

FREEDOM OF SPEECH

SUMMARY OF PRINCIPAL CHANGES

General changes

This document has been revised to extensively take account of the Counter Terrorism and Security Act 2015 and should be read in full.

(Amendments to version 01.0, UPR EQ04, are shown in italics.)

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1 INTRODUCTION

- 1.1 This document has been prepared to satisfy the requirements of the Education (No 2) Act 1986 on Freedom of Speech and was originally approved by the Board of Governors on 15 December 1987. *It has been amended further on the authority of the Secretary and Registrar to take account of the requirements of the Counter Terrorism and Security Act 2015 and of the Home Office guidance 'Prevent Duty Guidance for Higher Education Institutions in England and Wales' (2015).*

1.2 Section 43 of the Education (No 2) Act 1986

Section 43 of the Education (No 2) Act 1986 requires everyone concerned with the government of universities, polytechnics and colleges to observe certain requirements as to freedom of speech. The text of the crucial clauses of the Section is as follows:

"(s) 2.2.1 Every individual and body of persons concerned in the government of any establishment to which this section applies shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.

The duty imposed by subsection (2.2.1) above 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 -

- i the beliefs or views of that individual or of any member of that body;
- or
- ii the policy or objectives of that body.

The governing body of every such establishment shall, with a view to facilitating the discharge of the duty imposed by subsection (2.2.1) above in relation to that establishment, issue and keep up-to-date a code of practice setting out -

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

and dealing with such other matters as the governing body consider appropriate.

Every individual and body of persons concerned in the government of any such establishment 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 that establishment, issued under subsection (2.2.3) above, are complied with."

2 DEFINITIONS

2.1 *For the purposes of this document, the following definitions will apply:*

2.1.1 **'event'**:

an activity, meeting or event that the University deems, at its absolute discretion, to fall within the scope of the policy and regulations set out in this document (UPR EQ04);

2.1.2 **'Proscribed Organisation'**:

an organisation proscribed by the Home Secretary under the Terrorism Acts 2000 and 2006 for involvement with terrorist activity;

2.1.3 **'University premises'**:

any premises owned or occupied by the University of Hertfordshire Higher Education Corporation and the premises occupied by the Students' Union;

2.1.4 **'Principal Organiser'**:

an individual designated by the individual or body organising an event.

2.2 **Role of the Secretary and Registrar**

For the purposes of this policy and/or its supporting regulations (UPR EQ04), the Secretary and Registrar is the designated nominee of the Vice-Chancellor.

3 **SCOPE**

3.1 This document covers all *events* taking place on University premises:

- a arranged by University staff, both within and outside the normal teaching programme;
- b arranged by the Students' Union or a club or society thereof;
- c outside the normal teaching programme, arranged by any person or group of persons; not covered by 3.1, a or b, including societies unaffiliated to the Students' Union but approved by the University, and
- d arranged by outside bodies renting *University* premises.

3.2 The University regards all its students *and* employees (*including employees of its wholly-owned subsidiary companies and their wholly-owned subsidiaries, unless excluded by the relevant Memorandum of Understanding*) as bound by the duty imposed by law on the Board of Governors.

4 **PRINCIPLES AND POLICIES**

4.1 The University fully supports the need to maintain freedom of thought and expression within all institutions of learning. To prevent the articulation of certain viewpoints because they are deemed unacceptable by some groups or even the majority, is to prevent those viewpoints being fully understood or analysed, and protects those who hold them from having to answer the criticisms of their opponents. The University endorses the view that to yield upon this basic freedom is to betray one of the cardinal principles upon which all institutions of learning should be founded.

4.2 There are occasions on which what is said goes beyond the articulation of points of view and in itself constitutes incitement to riot, insurrection, racial hatred, sexual harassment, harassment on the grounds of sexual orientation, other unacceptable or criminal activities, *and/or that the views expressed, or likely to be expressed, constitute extremist views that risk drawing individuals into terrorism or are shared by terrorist groups.*

4.3 The University condemns incitement of this kind and is prepared to act against it. Sometimes what is claimed to be an expression of opinion is seen by others as abusive, threatening, intimidating, humiliating, degrading, or as verbal violence. However, it remains axiomatic that such an expression should be met not by a refusal to allow it to be expressed but either by rational analysis and argument or, if appropriate, by disciplinary action within the University, or by due process of law. *However, the University does not seek to take away the freedom of legitimate protest which is accepted along with the freedom of speech as discussed in this section.*

