

## Code of Practice on Freedom of Speech

This Code of Practice on Freedom of Speech is effective from 1 August 2025. It is currently under review following new guidance released by the Office for Students (OfS) on 19 June 2025. A revised version reflecting the new guidance will be published in due course, following consultation with colleagues and students.

### 1. Introduction

1.1 The University of Westminster supports the principle of freedom of speech and expression within the law as one of the fundamental principles upon which a University is founded. It also has regard to the need to ensure that students and colleagues have freedom to question, test and to put forward new ideas and controversial opinions, without placing themselves at any risk.

1.2 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 principle and the law.

1.3 The University has adopted this Code of Practice to ensure freedom of speech within the law is secured for students, employees and other University community members. The Code's obligations and rights apply to:

- a) all colleagues and governors of the University
- b) all students of the University (including apprentices and applicants)
- c) the Students' Union and its constituent societies, clubs and associations, employees and sabbatical officers of the Students' Union
- d) any visiting or guest lecturers or speakers invited by the members of the University and the Students' Union
- e) any alumnus invited by the University.
- f) applicants to academic roles at the University
- g) holders of honorary positions at the University
- h) any person or organisation wishing to hire premises controlled by the University for an event

### 2. Legal Background

2.1 The Higher Education (Freedom of Speech) Act 2023 amends the Higher Education and Research Act 2017 (HERA). The Act requires universities, colleges, constituent institutions and relevant students' unions to take reasonably practicable steps to secure free speech within the law. The Act is regulated by the Office for Students.

2.2 The Act imposes duties on providers and constituent institutions in relation to freedom of speech and academic freedom. It requires the governing body of each provider and constituent institution, among other things:

- a) 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 secure freedom of speech within the law for its students, staff and members and for visiting speakers. This includes, in relation to academic staff, securing their academic freedom (section A1 and section A4 of Part A1 of HERA) (the 'secure duty'); and
- b) to maintain a code of practice setting out matters relating to freedom of speech (section A2 and section A4 of Part A1 of HERA) (the 'code' duty).

2.3 This includes in particular, the duty to ensure, so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with: a) the beliefs or views of that individual or of any member of that body; or b) the policy or objectives of that body.

2.4 The Act requires that the University's governing body (the Court of Governors) shall, with a view to facilitating the discharge of this duty, issue and keep up to date a code of practice setting out:

- the procedures to be followed by members, students and employees of the establishment in connection with the organisation of meetings which are to be held on premises of the establishment and which fall within any class of meeting specified in the code; and of other activities which are to take place on those premises, and which fall within any class of activity so specified; and the conduct required of such persons in connection with any such meeting or activity.

Additionally, the Act states that every individual and body of persons concerned in the governance of the University shall take such steps as are reasonably practicable (including, where appropriate, the initiation of disciplinary measures) to secure that the requirements of the code of practice for the University are complied with.

2.5 The Act defines freedom of speech as: 'the freedom to impart ideas, opinions or information (referred to in Article 10(1) of the European Convention on Human Rights ("the Convention") as it has effect for the purposes of the Human Rights Act 1998) by means of speech, writing or images (including in electronic form).'<sup>5</sup> This right includes freedom of artistic expression, such as a painting or the production of a play.

2.6 Article 10 of the Convention states that everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. However, the Act also recognises duties to this freedom as are prescribed by law and are necessary in a democratic society.' The Act also sets out a requirement for Universities to comply with the Public Sector Equality Duty.

2.7 The University must comply with equality law. The relevant provisions relate to a set of 'protected characteristics' set out in the Equality Act 2010. These are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

2.8 The Equality Act 2010 prohibits unlawful discrimination. There are two types of discrimination: direct discrimination and indirect discrimination.

- a) Broadly, direct discrimination may occur where someone is treated less favourably than others because of a protected characteristic. Direct discrimination is unlawful except in certain situations. These include exceptions for 'occupational requirements' in an employment context that could apply to protected characteristics, including age, sex, religion or belief.
- b) Broadly, indirect discrimination happens when there is a policy that applies in the same way for everybody but disadvantages a group of people who share a protected characteristic, and an individual is disadvantaged as part of this group. If this happens, the person or organisation applying the policy must show that it has an objective justification

2.9 The Equality Act 2010 includes duties on providers, as employers and providers of higher education, and their staff in relation to harassment.

2.10 Harassment (as defined by section 26 of the Equality Act 2010) means unwanted conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person because of, or connected to, one or more of the person's relevant protected characteristics. (Marriage, civil partnership, pregnancy, and maternity are not relevant protected characteristics for these purposes.)

2.11 In deciding whether conduct has the effect referred to, it is necessary to consider: the perception of the person who is at the receiving end of the conduct; the other circumstances of the case; and whether it is reasonable for the conduct to have that effect.

2.12 The harassment provisions of the Equality Act 2010 cannot be used to undermine academic freedom. The learning experience may expose students to course material, discussions or speakers' views that they themselves find offensive or unacceptable, and this is unlikely to be considered harassment.

