaker are for the promotion of any illegal organisation or purpose.
 - 3.3.4 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 University or the Students' Union or affiliated organisations that the event does not take place.
- 3.4 By 'speaker' this Code means any organiser or other person invited to address the meeting other than members of any audience at that meeting.
- 3.5 Meetings or other related activities may be terminated early by the University where, in the course of that meeting or activity, it becomes apparent that any event under 3.3.1 to 3.3.4 is likely to occur, or has occurred.
- 3.6 Subject to paragraphs 3.3 and 3.5 where the University or Students' Union or affiliated body is satisfied upon reasonable grounds that the otherwise lawful expression of views at any meeting or event, the subject of the Code is likely to give rise to disorder, the University or Students' Union or affiliated body shall consider what steps shall be taken to ensure the safety of all persons, the maintenance of order and the security of premises controlled by the University, the Students' Union or any affiliated organisation, and may impose such conditions and requirements upon the organisers as it considers are reasonably necessary in all the circumstances. These may include, but are not limited to, requirements as to provision of stewards, variation of location and time, and whether such a meeting shall be open to the public at large.

- 3.7 Where the University or Students' Union or affiliated body is of the opinion that its powers to regulate meetings and like events by condition are insufficient to prevent serious disorder in premises subject to its control, it may decline to permit such meetings to be held. Before doing so, however, the University may consult the with the University Security team and/or the Police with a view to establishing whether the serious disorder can be prevented or otherwise dealt with appropriately by attendance of police officers or some other conditions.
- 3.8 Where any person or body to whom this Code applies is engaged in the organisation of any meeting or like event on premises controlled by the University or Students' Union or any affiliated body at which, because of, for example, the nature of the speaker or their views expressed in the past or likely to be expressed at such a meeting or the cause they represent, it is reasonably suspected that disorder is likely to occur, the organiser shall give the appropriate Pro Vice-Chancellor not less than 25 University working days' notice in writing of such a proposed meeting. The Pro Vice-Chancellor shall inform the person or body organising the event in writing within 5 University working days whether the meeting may nevertheless go ahead.
- 3.9 It shall be the duty of any lead person organising a meeting or like event under the Code to ensure the proper security and organisation (including stewarding and chairing of that meeting or like event for the purpose of protecting the rights of freedom of speech contained herein. Whilst the heckling, or like activity, of speakers is a right not to be disturbed. Systematic heckling, or other activity to disrupt, that has the effect of preventing the lawful expression of views will be considered to be in breach of this Code. It shall be contrary to this Code for any person or body subject to the Code to organise, or engage in or in any way to be or become associated with, any conduct with the intention of preventing (other than by reasonable and peaceful persuasion or protest) any meeting the subject of this Code from being held or from continuing.

4 General

- 4.1 Any breach of the provisions of this Code may result in action being taken in line with the relevant Staff and Student behavioural and disciplinary codes and policies.
- 4.2 It shall be the duty of all those subject to this Code to assist the University in upholding the rights of freedom of speech recognised in this Code.

- 4.3 If any person or organisation believes that the actions of the Pro Vice-Chancellor in refusing permission or facilities for the holding of any meeting, or like event, or the actions of the University or the Students' Union or affiliated body in imposing conditions are unreasonable, they shall have a right to make representations. These shall be made to the Vice-Chancellor within 5 University working days of the date of the letter confirming the decision. The Vice-Chancellor shall consider such representations and within 5 University working days shall confirm in writing to the person or body making them whether the original decision is to be upheld or varied.
- 4.4 Where a breach of this Code occurs, Students may raise this through the Student Complaint Procedure.
- 4.5 Where breaches of the criminal law occur, the University shall, where appropriate, assist prosecution authorities to implement the processes of the criminal law and, if criminal charges are preferred, shall not, unless the Vice-Chancellor (or other officer to whom such responsibility is delegated by the Vice-Chancellor) in their absolute discretion determines otherwise, proceed with any disciplinary proceedings in respect of the same matters pending the conclusion of any such proceedings.

5 Review and amendment of code

- 5.1 Section 43 (3) of the Education (No.2) Act 1986 requires that the Board of Governors shall issue, and keep up to date, this Code of Practice on Freedom of Speech. In order to comply with this duty, the Board of Governors shall review, formally, the operation of the Code on an annual basis.