5 **PRINCIPAL ORGANISER**

5.1 *Individuals and bodies organising events that fall within the scope of this document (UPR EQ04) must ensure that a single individual is appointed as Principal Organiser of the event.*

5.2 *Whilst the designated Principal Organiser will normally be the sole point of contact of the Vice-Chancellor (or nominee) for the purposes of the event, the individuals or bodies organising the event (who may also be the designated Principal Organiser) are expected to ensure that the Principal Organiser discharges all of the responsibilities and observes all requirements imposed under the terms of these regulations (UPR EQ04).*

5.3 *The individual or body organising the event has a duty to ensure that nothing in the preparations for, or conduct of, the event infringes the law (for example: by conduct likely to cause a breach of the peace or incitement to commit illegal acts).*

6 REQUESTING PERMISSION TO HOLD AN EVENT

6.1 The *Principal Organiser* will ensure that a written *request*, giving full details of the proposed *event*, is *provided* to the Vice-Chancellor (or nominee) *not less than ten (10) working days* before the date of the *proposed event*.

6.2 The written request will provide the following information:

the name and contact details of the designated Principal Organiser;
the name of the individual or body organising the event;
full details of the proposed event;
the name of the speaker;
the subject of the address
precise information relating to the speaker's time of arrival and departure.

7 CONSIDERATION OF REQUESTS

7.1 The Board of Governors *has* authorised the Vice-Chancellor (or nominee) to act on its behalf in ensuring that as far as is reasonably practicable all concerned, whether students or employees of the University, or visitors from outside, comply with the provisions of *this document (UPR EQ04)*. *The Vice-Chancellor (or nominee) will ensure that appropriate and robust processes are in place for assessing the potential risks associated with a proposed event.*

7.2 Any planned *event* on University premises which might reasonably be expected to result in incitement *or that could reasonably be expected to draw individuals into terrorism* or the prevention of articulation of views as described in section 1.2, will be deemed to fall within the requirements of this *document (UPR EQ04)*.

7.3 The University may decide not to allow that activity to take place. Any decision to refuse the activity will be taken by the Vice-Chancellor (or nominee). When the activity is to be held on the premises of the Students' Union, the decision will be taken by the Vice-Chancellor (or nominee) after consultation with the President of the Students' Union.

7.4 The University will not unreasonably refuse the holding of events on its premises. The expression of controversial views which are not unlawful per se does not constitute reasonable grounds for withholding facilities for an *event*, particularly if it is evident that the sponsors aim to present more than one side or aspect of a controversy.

7.5 Grounds for refusal would *include, but are not necessarily limited to, where the University reasonably believes:*

- a *that the event is likely to give rise to or incite those attending to commit a criminal act/breach the law and/or*
- b *that the views expressed at the event may be contrary to the law and/or*
- c *that the event is likely to promote or support illegal organisations including, but not limited to, any Proscribed Organisation;*
- d *the likelihood that the views expressed or likely to be expressed could reasonably be expected to draw individuals into terrorism.*

- 7.6 In determining whether the holding of an event on University premises or entailing passage across or the use of University property might reasonably be refused, whether the event is internal or clearly provided for a wider audience than the University public, consideration will also be given to:
- a the safety of *individuals* attending the event and of *individuals* in the vicinity who might foreseeably be put at risk;
 - b the security of the University premises, and
 - c the good name of the University;
 - d *the likelihood that the views expressed or likely to be expressed could reasonably be expected to draw individuals into terrorism.*

- 7.7 Where it is reasonable to assume that there could be a breach of the law, the University may consult with the police or require the organisers of the *event* to consult with the police before giving permission for the activity to take place.

8 DECISION

- 8.1 *The Vice-Chancellor (or nominee) will within five (5) working days of receiving the request or as soon as possible thereafter, either:*

- i *notify the Principal Organiser in writing that permission has been granted and of any instructions or conditions that apply to the permission (section 9, refers), which will include written notification that the Principal Organiser, the organiser and any other individuals concerned with the event or its organisation are required to comply with the instructions given and conditions imposed by the Vice-Chancellor (or nominee)*

or

- ii *notify the Principal Organiser in writing that permission has been withheld and the reasons for this.*

- 8.2 *In all circumstances, the decision of the Vice-Chancellor (or nominee) is final.*

9 WHERE PERMISSION IS GRANTED

- 9.1 Permission *to hold an event* will be subject to such instructions as are currently in force to secure, as reasonably necessary, the fulfilment of the University's responsibilities concerning the protection of freedom of speech within the law. *Examples* of matters to be covered in the instructions are *given* in section 9.3 and 9.4.

