

POLICY

TITLE: Code of Practice on Freedom of Speech

POLICY HOLDER:

APPROVAL BOARD: Board of Governors

VERSION NO: 1.0

LAST REVIEWED: June 2025

REVIEW PERIOD*: Annual

* The review period refers to our internal policy review process. The published policy is current and is the most recent approved version.

Summary:

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Amendments Log

DATE	VERSION NO.	REASON FOR CHANGE	AUTHOR
June 2025	1.0	Initial Issue	

Legislation or Regulation

Associated College Policies, Procedures and Guidance Notes

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1. Policy Statement

- 1.1. City College Norwich (“the College”) has a wide range of responsibilities. The responsibility to protect and promote freedom of speech and academic freedom is one of the most fundamental. The College is committed to taking steps which are reasonably practicable to secure freedom of speech and academic freedom within the law. This includes enabling the questioning and debating of the laws that constrain free speech provided that such activity is done in a way that is compliant with the law of England and Wales as it applies and is enacted from time to time.
- 1.2. Other legal obligations also exist which may set limits on certain speech freedoms, to protect the safety, rights and freedoms of others. However, the governing bodies of higher education providers, including the College, have particular regard to the importance of securing free speech and academic freedoms.
- 1.3. The College has adopted this Code of Practice (“the Code”) to ensure that freedom of speech within the law is promoted and secured for staff, students and other members of the College (including Governors) and for all persons authorised to be on college premises, including visiting speakers.

2. Legal Framework – The Higher Education (Freedom of Speech) Act 2023

- 2.1. The Higher Education (Freedom of Speech) Act 2023 places a duty on the College to secure freedom of speech, within the law, for staff, members, students and visiting speakers. (This is also reflected within Section 43, of the Education (No.2) Act 1986, which covers Freedom of Speech in universities, polytechnics and colleges)
- 2.2. It also places a duty to secure academic freedom for academic staff. This means freedom within the law to question, and test received wisdom and to put forward new ideas and controversial or unpopular questions, without placing themselves at risk of losing their jobs or privileges or reducing their likelihood of securing promotion or different jobs at The College for reasons unrelated to their academic performance.
- 2.3. The Higher Education (Freedom of Speech) Act 2023 does not protect unlawful speech
- 2.4. Activity may be deemed unlawful under a range of legislative provisions, including but not limited to the Equality Act 2010 (incorporating protected belief, harassment and the public sector equality duty), the Public Order Act 1996 and the Counter Terrorism and Security Act 2015 all as amended and updated from time to time. Examples, which are not exhaustive, of unlawful activity include the following:
 - Expression of racial hatred or religious hatred, or incitement to such hatred or to violence or other criminal acts;
 - Direct support or an organisation that is proscribed in the United Kingdom;
 - Contravention of counter-terrorism legislation;
 - Breach of the peace;
 - Public order offences
 - Contravention of health and safety legislation.
 - Under the statutory duty derived from the Counter Terrorism and

Security Act 2015, the College has a legal obligation to consider whether the views to be expressed, or that are likely to be expressed, by a speaker on campus constitute extremist views that risk drawing people into terrorism or are shared by terrorist groups; and in such circumstances to not to allow events to proceed. However, the Counter Terrorism and Security Act and the statutory duty do not in any way change the definition of free speech within the law or presumption in favour of free speech within the law. Support for or promotion of terrorism is already illegal under previous legislation and as such the College will not allow it to take place on the Premises.

2.5. Other legislation relevant to Freedom of Speech, and Academic Freedom.

2.5.1. European Convention on Human Rights (ECHR) (Article 10)

2.5.2. Article 10 of the ECHR 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.”
- “The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

2.5.3. Communications Act 2003

2.5.4. Counter-Terrorism and Security Act 2015 (Prevent Duty)

2.5.5. Education (No.2) Act 1986

2.5.6. Equality Act 2010, and the Public Sector Equality Duty (PSED)

2.5.7. Higher Education and Research Act 2017

2.5.8. Human Rights Act 1998

2.5.9. Malicious Communications Act 1998

2.5.10. Online Safety Act 2023

2.5.11. Protection from Harassment Act 1997

2.5.12. Public Order Act 1986

2.5.13. Public Order Act 2023

2.5.14. Terrorism Act 2000

2.5.15. Terrorism Act 2006

3. Scope

3.1. This Code applies to all activities on any premises (wherever situated) of which the

College has title or possession, by freehold, leasehold or otherwise, including its halls of residence, and Students' Union premises (the "Premises").