2.13 The European Court of Human Rights has also affirmed that academic freedom includes the freedom to 'disseminate information and freedom to conduct research and distribute knowledge and truth without restriction and express their freely held views and opinions, even if controversial or unpopular, in the areas of their research, professional expertise and competence'.

2.14 The Act protects free speech within the law. It does not protect unlawful speech. All speech is lawful, i.e. 'within the law', unless restricted by law. Any restriction of what is 'within the law' must be set out in law made by, or authorised by, the state, or made by the courts, e.g. legislation or legal precedent/court decisions. Freedom of speech cannot include:

- a) Threatening, abusive or insulting words or behaviour intending or likely to cause harassment or cause a breach of the peace as set out in Section 4 and Section 4A of the Public Order Act 1986
- b) Incitement to racial or religious hatred or incitement to terrorism. Speech that amounts to an offence under the Terrorism Act 2000 is not 'within the law', and the Act imposes no obligation to secure it

2.15 The Counter Terrorism and Security Act 2015 means the University must "have due regard to the need to prevent people from being drawn into terrorism" (Section 26). The University must also "have particular regard to the duty to ensure freedom of speech" and "to the importance of academic freedom" (Section 31). Under Section 29, we must "have regard to any such guidance in carrying out that duty."

2.16 The University is complying with this duty in all its aspects, which in practice means striking a fine balance between concerns around extremism and those around censorship. The work in promoting democratic British values and the University's values, and its Diversity and Dignity at Work and Study Policy aim to positively address this challenge.

### 3. Ensuring Academic Freedom

3.1 The principle of freedom of speech set out in this Code shall extend to the performance by all colleagues of their duties and responsibilities and to any visiting or guest lecturer or speaker invited by the University or its members. It shall also extend to students presenting or exhibiting work produced during the course of their studies with the University.

3.2 Any person or body to which this Code applies shall not take any action (other than by reasonable and peaceful persuasion) to prevent the holding or continuation of any lecture, tutorial, exhibition, or other academic activity because of the views held or expressed or which are reasonably likely to be expressed, (whether or not within the University) by the lecturer or tutor or speaker or student concerned, except as provided for in paragraph 4.3.

3.3 Any person or body to whom this Code applies shall not take any action (other than reasonable and peaceful persuasion) 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 enrolled 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.

### 4. Breaches of the Code

4.1 Any breach of the provisions of this Code shall be considered under the Disciplinary Procedures of the University, where applicable. The Freedom of Speech lead can provide advice and guidance on the applicable process to be used.

4.2 It shall be the duty of all those subject to the Code to assist the University in upholding the rights of freedom of speech set out in this Code.

4.3 Where a breach of this Code occurs, it shall be a duty of all to whom this Code applies to take all reasonably practicable steps to secure the identification of persons involved in that breach.

4.4 Where breaches of the criminal law occur, the University shall, where appropriate, assist the Police and the Crown Prosecution Service. In respect of any criminal charges, the University shall not, unless the Vice-Chancellor determines otherwise, proceed with any disciplinary proceedings in respect of the same matters until the conclusion of any ongoing criminal proceedings.

## 5. Policies that Fall within the Scope of this Code of Practice

5.1 The following existing policies fall within the scope of this Code of Practice. This does not constitute an exhaustive list:

- a) [Diversity and Dignity at Work and Study Policy](#)
- b) [Events Code of Conduct](#)
- c) [Equality, Diversity and Inclusion \(EDI\) policies and procedures](#)
- d) [Prevent Duty Compliance](#)
- e) [Public Interest Disclosure \(Whistleblowing\) Policy](#)
- f) [Single Equality Policy Statement](#)
- g) [Student Code of Conduct](#)
- h) [Unacceptable Behaviour Policy](#)
- i) [Admissions Policy](#)
- j) [IT Acceptable Use Policy](#)
- k) [Research Ethics](#)
- l) Staff Grievance Policy and Procedure
- m) Staff Code of Conduct
- n) Staff Disciplinary Procedure
- o) Curriculum Framework

5.2 The following policies and processes are to be re-developed in line with OfS Guidance:

- a) Events Booking Policy; Process and Risk Assessment (applicable to [students](#) and colleagues)

5.3 The following areas of practice also fall in the scope of this Code of Practice. This does not constitute an exhaustive list:

- a) Admissions,
- b) Staff appointment or re-appointment, and
- c) Promotion

5.4 Where a policy conflicts with academic freedom, the latter prevails

## 6. Making a complaint about Freedom of Speech

Students are advised to follow [University of Westminster complaints procedure](#) when making a complaint about Freedom of Speech. Where an internal complaints procedure has been finalised, students can further escalate the matter to the Office of the Independent Adjudicator within 12 months of receiving a 'Completion of Procedures' letter.

## 7. Review and Amendment of the Code

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

7.2 The University of Westminster will bring the Code of Practice to the attention of students at least once a year.

7.3 The document will be published in a prominent position and be easily accessible by students, members of staff, visiting speakers and those considering applying to be students.