

# CODE OF PRACTICE ON FREEDOM OF SPEECH AND EXPRESSION

August 2024

# Contents

Summary.....	4
1. Introduction.....	5
2. Freedom of Speech and Expression .....	6
3. Activities .....	7
4. Practical Measures .....	9
5. Sanctions and Penalties.....	9
6. Review and Amendment of this Code .....	10

Document title	
Code of Practice on Freedom of Speech and Expression	
Document author and department	
University Solicitor, Department of Corporate Governance	
Approving body	
Board of Governors	
Date of approval	
16 July 2024	
Review date	
July 2025	
Edition no.	
1 (note that this code supersedes the External Speakers Policy (ID: 181), and the Freedom of Speech Code (ID: 32))	
ID Code	
032	
Date of effect	
17 July 2024	
For a) public access online internet or b) staff only intranet?	Both.
<p>External queries relating to the document to be referred in the first instance to the Corporate Governance team: email <a href="mailto:corporate-governance@port.ac.uk">corporate-governance@port.ac.uk</a></p> <p>If you need this document in an alternative format, please email <a href="mailto:corporate.communications@port.ac.uk">corporate.communications@port.ac.uk</a></p>	

The latest version of this document is always to be found at:

<https://policies.docstore.port.ac.uk/policy-032.pdf>

# Summary

## What is this document about?

This code of practice sets out the University's approach to freedom of speech and academic freedom. It explains why and how the University values, promotes and secures those rights for members of its community.

It also sets out the expectations that the University has for its staff, students, and guests and attendees at University events.

This code is supported by the Principles on Freedom of Speech and Expression available at:

<https://policies.docstore.port.ac.uk/policy-181.pdf>

and the University's event management processes.

## Who is this for?

This code of practice applies to the Board of Governors, and to all members of our University community. It also applies to guest speakers, visiting lecturers, and those who run events at University-managed premises, and to all attendees of those events.

## How does the University check this is followed?

The Board of Governors has ultimate responsibility for ensuring this code of practice is followed. The University Executive Board will promote this code of practice regularly to staff and to students. Failures to follow this code of practice should be raised with the Executive Director of Corporate Governance. They may also be raised with the Office of the Independent Adjudicator.

## Who can you contact if you have any queries about this document?

For any questions, please contact the University Solicitor or another member of the University's Corporate Governance team.

## 1. Introduction

- 1.1. The University of Portsmouth recognises that freedom of speech within the law has fundamental importance for universities as places of education, learning and the disinterested pursuit of truth.
- 1.2. The University is obliged under clause 9 of the University's Articles of Government to take the steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take in order to achieve the objective of securing freedom of speech within the law for staff of the provider, members of the provider, students of the provider, and visiting speakers.
- 1.3. In addition, a principle of freedom of lawful expression is enshrined in Article 10 of the European Convention on Human Rights.
- 1.4. The University is also required under clause 7.3 of the University's Articles of Government to have regard to the need to ensure 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 at risk of losing their jobs or any privileges they may have at the University or the likelihood of their securing promotion or different jobs at the University being reduced. In addition, those applying to become a member of academic staff of the University must not be adversely affected in relation to the application because they have exercised their freedom within the law to academic freedom.
- 1.5. This Code of Practice sets out the rights and obligations inherent within the principles of freedom of speech and academic freedom, and the University's values relating to freedom of speech and how those values uphold freedom of speech. The Code shall be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law.
- 1.6. The Code of Practice covers freedom of speech in whatever form that may take including (but not limited to) speeches, debates, meetings, demonstrations, written publications and through the use of social media.
- 1.7. The Code's rights and obligations shall apply to:
  - 1.7.1. the University, including members of the Governing Body;
  - 1.7.2. all persons (whether academic staff or otherwise) working for the University whether for payment or otherwise;
  - 1.7.3. all duly enrolled students of the University (whether full or part-time);
  - 1.7.4. all students studying with the University (whether full or part-time) under an agreement with a partner organisation of the University (e.g. a college or school) even if not enrolled as students at the University; and
  - 1.7.5. all persons invited to speak and/or express views (whether in person or otherwise) and/or otherwise take part in activities which take place on or are planned or proposed or due to take place on the University's premises, through its IT systems, using its name or otherwise under its auspices in accordance with the provisions of section 3 of this Code.