- 3.2. This Code also applies to all activities of staff members, visiting speakers, or current students in any other location when carried out in the name of the College or of City College Norwich's Students' Union ("Students' Union") or its members. This includes activities carried out via social media channels, and through the CCN Students' Union clubs and societies.
- 3.3. This Code makes particular provision in respect of activities such as meetings and events, including public lectures, conferences, seminars, committee meetings, sporting events, awards presentations and musical and theatrical performances ("Events"). These are provided for in Section 8 of the Code. The principles of this Code also apply to online events held or hosted by the College on its IT systems.
- 3.4. The principles contained within section 4 of this Code also apply to teaching and curriculum content.

4. Principles

- 4.1. The College operates with a strong presumption in favour of free speech. This is further supported by the Governing Body's adherence to the Public Interest Governance Principles, notably the following:
 - That the Governing body is required to take reasonably practicable steps to secure Freedom of Speech within the law (Freedom of Speech).
 - Academic staff are free within the law: -
 - to question, and test received wisdom, and
 - put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of
 - losing their jobs or the privileges they may have at their university or College;
 - or the likelihood of their securing promotion or different jobs at the provider being reduced. (Academic Freedom).
 - The Act is clear that the duty to secure Freedom of Speech includes a duty to secure academic freedom as defined above.
- 4.2. The College provides a wide range of opportunities where free and frank intellectual exchanges take place. Within this both the diverse views of individuals are tolerated, as are the voices of those who wish to peacefully protest. This is central to the College's culture and protected in law.
- 4.3. The College, as an institution, prefers not to take a formal position on political or international issues. On occasion it may support the position taken by the British Government of the day (for example on major issues of health and security such as Covid or another pandemic or in relation to international support for another country). Notwithstanding this the College endeavours to provide a platform to facilitate discourse on contemporary matters by encouraging critical debate, within the law, where the views of all parties are treated with respect.
- 4.4. Subject to the provisions of this Code and in particular clauses 6 and 7, the use of the Premises shall not usually be denied to any individual or body of persons on any ground connected with the beliefs or views of that individual or of any member of that body; or the policies or objectives of that body except if there are reasonable

grounds (as determined by the College Executive) to suspect that unlawful activity is likely to occur or there is felt to be a significant health and safety or security risk or the costs of supporting the event are unreasonable or short notice means appropriate arrangements cannot readily be put into place.

- 4.5. The College adopts a presumption in favour of the position that exposure of students to course materials, and statements made, and views expressed by a person as part of teaching, research or discussions about any subject matter that is connected with the content of a course, are unlikely to constitute harassment, unless otherwise demonstrated that these matters do in fact amount to harassment.
- 4.6. The College reserves the right to take appropriate and proportionate action to protect and promote the freedom of speech as set out in this Code including invoking appropriate disciplinary procedures and applying appropriate sanctions against individuals or groups of persons where the College Executive determines this is warranted.
- 4.7. The requirement to take steps that, having particular regard to the importance of Freedom of Speech, are reasonably practical for it to take to secure freedom of speech within the law for its students, staff and members and for visiting speakers, including in relation to Academic Freedom for academic staff, is referred to as the 'secure' duty.
- 4.8. In addition, Governing Bodies are required to maintain a code of practice setting out matters relating to Freedom of Speech. This is referred to as the 'code' duty.

5. Interaction with Other Policies and Procedures

- 5.1. The College when reviewing and amending all other policies will seek to ensure that these policies do not impinge on the College's legal duty to promote Freedom of Speech and Academic Freedom, within the law.
- 5.2. In the event that there is a conflict between this Code, and another policy in relation to Freedom of Speech / Academic Freedom, this policy will take precedence

6. How we assess compliance with our duty to secure Free Speech

- 6.1. In line with guidance from the Office for Students, we adopt a three-step approach to any measure or decision that might impact speech or types of speech: -

6.1.1. Step 1: Is the speech "within the law"?

- "Law" in this context means primary legislation; legal precedent or court decisions and secondary legislation.
- It does not mean College regulations or contracts with employees or students.
- If we deem that the speech is within the law, as so defined we will proceed to Step 2
- If we deem that the speech is not within the law, we will consider other steps outside of our Freedom of Speech duty.

6.1.2. Step 2: Are there any "reasonably practical steps" to secure the speech?

- We will consider the particular circumstances in considering whether a step is reasonably practicable.

