

Freedom of expression and academic freedom

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1 Introduction and purpose

“Freedom of expression is a key part of the higher education experience. Sharing ideas is crucial for learning, and allows students to think critically, challenge and engage with different perspectives.”¹

- 1.1 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 have freedom within the law to question and test received wisdom, and 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 the students’ union and every student enrolling at the university should be aware that joining the university community involves obligations and responsibilities which are consistent with the above principles and the law.
- 1.2 In operating this policy, the university seeks to ensure that the principles of freedom of expression are upheld balanced with the need to protect the welfare of both staff and students and to protect the university’s reputation both in the UK and abroad.
- 1.3 A summary of the legal framework underpinning this policy is provided at [Appendix A](#).

2 Principles

- 2.1 This policy is underpinned by the following core principles and ideas which are based on the [Equality and Human Rights Commission: Freedom of expression: a guide for higher education providers and students’ unions in England and Wales](#):
 - i. Everyone has the right to freedom of expression within the law.
 - ii. The university will always work to widen debate and challenge, rather than narrow it.
 - iii. Any decision about speakers and events will seek to promote and protect the right to freedom of expression.
 - iv. Peaceful protest is a protected form of expression; however, protest should not be allowed to shut down debate or infringe the rights of others.
 - v. Freedom of expression should not be abused for the purpose of unchallenged hatred or bigotry. The university will always aim to encourage balanced and respectful debate.

3 Scope

- 3.1 The policy’s obligations shall apply to:
 - vi. the university (which shall include all bodies or persons having authority to determine any matter relevant to this policy);
 - vii. all staff and governors of the university (whether academic staff or otherwise);
 - viii. all duly enrolled students of the university (whether full or part-time); and
 - ix. the students’ union, including its constituent societies, clubs and associations.

- 3.2 The policy’s rights shall apply to:

¹ Equality and Human Rights Commission: Freedom of expression: a guide for higher education providers and students’ unions in England and Wales

- i. all staff, governors, students and visiting speakers;
 - ii. and in relation to the holding of academic activities within paragraph 7.1 or meetings or like events within paragraph 8 on premises controlled by the university or the students' union or an organisation affiliated to the students' union to:
 - a) persons invited or otherwise lawfully on the premises;
 - b) persons who, if it were not for the provisions of this policy, would have been so invited.
- 3.3 This policy does not remove the obligation on employees to act at all relevant times in accordance with the university's employer policies. In particular employees are reminded of the provisions of the **Code of Conduct for DMU Employees**, the **Dignity at Work Policy**, and the **Email, Internet and Social Media Policy** and that, notwithstanding the existence of this policy, a breach of this or any other university policy may render employees liable to disciplinary action up to and including dismissal.
- 3.4 Students are reminded of the relevant clauses in "The Disciplinary Code" of the **General regulations and procedures affecting students** (Chapter Two, Part C), as well as the **Policy on Dignity and Respect (Students)**.
- 3.5 Nothing in this policy shall be deemed to affect the rights of any person taking any steps pursuant to lawful industrial action or peaceful protest.

4 Duties and responsibilities

- 4.1 It shall be the duty of all those subject to the policy to assist the university in upholding the principles of freedom of expression.
- 4.2 Those under a duty to observe and uphold the principle of freedom of expression within the university shall do so at all times while working for or on behalf of the university or the students' union or are otherwise representing the university or the students' union (including constituent societies, clubs and associations) whether on or off university controlled premises.
- 4.3 Staff and students of the university should bring this policy to the attention of any outside organisations who are providing speakers² or are responsible for organising meetings. Such organisations/speakers are expected to uphold the principles of this policy, respect the university's values and be sensitive to the diversity of the university's community.
- 4.4 It shall be the duty of any person engaged in the organisation of any meeting or like event under the policy to ensure the proper security and organisation (including stewarding and chairing of that meeting or like event) for the purpose of upholding the principles of freedom of expression and complying with the provisions of this policy. See also the **External Speakers Policy**.
- 4.5 The students' union shall bring this policy to the attention of its employees and societies and take steps to ensure that they comply with it. In addition, the students' union is 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

² This means any organiser or other person invited to address the meeting other than members of any audience at that meeting.

relating to freedom of expression under the Education (No.2) Act 1986 (Section 43) and this policy.

4.6 The Chief Operating Officer will oversee the implementation of this policy.

5 **Breach of the policy**

5.1 Any breach of the provisions of this policy may render those responsible liable to disciplinary action under the relevant university disciplinary procedure or other appropriate sanction.

5.2 Where breaches of the criminal law occur, the university shall, where appropriate, assist prosecution authorities to implement the processes of the criminal law.

6 **Freedom of expression**

6.1 Freedom of expression is a fundamental right protected under the Human Rights Act 1998 by Article 10 of the European Convention on Human Rights. It is also a fundamental right under common law. Protection under Article 10 extends to the expression of views that may shock, disturb or offend the deeply-held beliefs of others.