- 9.2 If, *at any stage before the event*, the *Vice-Chancellor (or nominee)* is not satisfied that adequate arrangements can be made to maintain good order, permission for the *event* may be refused or withdrawn.

- 9.3 The University will issue lawful instructions to the organisers of events, *via the Principal Organiser*, in relation to the location, arrangement and conduct of activities. Only those organisers who undertake to comply with these lawful instructions will be allowed the use of the University premises. The instructions, *which are additional to the terms and conditions of any contract for the use of University premises in connection with the event*, will cover:

- a the control over entry to the activity (*including, where relevant, the admission or exclusion of the press, television or of broadcasting personnel*);
- b the adequacy of stewarding at the activity *and the name of any member of University staff appointed to oversee the event on behalf of the Vice-Chancellor (or nominee)*;
- c the security of University property and premises;
- d the arrangements for audio/visual aids;
- e the conduct of the *chairman/leader*;

- f the introduction of articles or objects from outside;
- g the state of cleanliness and property after the activity;
- h the presence of the media;
- i *the presence of staff and/or students capable of challenging the views likely to be expressed;*
- j the payment of fees for the hire of premises and equipment, and for security, and
- k other special conditions that may be deemed necessary.

9.4 *Where the event is a public event, the instructions may include:*

- a a requirement that tickets are issued;
- b that, in addition to any security staff which the Vice-Chancellor (or nominee) may feel should be present to maintain order, an adequate number of stewards seemed suitable by the Vice-Chancellor (or nominee) are present at the event.

9.5 *Where permission is given for an event to proceed, the Principal Organiser and the individual chairing or leading the event have a duty to ensure, as far as is reasonably practicable, that during the event, both the audience/participants and any speakers act in accordance with the law.*

9.6 *Where there is unlawful conduct, the chairman/leader or the Principal Organiser will give appropriate warnings and if the conduct persists, will exclude the individual or individuals from the event.*

(Note for guidance:

Chairmen/leaders and principle organisers should note the University's regulations concerning security and public access and to the regulations it contains concerning Weapons (UPR HS05¹, refers).)

10 CONDUCT OF AN EVENT

10.1 The prevention of a breach of the law cannot solely be the duty of the University. The nature of universities is to be open and accessible to all staff, students and members of the public. The University will seek to ensure that all *events* on its premises are efficiently controlled. Where breaches of the law are suspected the University will call on the police to attend and assist (or in extreme cases to take charge of) the maintenance of law and order.

10.2 Permission to use University premises may be granted subject to any *instructions or conditions* which the Vice-Chancellor (or nominee) considers are necessary to secure fulfilment of the University's statutory responsibilities to ensure freedom of speech within the law.

10.3 *The Principal Organiser will attend the event personally and take all reasonable steps to ensure that:*

- a *nothing in the preparation for or in the conduct of the event is likely to breach the law, University regulations or the instructions of or conditions imposed by the Vice-Chancellor (or nominee);*
- b *the chairman/leader is sufficiently competent to be effective.*

10.4 The University will normally supply and pay the cost of a public address system and/or relay system to an additional hall if there is reasonable cause to consider either of these necessary to enable a meeting to take place within adequate hearing of the speaker. The supply of this equipment will be authorised by the *Vice-Chancellor (or nominee)*.

¹ UPR HS05 'Security and Public Access'

10.5 The *chairman/leader of the event* has a duty as far as possible to ensure that both the audience and the speaker act in accordance with the law during *that event*. In case of unlawful conduct the *chairman/leader* is required to give appropriate warnings and, in case of continuing unlawfulness, to require the withdrawal or removal of persons concerned by the stewards or security staff.

3.2.8 No article or object or *Weapon* may be *brought onto the premises* where the *event is to take place*, or taken or used elsewhere on University premises *that is likely to lead to injury or damage or breach of the law*.

11 **COMPLIANCE WITH THE PROVISIONS OF THIS DOCUMENT**

11.1 *The University reserves the right, at its absolute discretion, to take disciplinary action against students or staff who breach the policy and regulations set out in this document (UPR EQ04) including the University's requirements in respect of the organisation of events and in relation to the conduct of individuals such that they do not wilfully engage in activities which prevent, obstruct or disrupt the holding, or orderly conduct of, any event or other lawful activity in the University.*

11.2 Where breaches of the law occur, the University will be ready to assist prosecuting authorities to implement the processes of the law.

Mrs S C Grant
Secretary and Registrar
Signed: **1 January 2016**