1.8. The University of Portsmouth Students' Union has its own code of practice that outlines its approach to the relevant legal obligations.

1.9. References in this Code to “the University's premises” and/or “the University's facilities” include premises and/or facilities which are owned by the University, premises and/or facilities which the University does not own but over which it exercises a sufficient degree of control.

1.10. References in this Code to any University employee (for example, the Provost or the Vice-Chancellor) includes reference to their delegate or nominee.

## 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 apply.

2.2. Every person to whom this Code's obligations apply shall assist the University in upholding this Code of Practice.

2.3. The University will not suppress freedom of speech, even speech that may be abhorrent to members of the University, provided that:

2.3.1. such speech does not go beyond the articulation of points of view, and is within the law; that is, it is not:

- a) incitement to riot or insurrection;
- b) racial hatred, religious hatred, or sexual harassment;
- c) any other activity which are likely to cause a breach of the peace or public disorder;

d) increasing the risk of an individual being drawn into terrorism; or

e) otherwise unlawful; and

2.3.2. by allowing such freedom of speech, in the proposed format, the University would not be failing in its wider legal duties, in particular to have due regard in carrying out its functions to the need to:

a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

b) advance equality of opportunity between those who share a relevant protected characteristic and those who do not;

c) foster good relations between those who share a relevant protected characteristic and those who do not; and

d) prevent people being drawn into terrorism.

2.4. The University shall ensure, so far as is reasonably practicable, that the use of its premises and facilities is not denied to any individual or body of persons on the grounds of:

2.4.1. the ideas or opinions of such individual; or

2.4.2. the policy or objectives of such body or the ideas or opinions of any of its members.

2.5. Every person to whom this Code's obligations apply shall:

2.5.1. comply with and uphold this Code;

- 2.5.2. 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;
  - 2.5.3. not engage in conduct or speech which is unlawful;
  - 2.5.4. uphold and comply with the University's policies and procedures; and
  - 2.5.5. uphold the University's wider duties at law and to its community.
- 2.6. The University shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the obligations under this Code of Practice are complied with.

### 3. Activities

- 3.1. References in this Code to "activities" include (but are not limited to) meetings, demonstrations, events and publications through whatever media (including social media) which take place or are proposed or planned or due to take place on the University's premises or via its IT systems, using its name or otherwise under its auspices.
- 3.2. For the avoidance of doubt, "activities" does not include academic delivery by staff to students in the normal course of University education, though such delivery should also comply with the spirit of this Code.
- 3.3. This Code deals with authorisation for activities in the context of their content and the University's duties to secure freedom of speech within the law and academic freedom. Depending on the activity, other processes may need to be followed and authorisations sought, such as processes for room booking, making recordings of an event, or licence to use the University's name, logo or other intellectual property.
- 3.4. The University has the responsibility to take reasonable steps to maintain good order on its premises. It has the right and the power to regulate and, if necessary, to impose conditions or restrictions upon activities which take place or are planned or proposed or due to take place. The organisation and holding of any such activities, and the arrangements therefor, must comply with this Code of Practice.
- 3.5. Each activity must have a principal organiser, who is formally designated as the person responsible for the activity. The principal organiser shall ensure that the activity complies with this Code, all other applicable University policies, and the law.
- 3.6. Where it is reasonably foreseeable (in the reasonable opinion of the Provost) that an activity may be attended by 100 or more people and/or will raise issues which may be controversial in some way, the principal organiser of the activity must submit a request, in writing, to the Provost of the University for permission for the activity to take place.
- 3.7. Requests must be submitted to the Provost not less than 20 working days before the proposed date of the activity in the specified form, which must contain sufficient and accurate details of the proposed subject matter and the purpose and format of the activity, including seating arrangements, the name and identity of any speakers or authors and the proposed timing and location of the activity.

