

## Freedom of Speech - Code of Practice

### Context

This policy is Halesowen College's response to the duties as set out in Section 43 of the Education (No.2) Act 1986. The College has adopted the following code of practice with a view to promoting College values whilst taking reasonably practical steps to ensure that freedom of speech within the law is secured for staff, students and visiting speakers.

This Code of Practice on Freedom of Speech sets out the rights and obligations inherent in the principles of freedom of speech and expression, and academic freedom. The Code shall be construed and applied in accordance with those principles wherever reasonably practicable within the law. Halesowen College affirms its commitment to freedom of speech and expression within the law but must also take account of its other legal obligations beyond those imposed by the Act. The rights and freedoms of individuals as protected by the law must be respected and statements that are actionable for defamation must not be made.

This Code applies to all governors, students, and employees of the College, in respect of all College premises. Outdoor as well as indoor meetings and other events on College premises are included. An intentional or reckless breach of this Code of Practice is an offence under the policies of the College and may be the subject of disciplinary action. Where the acts of individuals involve alleged breaches of criminal law, the College will assist the prosecuting authorities in implementing the due process of law and any internal disciplinary proceedings may be deferred or suspended pending the outcome of criminal proceedings.

### Additional Requirements of the Act

- The Education (No 2) Act 1986, Section 43 requires the College to secure freedom of speech within the law for staff, students and visiting speakers. That duty also reflects the mission of the College to be a place where new ideas can be advanced and where open and free debate can take place.
- There is also the requirement that, so far as is reasonably practicable, the use of College premises shall not be denied to any individual or body of persons on grounds connected with the beliefs or views of that individual or any member of that body, or with the policy and objectives of that body.
- Every individual and body of persons concerned in the governance of the College is required to take such steps as are reasonably practicable to ensure compliance with the Act and this policy.
- Clear guidance is required to students, staff, governors and external agencies as to how the College manages freedom of speech as part of its Prevent Duty Guidance and in line with the Counter-Terrorism and Security Act 2015.
- Consequently, a valid exercise of those rights should not require a compromise of the College's safeguarding duties. A risk assessment should be conducted where a speaker espouses extremist views, which could draw people into terrorism. Where the risk cannot be mitigated, the College may wish to refuse permission for the event to proceed. Ensuring the event includes an opportunity for challenging those views could be a form of mitigation of risk.

The governing body of every College shall, with a view to facilitating the discharge of the duty in relation to that establishment, issue and keep up to date a code of practice setting out

- a. the procedures to be followed by members, students and employees of the College in connection with the organisation.
    - of meetings which are to be held on the premises of the College 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;
  - b. 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.
- The College is also required by the Human Rights Act 1998 to ensure that it acts compatibly with the rights conferred on individuals by the European Convention on Human Rights. That includes ensuring the right to freedom of expression, which includes the freedom to hold opinions and to receive and impart information and ideas without interference by the College, and freedom of peaceful assembly.
  - The College's Articles of Government also provide at paragraph 12 that the College's 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 putting themselves at risk of losing their jobs or any privileges which they may enjoy at the College.
  - Freedom of speech and academic freedom are not unqualified rights. The rights are conferred only if exercised within the law. Consequently, any conduct that amounts, for example, to incitement to religious or racial hatred, incitement to violence or unlawful harassment is not protected and is not a valid exercise of the rights in question. Similarly, the right to freedom of expression and peaceful assembly may be restricted where necessary in pursuit of a legitimate aim, such as the interests of security or public safety, the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

The College is subject to a range of other legal obligations including a duty to safeguard and promote the welfare of children receiving education at the College, and a duty to have due regard to the need to prevent people from being drawn into terrorism under the Counter-Terrorism and Security act 2015 (Refer to the College's Prevent Strategy). There must be due regard to other legal responsibilities, such as those relating to preventing discrimination in accordance with the Equality Act 2010; harassment and victimisation and the health, safety and welfare of employees, as well as the safety of students, external speakers and visitors.

