

**THE UNIVERSITY OF MANCHESTER
CODE OF PRACTICE ON FREEDOM OF SPEECH**

1. Introduction

- 1.1 The University of Manchester recognises that freedom of speech and expression within the law has fundamental importance for universities as places of education, learning and the disinterested pursuit of truth. In particular, universities are obliged under Section 43 of the Education (No. 2) Act 1986 to take measures to protect freedom of lawful speech and expression. This principle is also enshrined in Article 10 of the Human Rights Act 1998. The University is also required under Statute X to have regard to the need to ensure that academic staff members 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 at risk of losing their jobs or any privileges they may have at the University. In addition, the University issued a Statement on Academic Freedom in December 2007 (provided at Appendix 1). Through this, the University recognises its responsibilities, so far as is reasonably practicable, to protect and advance the principle of academic freedom.
- 1.2 This Code of Practice on Freedom of Speech sets out the rights and obligations inherent within the principles of freedom of speech and expression and academic freedom. The Code shall be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law.
- 1.3 The Code's rights and obligations shall apply to:
- 1.3.1 the University, including members of the Board of Governors;
 - 1.3.2 all members of University staff and/or those working on behalf of the University;
 - 1.3.3 all duly enrolled students of the University (whether full or part-time);
 - 1.3.4 all students studying at the University (whether full or part-time) under an agreement with a partner organisation of the University (e.g. a school, college or employer) even if not enrolled as students at the University;
 - 1.3.5 the Students' Union its associated buildings, and any societies, clubs or associations which normally operate on University premises; and
 - 1.3.6 all persons invited to speak or otherwise take part in events to be held organised by the University in accordance with the provisions of this Code.
- 1.4 The procedures in this Code must be observed by students, employees and other Members of the University in respect of:
- any event to be held on University premises (including those occupied by the University of Manchester Students' Union); and
 - any event held away from the University campus or premises which is University/ Students' Union organised, funded or branded, including events organised by individuals, groups or societies using the University/Student's Union name or resources.

2. Freedom of Speech and Expression

- 2.1 The University shall take such steps as are reasonably practicable to ensure that freedom of speech and expression within the law is secured for every person to whom this Code's rights and obligations apply.
- 2.2 Every person to whom this Code's rights and obligations apply shall assist the University in upholding this Code of Practice on Freedom of Speech.
- 2.3 The University will not suppress freedom of thought and expression, consistent with the Statement on Academic Freedom. However, the University has a duty to ensure, wherever practical, that such thoughts and expressions do not go beyond the articulation of points of view and do not constitute incitement to riot, insurrection, racial hatred, religious hatred, sexual harassment or other activities (beyond the right of peaceful protest) which are likely to cause a breach of the peace or public disorder or otherwise to be unlawful.
- 2.4 The University shall ensure, so far as is reasonably practicable, that participation in University events is not denied to any individual or body of persons to whom this Code's rights apply on any grounds connected with:
- 2.4.1 the beliefs or views of such individual or any member of such body; or
 - 2.4.2 the policy or objectives of such body.
- 2.5 Every person to whom this Code's rights and obligations apply shall refrain from organising or engaging in or otherwise being associated with any conduct (other than by lawful, reasonable and peaceful persuasion) intended to prevent the enjoyment of rights under this Code.
- 2.6 The University shall take such steps as are reasonably practicable (including, where appropriate and following proper investigation, invoking disciplinary measures) to secure that the obligations under this Code are complied with.

3. The Holding of Events

- 3.1 The University has the responsibility to maintain good order in respect of the events it organises and controls. It has the right and the power to regulate and, if necessary, to impose conditions or restrictions upon events such as meetings and demonstrations held or proposed to be held by the University. Any such events must comply with this Code, and the Standard Operating Procedure that supports it.
- 3.2 An application is required in all circumstances where the event is likely to raise issues which may be considered controversial in some way. For the Students' Union or student societies, an application should be made for all events that involve external speakers and for any that include controversial content (please see the accompanying Application Process). The application should be submitted to the University not less than 14 calendar days before the proposed date of the event and should contain details of the proposed subject matter and format of the event, the name and identity of any speakers and the proposed timing and location of the event. No advertising must be undertaken until permission for the event has been granted.

- 3.3 Any organisers of any event shall, if there is any doubt as to whether the event may be controversial, consult the named contact within the accompanying Application Process at the earliest opportunity so that the correct procedures may be followed.
- 3.4 The University will not unreasonably refuse to allow events to be organised and held. The expression of controversial views which do not breach the law will not constitute reasonable grounds for withholding permission for an event. Reasonable grounds for refusal would include, but are not limited to, the fact that the event is likely to:
- 3.4.1 incite those attending to commit a criminal act;
 - 3.4.2 lead to the unlawful expression of views;
 - 3.4.3 be in direct support of an organisation whose aims and objectives are illegal; or
 - 3.4.4 give rise to a breach of the peace.
- 3.5 In determining whether the holding of a University event might reasonably be refused, consideration should be given to:
- 3.5.1 the safety of persons attending the event and persons who might foreseeably be put at risk;
 - 3.5.2 the security of University premises; and
 - 3.5.3 the good name and reputation of the University.
- 3.6 The Equality and Human Rights Commission sought in 2014, to provide greater clarity about the circumstances in which segregation according to gender is prohibited under equality and human rights law at events which take place at or under the auspices of universities and students' unions, including those organised by university societies or associations.

