CODE OF PRACTICE ON FREEDOM OF SPEECH

1. INTRODUCTION

1.1. The Higher Education and Research Act 2017 (as amended by the Higher Education (Freedom of Speech) Act 2023) requires universities and all concerned in their government to take the steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take to secure freedom of speech within the law for its staff, members, students and visiting speakers.

1.2. The University of Hertfordshire (the “University”) takes its responsibilities to promote freedom of speech and academic freedom, as codified in the Higher Education and Research Act 2017 (as amended by the Higher Education (Freedom of Speech) Act 2023), seriously and is committed to doing all that it can to protect these principles.

1.3. As part of the this, the University is required to produce a Code of Practice. This Code of Practice sets out the rights and obligations inherent in supporting the principles of freedom of speech and academic freedom within the law, the University's values relating to freedom of speech and the procedure to be followed by students and staff in connection with the organisation of events and meetings which fall under this Code of Practice.

2. SCOPE

2.1. This Code of Practice applies to:

   a) all members, staff and students of the University; and
   b) visiting speakers and all other persons invited to speak by the University on the University’s premises.

2.2. References in this Code of Practice to the “University's premises” means those premises over which the University exercises control and includes the University's College Lane and De Havilland campuses in Hatfield, its Bayfordbury campus near Hertford, Meridian House in Hatfield, the Fielder Centre in Hatfield, the Bus Depot and Ludgershall but excludes Titan Court, the University's commercial let property holding.

3. KEY CONCEPTS

3.1. Freedom of speech means that everyone has the right to express lawful views and opinions freely, in speech or in writing, without interference.

3.2. Freedom of speech within the law is protected. This means that freedom of speech will not be protected if it contravenes another law and illegal or unlawful acts will not be tolerated by the University.

3.3. The University has a duty to protect its staff and students from unlawful discrimination, harassment, intimidation or threats of violence on the grounds of race, sex, age, religion or philosophical belief, sexual orientation, disability, gender reassignment, marriage and civil partnership, or pregnancy or maternity. However, the provisions of the Equality Act 2010 should not be interpreted to undermine freedom of speech and academic freedom. Different members of the University community will often and quite naturally conflict: however, it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values friendliness and collegiality, and although all members of the University community share in the responsibility for maintaining a culture of mutual respect, concerns about civility and mutual respect cannot be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community, provided they are within the law. Students’ learning experience and the working environment of staff may include exposure to research, course material, discussion or speaker's views that they find offensive,
contentious or unacceptable, but are nonetheless within the law, and unlikely to be considered unlawful harassment or discrimination under the Equality Act 2010.

3.4. Academic freedom means freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without being at risk of being adversely affected. An individual would be deemed to have been adversely affected if they had either lost their job or privileges at the University or experience a reduction in the likelihood that they would secure a promotion or different job at the University.

3.5. The University is committed to ensuring that academic staff have the freedom to question and test received wisdom and put forward new ideas and opinions without placing them at risk of losing their job, privileges or future opportunities. Academic freedom shall extend to all academic staff and to any visiting or guest lecturer invited by the University.

4. VALUES

4.1. We are a diverse and welcoming community with a global reach and a common purpose, to transform lives, which we will work together to achieve. Through communities of learning, exploration and knowledge, we celebrate diversity and share our passions. We want all our students and staff to find their communities here. This Code of Practice will support the fulfilment of these values and the University's Strategic Vision.

4.2. The University fully supports the need to maintain freedom of speech and academic freedom without unwarranted interference in 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; protects those who hold them from having to answer the criticisms of their opponents and may prevent the advancement of knowledge and education, which is the fundamental purpose of the University. The University accordingly 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.

4.3. 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 unlawful 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. The University will not permit or facilitate activities that contravene the law and will act against it through the relevant procedural processes (e.g. disciplinary process).

5. STEPS THE UNIVERSITY TAKES TO ENSURE FREEDOM OF SPEECH

5.1. The University will ensure that its teaching, curriculum, policies and procedures reflect its duties to ensure, so far as is reasonably practicable, freedom of speech and academic freedom within the law. In particular:

a) its processes for programme development and approval, quality assurance and academic assessment will respect the rights of freedom of speech and academic freedom;

b) its processes for facilitating research will respect the rights of freedom of speech and academic freedom; and

c) no individual will be subjected to disciplinary action or other less favourable treatment by or on behalf of the University because of the lawful exercise of freedom of speech or academic freedom.

5.2. The University does not enter into non-disclosure agreements related to complaints about sexual misconduct, bullying or harassment.

5.3. The University is aware that the terms of certain overseas funding, including funding from endowments, gifts, donations, research grants and contracts, and educational or commercial partnerships, from any overseas country, may present a risk to freedom of speech and
academic freedom. Therefore, the University has processes in place to ensure that risks to freedom of speech or academic freedom are identified and appropriately managed.

