

St Chad's College, Durham - Policy Statement on Freedom of Expression

As a recognised College of Durham University, St Chad's recognises that Freedom of Expression is a fundamental right, essential for upholding democracy, a free media, and political, artistic, and scientific development. It is a right protected under the Human Rights Act 1998, and by Article 10 of the European Convention on Human Rights. Protection extends to the expression of views which may shock, disturb, or offend the deeply held beliefs of others. It is a fundamental policy of the University, as an academic institution, that in its activities there should be freedom of expression within the law. St Chad's College values academic freedom and is committed to promoting and positively encouraging free expression and debate amongst its staff, students and visitors. The pursuit of knowledge and the exchange of ideas should be conducted within the College and University in a tolerant manner, and without interference from internal or external parties.

The College and University also have a legal duty¹ to take such steps as is reasonably practicable to ensure that freedom of expression within the law is secured for their staff, students and visiting speakers. This duty includes a responsibility to ensure that the use of College premises is not denied to any individual or group on the grounds of the belief or views of that individual or any member of that group or on the grounds of the policy or objectives of the group.

This Code of Practice has been developed to assist staff and students who are involved in the organisation of activities that have the potential to compromise the College's commitment to freedom of expression within the law and/or the health and safety of staff, students and visitors to the College. It sets out the College's expectations and the processes to be followed to ensure that activities which are affiliated to, funded or branded as associated with St Chad's College that fall within the remit of this code of practice can be given due consideration to ensure that they do not contravene the College's commitment in respect of freedom of expression and/or its obligations to ensure the health and safety of its community. This Code applies to activities affiliated to, funded or branded as associated with St Chad's College that take place both on and off College premises, including the land and precincts around the College. The College will seek to uphold its commitment to freedom of expression within the law, and will only impose conditions where legitimate concerns regarding the legality of the event and/or the safety of participants are justified.

The College also recognises its responsibility to protect the freedom of expression of academics and other staff. The College will not allow complaints and protests to result in limitations on lecture content or speaker events organised by academic staff and reserves the right, where appropriate, to take disciplinary action against its members who engage in activities that do not allow legitimate free speech to take place and/or contravene the principle of academic freedom.

In some situations the College will, however, prevent forms of expression which spread, incite, or seek to justify hatred based on intolerance in relation to any of the protected characteristics² as set out in the Equality Act 2010. Freedom of expression has to be set in the context of the College's University's

¹ Under the Education Act (No. 2) 1986

² The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnerships, race, religion and belief, sex, or sexual orientation

values and the values of a democratic and inclusive society. The College expects all its members and visitors to respect those values and to be sensitive to its diverse and inclusive community, and the College recognises its duty to promote good campus relations under the terms of the Equality Act. The College must ensure that its staff and students are able to work, study and live in an environment free from unlawful intimidation, harassment or abuse. Hate crime and incitement to commit illegal acts will not be tolerated, and the College recognises that the right of each person to be protected from discrimination and violence are fundamental human rights.

The College must therefore balance its legal duties in terms of ensuring freedom of expression with its need to ensure its duties under the Equality Act, and its responsibility to protect staff and student safety. For this purpose it has developed a Code of Practice on the Freedom of Expression at Meetings or Other Activities which is appended to this statement as **Appendix 1**.

For the complete guidance from the Equality and Human Rights Commission in relation to freedom of expression, please visit <https://www.equalityhumanrights.com/sites/default/files/freedom-of-expression-guide-for-higher-education-providers-and-students-unions-england-and-wales.pdf>

Appendix 1: Code of Practice on Freedom of Expression in Relation to Meetings or Other Activities

Preamble

This Code of Practice has been developed to assist staff and students who are involved in the organisation of activities that have the potential to compromise the College's commitment to freedom of expression within the law and/or the health and safety of staff, students and visitors to the College. It sets out the College's expectations and the processes to be followed to ensure that activities¹ which are affiliated to, funded, or branded as associated with, St Chad's College that fall within the remit of this code of practice can be given due consideration to ensure that they do not contravene the College's commitment to freedom of expression and/or its obligations to ensure the health and safety of its community. This Code applies to activities affiliated to, funded or branded as associated with St Chad's College that take place both on and off College premises, including the land and precincts around the College. The Code also applies to online meetings and events affiliated to, funded or branded as associated with St Chad's College. The College will seek to uphold its commitment to freedom of expression within the law, and will only impose conditions where legitimate concerns regarding the legality of the event and/or the safety of participants are justified.

The Code of Practice

1. This Code of Practice applies to all staff and students who wish to host an activity that is affiliated to², funded/partially funded by, or branded as St Chad's College, to distribute written or on-line materials, or undertake any other activity which is covered by this Code, including online lectures, meetings, discussions etc.
2. This Code of Practice is issued by, and with the authority of, the College's Governing Body with a view to taking all reasonable steps to ensure that freedom of expression within the law is secured for members, students and employees of the College and for visiting speakers. It aims to assist the College in discharging its duty under the Equality Act (2010), and in general to promote good relations within the University. It also enables the College to respond to the Prevent Duty detailed within Section 26(I) of the Counter-Terrorism and Security Act 2015 which imposes on the College a legal duty to have due regard to the need to prevent people from being drawn into terrorism.
3. The procedures set out below must be followed by students and staff of the College and persons hiring venues in the College in respect of meetings or any other similar activities. They cover the conduct required of all persons in connection with any such meetings or activities.
4. Members, students and employees of the College who are planning activities off the College's premises but which are clearly affiliated to, funded or branded as associated with the College and engage the provisions of this code, must familiarise themselves with the code and follow the requirements laid down within it. This includes online activities.