## **Halesowen College Code of Practice**

The College seeks to be an inclusive community which recognises that people with different backgrounds, experience, skills, attitudes and beliefs bring fresh ideas and new perspectives. The College affirms its commitment to ensuring that staff, students and visitors can exercise their right to freedom of speech and expression, but this freedom must be exercised in an atmosphere of tolerance and respect for others and their views, and within the law of the UK whilst supporting the College's stated purpose and values:

- Inclusivity, equality and diversity
- Respect
- Commitment
- High aspiration
- Integrity and honesty

- Responsibility
- Support, Safety and care
- To ensure compliance with statutory duty

## 1 Aims

- To ensure that the education of students is not disrupted.
- The safety of persons and the preservation of premises are not put at risk.
- Unreasonable demands are not placed on the staff of the College.

## 2 Scope of this Code

This code applies to meetings and activities that are, or are likely to be, in whole or part, political, controversial or sensitive. Consequently, it applies to staff, students, those working on behalf of the College and all persons invited to speak or otherwise take part in events organised by or on behalf of the College, in accordance with the provisions of this Code. This code also applies to the Student Union activities.

## 3 Visiting Speakers

Only the Principal shall have the authority to invite a non-curriculum specific visiting speaker and those wishing to invite such speakers should comply with the procedure outlined below.

## 4 Requests to Hire College Premises

Refer to Rent and Hire of Premises Policy which clearly states the framework for hire.

## 5 Holding of Events and Meetings Outside of the Timetabled Curriculum

The College has to manage sometimes competing rights and responsibilities and to maintain good order in respect of the events on its premises and College-branded events elsewhere. It therefore has the right to regulate and, if necessary, to impose conditions or restrictions on meetings and other relevant events held by or on behalf of the College. Any such events must comply with this Code and the application procedure outlined below.

An application is required in all circumstances where the event is likely to raise issues which may be considered controversial, political or are otherwise sensitive in some way and for all external speakers. (Please see the accompanying Application Process). The application should be submitted to the Principal 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
- the proposed location of the event.

No advertising must be undertaken until permission for the event has been granted.

Any organisers of any event shall, if there is any doubt as to whether the event may be controversial, political or sensitive, consult the Principal at the earliest opportunity so that the correct procedures may be followed.

The College/Principal will not unreasonably refuse to allow events to be organised and held. Reasonable grounds for refusal would include, but are not limited to, the fact that the event is likely to:

- incite those attending to commit a criminal act;
- lead to the unlawful expression of views;
- be in direct support of an organisation whose aims and objectives are illegal; or give rise to a breach of the peace.

In determining whether the holding of a College event might reasonably be refused, consideration should be given to:

- the safety of persons attending the event and persons who might foreseeably be put at risk;
- the likely vulnerability of the intended audience e.g. where it involves those who are under 18;
- the security of College's premises;
- the good name and reputation of the College

whether the subject matter relates to extremism or constitutes extremist views that risk drawing people into terrorism or are shared by terrorist groups and whether relevant risks can be mitigated in accordance with the statutory **Prevent Duty Guidance: for Further Education Institutions in England and Wales (Prevent Guidance)**.

## 6 Conduct of Meetings

It shall be the duty of the Principal, and the obligation of any hirer, to take all reasonable steps to achieve the following before, during and after any meeting convened under the code:

- a. Visiting speakers are to be received with equal civility, and to have equal use of all facilities necessary to speak effectively.
- b. There shall be a designated responsible person for each meeting who shall be responsible for ensuring that visiting speakers are heard without serious interruptions and that, if the visiting speaker invites questions, questioners are called without regard to their opinions and are allowed to put their questions. The designated responsible person shall also ensure that speakers with extremist views that could draw people into terrorism are challenged as required by the Prevent Guidance, where the event is allowed to proceed.
- c. On College premises, whilst demonstrations are not encouraged in connection with any such meeting, in accordance with Art 11 of the European Convention on Human Rights which guarantees freedom of peaceful assembly, peaceful protest that does not disrupt the College's business or interfere with the timetable is permissible. A blanket ban would likely to be a breach of law. Petitions may be delivered via the responsible person.

## 7 College Discipline

This code of practice shall form part of the disciplinary requirements of the College and any breach of it by any College members shall be treated as a breach of College discipline.

Reviewed/Approved	By	Date
Updated by	Jacquie Carman	01/11/21
Reviewed by	CLT	15/11/21
Approved by	Corporation	
Review Date		01/11/22