The guidance notes that segregation by gender is clearly not permitted under equality law in universities' normal academic, teaching and research activities, and therefore is not permissible for most events covered by the Code of Practice. Gender segregation is, however, permissible during collective religious worship because it is not subject to equality law.

Genuinely voluntary gender segregation does not cause disadvantage and is therefore permissible. However, to be voluntary, all attendees would need to be at liberty freely to choose where they wished to sit without any direction, whether explicit or merely an implicit expectation. Segregation is not voluntary where any one individual feels that their choice is constrained due to a pressure to conform to separate seating arrangements of any form in the venue, regardless of whether they have been explicitly directed or instructed as to where they can sit. Involuntary segregation will constitute unlawful discrimination on the part of the organisers of the event, except where it falls within the exception for religious worship and practice. In order to protect themselves from liability in relation to a claim for discrimination, universities and students' unions would need to satisfy themselves thoroughly that any gender segregation was wholly and demonstrably voluntary, both at the booking stage and during the event, and should be mindful of the impracticability of attaining in this regard a level of certainty which would be likely to satisfy a court.

Therefore for the purposes of this Code of Practice, gender segregation will not be permitted at events that do not include religious worship. It therefore follows that if any event includes religious worship and involves gender segregation, then the principal organiser must provide full details and the seating arrangements that will apply across both parts of the event.

4. Practical Measures

- 4.1 The University should permit the use of University resources only by organisers of events, whether internal or external, who undertake to comply with all lawful instructions issued by the University in relation to the location, arrangements and conduct of such events, including adequate stewarding and moderating, chairing, monitoring, and the provision of adequate control over entry.
- 4.2 In cases in which it is reasonable to assume that there is a possibility of disruption at an event, the University may consult with external agencies regarding the security arrangements required.
- 4.3 In all circumstances, a named Principal Organiser should be identified, who is responsible for the booking and control arrangements of the event, and who will be held responsible for maintaining public order and, as far as possible, securing compliance with this Code.
- 4.4 Any organisers of any event held through the University shall be responsible for any costs involved in organising and holding such events and for ensuring, as far as possible, that nothing in the organisation and holding of such events infringes the law, or University regulations, in any way.

5. Sanctions and Penalties

- 5.1 A student, or staff member in breach of this Code may be subject to action being taken against them under the relevant University procedure.
- 5.2 Where those responsible for the breach are students or staff of a partner organisation of the University the Registrar, Secretary and Chief Operating Officer (or nominee) shall inform the partner organisation with a view to that partner organisation taking action under its disciplinary or other relevant procedure.
- 5.3 Where a breach of this Code takes place at an event, the University may take steps to assist the police in identifying any persons committing offences with a view to appropriate action being taken against them.

6. Review and Amendment of Code

- 6.1 The University acknowledges its duty under subsection 3 of section 43 of the Education (No. 2) Act 1986 to issue and keep up to date a Code of Practice on Freedom of Speech. The Board of Governors should therefore receive a report on the operation of the Code by the Registrar, Secretary and Chief Operating Officer, together with any recommendations for the revision of it, at intervals not exceeding 3 years.

Statement on Academic Freedom

The University of Manchester stands by its Royal Charter under which it is committed not to impose any religious, racial or political test on any person.

The University will comply with the provisions of the Race Relations (Amendment) Act 2000 and the anti-discrimination regulations on sexual orientation and religion and belief which were introduced as part of the Employment Equality Regulations 2003.

The University will undertake these responsibilities in accordance with its fundamental commitment to the academic freedom of all its members, without fear or favour, to express unpopular opinions, advocate controversial views, adduce provocative arguments or present trenchant critiques of conventional beliefs, paradigms or ideologies.

In applying these principles, the University accepts that the true test of freedom of expression is not a willingness to tolerate the expression of views with which other members of the community disagree, or which occasion them moderate offence; rather it is a willingness to tolerate the advocacy of opinions that other members of the community find unconscionable, that offend their deepest values or run counter to their most fundamental beliefs. Such tolerance is the true hallmark of respect for freedom of expression.

Of all institutions, universities have a special responsibility for safeguarding this freedom. An authentic university is an institution that so respects the potency of truth and the efficacy of open, rational inquiry, that it can also respect and defend the expression or advocacy of any lawful idea, opinion or argument.

Such universities have historically been bastions of freedom for individuals, for minorities and for creative thought generally, and as such they remain singularly reluctant to use or encourage the use of legal powers to curb academic freedom, including the advocacy of unconscionable and/or deeply offensive opinions.

Statement approved by the Board of Governors: 10 December 2007.