5.4. The University shall:

a) ensure that this Code of Practice is brought to the attention of new students at registration and new staff during induction;
b) draw the attention of students to the code annually;
c) ensure that all staff receive training on freedom of speech and academic freedom;
d) periodically survey staff, students and other stakeholders to secure their views on whether freedom of speech and academic freedom at the institution are being adequately protected and take the findings into account;
e) ensure that there are adequate measures in place to raise concerns about freedom of speech and academic freedom;
f) ensure that when new policies and procedures are introduced, consideration is given to their impact on freedom of speech and academic freedom;
g) monitor any concerns that have been raised about freedom of speech and academic freedom to ensure that they are addressed so far as is reasonably practical and that any lessons learned are incorporated into a review of relevant policies practices and procedures; and
h) take steps to secure compliance with this Code of Practice, including where appropriate disciplinary action.

6. EVENTS AND MEETINGS

6.1. This Code of Practice covers all events, meetings and other activities for the expression of any views or beliefs held or lawfully expressed on University premises which are:

a) arranged by University staff, both within and outside the normal teaching programme; or
b) outside the normal teaching programme, arranged by any person or group of persons not covered by 6.1(a), including societies unaffiliated to the Students’ Union but approved by the University; or
c) arranged by outside bodies renting University premises.

6.2. Where any person or body to whom this Code of Practice applies is seeking to hold an event, meeting or other activity outside of the normal academic curriculum, in addition to the provisions set out in the main body of this Code of Practice, the University Events Procedure in Appendix 1 shall also be followed.

6.3. Where any individual or body subject to the obligations of this Code of Practice wishes to hold an event, meeting or other activity for the expression of any views or beliefs held or lawfully expressed on University premises, consent shall not be unreasonably refused. Any conditions imposed on the holding of the meeting shall be kept to the minimum necessary in light of any risks identified in holding the meeting.

6.4. It shall be reasonable to refuse consent where the University reasonably believes (from the nature of the speakers or from similar activities in the past whether held at the University or otherwise) that:

a) the views likely to be expressed by any speaker are contrary to the law;
b) the intention of any speaker is likely to be to incite breaches of the law or to intend breaches of the peace to occur;
c) the meeting will include or is likely to include the denial of the right to hold or to express an opposing opinion;
d) the speaker and/or the organisation they represent advocates or engages in violence or non-violent extremism in the furtherance of their political, religious, philosophical or other beliefs;
e) the views likely to be expressed by any speaker are for the promotion of any illegal organisation or purpose, including organisations listed on the government’s list of proscribed terrorist groups or organisations;
f) it is in the interest of public safety, the prevention of disorder or crime or the protection of those persons lawfully on premises under the control of the University, that the meeting does not take place.

6.5. Where the University is reasonably satisfied that the otherwise lawful expression of views at an event or meeting on University premises is likely to give rise to disorder or threats to the safety of participants or the wider University community, the University shall consider what steps it is necessary to take to ensure the safety of all persons and the security of the premises controlled by the University. These may include, but are not limited to:

a) requirements as to the provision of security/ stewards; and
b) requirements as to the location, timing and/or format of the event or meeting or activity; and
c) any need for the event or meeting to be ticketed; and
d) the arrangements for audio/visual aids; and
e) the conduct of the chairperson/leader; and
f) the introduction of articles or objects from outside; and
g) the state of cleanliness and property after the activity; and
h) the presence of the media; and
i) the speaker being part of a panel; and
j) ensuring that a member of staff is attendance.

6.6. The University may impose such conditions and requirements upon the organisers as are reasonably necessary in all the circumstances, ensuring that the conditions and requirements go no further than is necessary to address the risks it has identified.

6.7. 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.

6.8. The University shall only pass on the costs of security for using the premises to those arranging the relevant event, meeting or activity in exceptional circumstances (except where the venue is being hired by an external hirer who shall in all cases be responsible for the costs of providing security or meeting any necessary conditions). For the avoidance of doubt, exceptional circumstances will be rare and will not depend on:

a) an individual’s ideas or opinions;
b) a body’s policy, objectives or the ideas or opinions of any of its members;
c) the ideas or opinions likely to be legally expressed at any event, meeting or activity.

6.9. The University’s starting point is always that an event should go ahead. However, where the University, as an exception, concludes that imposing conditions would not be sufficient to prevent serious disorder within premises subject to their control, it may decline to permit the meeting to proceed.

7. BREACHES AND COMPLAINTS

7.1. If an offence is allegedly committed at, or in connection with, a meeting, event or activity to which the provisions of this Code of Practice apply, in addition to any internal disciplinary procedures (staff or student) that may be appropriate, the University may take steps to assist the police in identifying any persons committing offences.

7.2. Any concerns or complaints regarding this Code of Practice or the actions of the University in respect of it should be directed to the University’s Secretary & Registrar in the first instance. Complaints will be dealt with under the University’s Complaints Policy which is available on the University’s website at: https://www.herts.ac.uk/about-us/legal/complaints-policy

7.3. The Office for Students (OfS) operates a free speech complaints scheme. Under that scheme, the OfS can review complaints about free speech from members, students, staff, applicants
for academic posts and (actual or invited) visiting speakers. Information about the complaints that the OfS can review is available on its website. [link to be inserted once available]

8. MONITORING AND REVIEW

8.1. The University shall periodically review and, where necessary, update this Code of Practice.