- 3.8. If there is any doubt as to whether the activity may, in the reasonable opinion of the Provost, be controversial, the principal organiser must consult the Provost at the very earliest opportunity so that the correct procedures may be followed.
- 3.9. Within 10 working days of receiving a written request pursuant to paragraph 3.3 above the Provost shall issue a written decision which shall either grant or withhold permission for the activity to take place. Permission granted under this Code may be subject to such conditions or restrictions (for example, as to security precautions, limits on numbers of people to be admitted, seating arrangements or form of publication) as the Provost reasonably sees fit.
- 3.10. The Provost may convene a panel as they deem appropriate in order to consider requests that are complex and/or multi-faceted.
- 3.11. Apart from in exceptional circumstances, the University will not require the individual or body to bear some or all of the costs of security relating to their use of the premises. In making such a requirement, the University may consider the individual or body's ability to meet such costs and whether, in light of that consideration, whether freedom of speech and/or academic freedom are in fact undermined.
- 3.12. The University will not unreasonably refuse to allow activities to take place. The expression of controversial views which do not breach the law or risk a breach of the law will not of itself constitute reasonable grounds for withholding permission for an activity.
- 3.13. Reasonable grounds for refusal would include (but are not limited to) the fact that, if the activity were to take place, a risk would arise that there would be:
- 3.13.1. incitement to commit a criminal act;
  - 3.13.2. the unlawful expression of views, or other unlawful activity;
  - 3.13.3. support of an organisation whose aims and objectives are illegal;
  - 3.13.4. the foreseeability that an individual might be drawn into terrorism; and/or
  - 3.13.5. a breach of the peace.
- 3.14. In determining whether permission for an activity to take place might reasonably be refused, consideration may be given by the Provost (as is appropriate in the circumstances) to:
- 3.14.1. the safety of those attending the activity or otherwise foreseeably affected by the activity and/or on University premises who might foreseeably be put at risk;
  - 3.14.2. the security of the University's premises;
  - 3.14.3. the good name and reputation of the University; and
  - 3.14.4. any other factors the Provost deems appropriate in the circumstances.
- 3.15. A request for an appeal against a decision of the Provost may be made, in writing, to the Vice-Chancellor within five working days of the issue of the Provost's decision. Appeals will only be considered on the basis of a manifest error in law or in interpreting this Code. The decision of the Vice-Chancellor shall be final and binding. The Vice-Chancellor may also impose such conditions or restrictions on the activity taking place as they reasonably see fit.



## 4. Practical Measures

- 4.1. Principal organisers, and all those participating or attending activities, must comply with all lawful instructions and conditions issued by the University in relation to (but not limited to) the location, arrangements, form and conduct of such activities, including adequate stewarding, chairing and provision of adequate control over entry.
- 4.2. In particular, and without limitation:
  - 4.2.1. all activities must be appropriately and accurately described;
  - 4.2.2. all publicity materials should be submitted for approval on request by the University; and
  - 4.2.3. the University's name, logo, and other elements of its brand or goodwill must not be used in publicity materials without prior written approval.
- 4.3. The University has the discretion, but has no legal obligation, to allow activities to be open to members of the public. The University shall have the right to require that it is provided in advance with a list of all attendees for the event and may require that activities be ticketed.
- 4.4. In cases in which it is reasonable to assume that there is a possibility of disruption arising from the taking place of an activity, the University may consult with the police. If the activity is a public one the police may be prepared to be present throughout the event to minimise any disruption.

- 4.5. Unless otherwise agreed in writing, the organisers or other individuals otherwise involved with an activity shall be responsible for any costs involved in organising and holding such activities, save that they will only be required to bear costs of security relating to their use of the premises in exceptional circumstances, as set out above.

## 5. Sanctions and Penalties

- 5.1. Any member of the Governing Body who breaches this Code may be removed from office under clause 5.3 of the University's Instrument of Government.
- 5.2. Where those responsible for the breach are students or staff of the University action may be taken against them under the relevant disciplinary procedure.
- 5.3. Where those responsible for the breach are students or staff of a partner organisation of the University, the Provost shall consider whether to inform the partner organisation with a view to that partner organisation taking action (whether as well as, or instead of, the University) under its relevant disciplinary procedure.
- 5.4. Where those responsible for the breach are visitors to the University, the University may take such action in response as it considers appropriate in the circumstances.
- 5.5. Where a breach of this Code of Practice takes place at an activity or as a result of an activity taking place, the University may take steps to assist the police to secure identification of any person suspected of committing an offence with a view to appropriate action being taken against them.

## 6. Review and Amendment of this Code

- 6.1. The Governing Body will receive reports on the operation of this Code by the Provost, together with any recommendations for revision of it. It will also periodically, bring this Code of Practice to the attention of all of its students.



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