- Reasonable practical steps may include both positive steps – doing something – and negative steps – refraining from doing something. Positive steps may include amending policies and codes of conduct that may restrict or regulate free speech. Negative steps may include not having in place a policy that restricts the range of ideas that may be expressed, or not cancelling a visiting speaker because the speaker’s views may be unpopular
- If the College is required by law not to do something (e.g. to not permit certain types of speech in certain circumstances), then doing it (i.e. permitting the speech) would be unlawful and therefore not reasonably practical. For instance, it would generally not be reasonably practical for a Further Education College, to breach the requirements of statutory guidance on safeguarding that apply in relation to students under the age of 18 (Keeping Children Safe in Education)
- Similarly, if a step that secures freedom of speech is required by law, then it would be reasonably practicable.
- Factors that are likely to be relevant:
 - Legal / regulatory requirements e.g. duties in relation to harassment
 - Maintaining essential functions of the institution, such as Teaching, learning, research, and administration and resources necessary for essential functions
 - Would taking or not taking the step give rise to concerns about anyone’s Physical Safety

Factors that are likely to be irrelevant: -

- The viewpoint that the speech expresses, including
 - Whether it aligns with the College’s aims and values
 - Whether it is controversial or offensive
 - Whether external or internal groups approve of the viewpoint that the speech expresses
- The reputational impact of the speech on the College
- Using this approach, we will take these reasonable steps to secure free speech. Moreover, if a step (positive or negative) is reasonably practical, then the College must take it.
- Reasonably practical steps will cover all areas of the College’s operations including student admission onto courses, appointment of staff, and their ongoing employment, and promotion at the College
- If we believe that it is necessary to restrict or regulate this free speech, in some way we will proceed to Step 3

6.1.3. **Step 3:** Are any restrictions “prescribed by law” and proportionate under the European Convention on Human Rights?

- This step involves considering whether any restriction or regulation of the speech (‘Interference’) is compatible with the European Convention on Human Rights (ECHR).

- We will evaluate whether the interference is prescribed by law.
- This will be the case if:
 - There is a specific English legal rule or regime that authorises the interference
 - The person affected by the interference must have adequate access to the rule in question; and
 - The rule is formulated with sufficient precision to enable the affected person to foresee the circumstances in which the law would, or might be applied, and the likely consequences that might follow.
- We will also consider whether the interference is proportionate.
- To assess this proportionality, we will consider:
 - Whether the objective of the measure is sufficiently important to justify the limitation of a protected right
 - Whether the measure is rationally connected to the objective
 - Whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective, and
 - Whether, balancing the severity of the measure's effects on the rights of persons to whom it applies against the importance of the objective, to the extent that the measure will contribute to its achievement, the former outweighs the latter.

6.1.4. If these assessments suggest that any restrictions are not consistent with our free speech obligations, we will revise our approach.

6.1.5. If these assessments suggest that these restrictions are likely to be consistent with our free speech obligations, we will ensure that these restrictions: -

- Use legal definitions where these are available
- Incorporate objective tests where appropriate, for instance in relation to harassment
- Avoid vague language or undefined
- Include clear, adequate and effective “safeguard” statements protecting academic freedom and freedom of speech within the law (for instance where a policy conflicts with academic freedom, the latter prevails)

7. Actions we take to secure Freedom of Speech

7.1. Admissions

7.1.1. City College Norwich does not require students who apply for courses to commit to (or give evidence to commit to) a particular viewpoint.

7.1.2. Nor will City College Norwich seek to revoke or change the terms of admission of an applicant with a binding offer because of the applicant's viewpoint.

7.2. Appointments

7.2.1. City College Norwich does not require any applicant to an academic position to commit to (or give evidence to commit to) a particular viewpoint.

7.2.2. All academic appointments will include a detailed record of all decisions.

7.2.3. City College Norwich will ensure adequate training on academic freedom and freedom of speech for staff on interview panels.

7.3. Employment

7.3.1. City College Norwich will reject public campaigns to punish a student or member of staff for lawful expression of an idea or viewpoint that does not violate any lawful internal regulations.

7.3.2. Affirm publicly students' and staff members' rights to make such statements, regardless of the College's position on the matter.

7.3.3. Such campaigns may include organised petitions or open letters, social media posts, or long-running, focused media campaigns.

7.3.4. City College will not require academic staff to commit (or give evidence of commitments) to a particular viewpoint. This is distinct from a requirement to teach within the boundaries of disciplinary relevance and disciplinary competence.