6.2 The right to freedom of expression is a qualified rather than an absolute right which means that the rights of the individual must be balanced against the interests of society. The right operates in the context of the law and the values of a democratic society. It is limited, for example, by laws to protect others from violence, hatred and discrimination, to protect national security and public safety, for the prevention of disorder or crime, to protect health or morals, for the protection of the reputation or rights of others, and to prevent the disclosure of information received in confidence. In particular, freedom of expression does not protect statements that constitute unlawful harassment, or incite violence or hatred against, other persons and groups, particularly by reference to their race (including language, national origin or immigration status), religion or belief, sex or sexual orientation, age, disability or gender reassignment ('hate speech').

6.3 The university has an explicit duty in law³ to take such steps as are reasonably practicable to ensure that freedom of expression within the law is secured for students, employees and visiting speakers. This includes a duty to ensure, so far as is reasonably practicable, that the use of any premises of the university 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.

6.4 It shall be contrary to the policy to seek, by systematic or organised heckling, disruption or like activity, to prevent the lawful expression of views in accordance with this policy.

7 **Academic freedom**

7.1 The principle of freedom of expression set out in this policy shall extend to the performance of the proper functions by academic staff including visiting and guest lecturers legitimately present by invitation of the university in accordance with its approved policies and processes.

³ Education (No. 2) Act 1986

- 7.2 Subject to section 8, it shall be contrary to this policy for any person or body to which this policy 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 academic concerned.
- 7.3 Subject to section 8, it shall be contrary to the policy for any person or body to whom this policy applies to take any action other than by reasonable and peaceful persuasion or peaceful protest, to prevent any student or group of students from attending any lecture, tutorial or other academic activity required by, or properly associated with, the course for which they are duly enrolled because of the lawful views held or expressed or which are reasonably likely to be expressed as part of that academic activity, whether or not it takes place within the university.

8 **Approval of events on and off campus**

Where any person or organisation subject to this policy (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 this policy 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. The university reserves the right to refuse consent to any meeting or like event which involves or is reasonably expected to involve the expression of views that are in breach of this policy or there are other reasonable grounds for refusal. All such requests should be made and will be considered in accordance with the university's **External Speakers Policy**.

9 **Social and electronic media**

The principles of freedom of expression and academic freedom apply to the use of electronic and social media; however, the university requires responsible and legal use of the technologies and facilities available to staff and students of the university, including the use of the internet, email and social media.

Please refer to the university's **Email, Internet and Social Media Policy** for more information.

10 **Policy review**

In order to comply with Section 43(3) of the Education (No.2) Act 1986 (see [Appendix A](#)) the Board of Governors shall review, formally, the operation of the policy not less than once every three years.

Appendix A: legal framework

- a) The **Education (No. 2) Act 1986** (section 43(1)) 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 denied to any individual or body of persons on the grounds of their beliefs, views, policies or objectives. Under section 43(3), the university is also required to issue, and keep up-to-date, a policy of practice on freedom of speech, 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 policy, together with the conduct required of staff and students in connection with such meetings and activities.
- b) The **Higher Education and Research Act 2017** (HERA) makes it clear that all universities and colleges which register with the Office for Students (OfS) must uphold the existing laws around freedom of speech and follow the OfS's regulatory framework. Under the framework the governing bodies of registered universities and colleges should take 'such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.'⁴ HERA also includes a general duty for the OfS to protect institutional autonomy including academic freedom.
- c) The **Education Reform Act 1988** (section 202) (reinforced by the Higher Education and Research Act 2017) makes clear 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.
- d) The **Public Order Act 1986** creates criminal offences relating to public order; to control public processions and assemblies; to control the inciting of racial hatred or on the grounds of religion or of sexual orientation.
- e) The **Protection from Harassment Act 1997** creates both civil and criminal offences for harassment and makes provision for protecting persons from harassment and similar conduct.
- f) The **Human Rights Act 1998** in particular Article 9 (freedom of thought, conscience and religion); Article 10 (freedom of expression); and Article 11 (freedom of assembly and association).
- g) The **Equality Act 2010** requires the university, in the exercise of its functions, to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations between different groups.
- h) The **Terrorism Act 2006** creates offences relating to the encouragement of terrorism and dissemination of terrorist publications, including publishing, or causing another to publish, a statement likely to be understood as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism with the intent that members of the public will be directly or indirectly encouraged or otherwise induced by the statement to commit, prepare or instigate acts of terrorism, or being reckless as to whether that effect will be caused.

⁴ Office for Students: Advice and guidance – Freedom of Speech

- i) The **Counter-Terrorism and Security Act 2015** creates a general duty on the university when exercising its functions to have due regard to the need to prevent people from being drawn into terrorism having particular regard to the duty to secure freedom of speech imposed by section 43(1) of the Education (No. 2) Act 1986 when carrying out that duty.