7.4. Promotion

7.4.1. City College Norwich will take reasonably practical steps to achieve the objective that a person is not adversely affected with regard to academic promotion, where they have exercised their freedom within the law to question and test received wisdom, or to propose new ideas or controversial or unpopular opinions.

7.4.2. Any academic promotion process should include detailed records of all decisions.

7.4.3. Staff making academic promotion decisions should be adequately trained in freedom of speech and academic freedom.

7.5. Code of Practice

7.5.1. City College Norwich when developing and implementing any codes of practice will ensure that such codes do not suppress the lawful expression of a particular viewpoint or of a range of legally expressible content, unless any rule of conduct that restricts lawful speech is prescribed by law, in line with Article 10 (2) of the Convention.

7.5.2. City College Norwich will also bring the duties of HE providers regarding Freedom of Speech, and this code of practice, to the attention of all of its HE students, at least once a year.

8. Procedures in Respect of Events

8.1. The Code of Practice applies to all education, knowledge exchange and innovation, and other activities held at, in the name of, and/or in association with the College. Included within this are: -

8.1.1. Events, meetings and activities held on the College's premises.

- 8.1.2. Events, meetings and activities organised by or in association with the College that are held on other premises.
- 8.1.3. Events, meetings and activities taking place wholly or partially online and/or on other virtual spaces in the name of or in association with the College.
- 8.2. Events might include, but are not limited to, public lectures, student society events, SU Events, meetings, debates, protests, careers fairs and conferences including those held online.
- 8.3. Where a Visiting speaker or Guest lecturer, is invited to attend an event at the college, including lectures, the event organiser shall follow the College's Visiting Speakers and Fundraising Guidance and conduct a risk assessment to check that the event is unlikely to be unlawful.
- 8.4. As part of its commitment to freedom of speech and academic freedom, and its legal duties, the expectation is that all visiting speakers will be allowed to speak on campus to share their views, ideas and opinions.
- 8.5. In line with this commitment, the College recognises that there may be exceptional circumstances where further work is required to ensure that visiting speakers do not break the law or breach the legal rights of others.
- 8.6. The College's Senior Management Team (SMT) reserves the right to impose such conditions upon the use of the premises as are reasonably necessary for the discharge of its obligations relating to the safety and health and/or security of its registered students, employees, academics and other persons lawfully upon the premises or for the efficient conduct and administration of its functions.
- 8.7. SMT reserves the right in its absolute discretion to decide that safety, security or practical considerations such as the cost, short notice period or difficulty of providing the necessary level of security may require an event to be modified, curtailed, postponed or, in exceptional circumstances, cancelled.
- 8.8. Where the SMT has decided and directed that an event should be modified, curtailed, postponed or cancelled then the organiser may appeal (which should be made in writing to the Principal) against such decision. Any appeal will be considered by the Principal or, in their absence, a Vice Principal whose decision will be final.

9. Complaints

- 9.1. Any contravention of or material departure from the provisions of this Code by a student or an employee of the College may render the individual(s) responsible liable to appropriate sanctions under the disciplinary procedures of the College.
- 9.2. SMT will ensure that appropriate procedures are in place in order to allow its stakeholders to report any concerns to be investigated and determined promptly and thoroughly. Any concerns should be reported and raised promptly in writing to a member of SMT. Such a complaint will be acknowledged and the stakeholder contacted to let them know how their complaint will be dealt with and by whom.
- 9.3. Changes to any complaints procedures may be made by SMT as required from time to time
- 9.4. SMT will report the receipt and outcome of any significant stakeholder complaint to the Board of Governors.

9.5. Approval mechanism for this Code and any amendments from time to time:

- Senior Management Team (SMT)
- Board of Governors (Final Approval).

9.6. OfS will have the power to consider complaints related to Freedom of Speech from staff, external speakers, and non-student members. It will not consider complaints from Student Unions or students.

9.7. The Office for the Independent Adjudicator (OIA) will continue to consider complaints related to Freedom of Speech from HE Students, once the internal complaints procedures of City College Norwich, including its constituent institutions and, where applicable its Students' Union, have been exhausted.

10. Non-Disclosure Agreements (NDAs)

10.1. Under the Higher Education (Freedom of Speech) Act 2023 the use of Non-Disclosure Agreements (NDAs) is outlawed in relation to complaints about harassment and sexual misconduct. A 'non-disclosure agreement' (sometimes also known as a confidentiality clause) refers to any agreement which prevents complainants from publishing or sharing information about or talking about their complaint.

10.2. City College Norwich will not use NDAs in relation to complaints about bullying, harassment and sexual misconduct.