Authority

¹ Activities refer to events including, but not limited to, meetings, demonstrations, debates, marches etc.

² For clarity, activities which are affiliated to the College include those arranged by the Common Rooms

5. The Governing Body authorises the Principal to act on its behalf to ensure as far as is reasonably practicable that all staff and students of the College, and all visiting speakers, comply with the provisions of this Code. The Principal may further delegate his/her authority in general or in particular instances to other members of staff of the College, and, in the absence of the Principal, any of the Vice-Principals may act on his/her behalf.

6. The Principal is supported by the Vice-Principal & Postgraduate Director and the Conference Manager in the administration of this Code of Practice. The Vice-Principal & Postgraduate Director acts as a first point of contact for any member of the College community who may wish to be involved in an activity that engages the provisions of the code. The Vice-Principal & Postgraduate Director can be contacted at ashley.wilson@durham.ac.uk or by telephone on 0191 334 3362. In the absence of the Vice-Principal & Postgraduate Director, the Principal will fulfil this role.

Procedure

Activities and Meetings Which Must be Notified to the Principal

7. Any activity, including but not limited to holding a meeting or a demonstration (or online equivalents) or distributing leaflets or other written or on-line material, which is likely to engage the provisions of this Code must be notified in writing to the Principal at least 14 days before the activity is due to take place.

8. In considering whether or not to permit an activity to go ahead, the Principal, on behalf of the College, shall consider and take advice on the following matters:

a) whether the views or ideas to be put forward (or the manner of their expression):

i) discriminate against any individual or group (with a protected characteristic) on any of the grounds of discrimination provided in the Equality Act 2010. Formal requests for gender segregation at meetings (save for those solely used for religious worship or practice) is prohibited on these grounds in accordance with the Equality and Human Rights Commission guidance³;

ii) are to be presented by any person who has previously been prevented from delivering a speech at the College or University; or

iii) incite hatred or are considered within the law to be obscene or grossly defamatory.

b) whether the activity in question:

i) constitutes a criminal offence;

ii) constitutes a threat to public order or to the health and safety of individuals;

iii) incites others to commit criminal acts;

iv) incites others to hatred; or

³ EHRC (2014) *Gender Segregation at Events and Meetings*: Guidance for Universities and Students' Unions (Available online at <https://www.equalityhumanrights.com/en/publication-download/gender-segregation-events-and-meetings-guidance-universities-and-students>)

v) brings the possibility of disruption or disorder because of the timing or location of the activity and its coincidence with other local or national occasions or events.

9. The second key test is whether adequate arrangements can be made to ensure the safety of participants in the activity, and other people within the vicinity, and to ensure that public order is maintained.

10. The organisers of the activity shall ensure that a 'Principal Organiser'⁴ is appointed who must be a current member of staff or student of the University and who will be responsible for ensuring that the organisers comply with the obligations placed upon them under this Code of Practice. If the activity concerned involves a meeting or other type of gathering then the Principal Organiser and/or the person responsible for processing the booking of rooms or space are taken to have read and agreed by the provisions of this Code of Practice. The Principal Organiser shall ensure that appropriate information is provided on the booking form regarding the nature and topic of the meeting.

11. The Principal Organiser is normally required to inform the Principal as far as possible in advance and, in any case at least 14 days in advance of any activity which falls within the provisions of this Code. This will allow him/her to ensure that any necessary arrangements are made, where there are reasonable grounds to believe that:

a) The activity may be disrupted (to the extent that public order is not maintained, or the safety of participants/others in the vicinity is not guaranteed) due to:

i) The public profile of the speaker; or

ii) The nature of any subjects to be discussed or contained in written material; or

iii) The views or beliefs (whether or not related to the activity) of any person attending; or

iv) The coincidence of the activity with another activity.

b) The personal safety or property of any person attending, proceeding to or leaving the activity may be at risk by reason of their involvement in the activity; or

c) Intimidation, duress or harassment might be applied to any person in an attempt to prevent their attending the activity.

Action to be Taken by the Principal

12. The Principal Organiser shall, on request, provide the Principal with such information as he/she may require. The Principal will request the completion of a Freedom of Expression booking form, a copy of which is attached to this Code as **Appendix A** where an activity falls within the remit of this Code. The Principal may also seek advice from the University COO and/or Free Speech Group

⁴ If the activity concerned involves the publication and/or distribution of written material that is likely to engage the provisions of this Code, then the "Principal Organiser" shall be identified as either the author of the material and/or the person responsible for co-ordinating the dissemination of material on the University's premises or via its electronic infrastructure.

(membership details may be found at **Appendix B**) as to whether the activity can safely go ahead. The Group will be convened by the Academic Registrar/Deputy Academic Registrar and will make recommendations to the Principal. Any advice received will be used by the Principal to make a final decision, which will be communicated to the Principal Organiser, wherever possible, no later than a week before the planned activity.

13. On receiving such information as he/she requires, the Principal shall have the following options:

- a) Indicate that he/she is content for the activity to go ahead without taking any action; or
- b) Lay down such special conditions as he/she considers necessary for the holding of the activity; or
- c) Indicate that he/she does not consider it possible, within the resources reasonably available to the University, for the proposed meeting to take place within the law and in accordance with this Code. Therefore the activity is proscribed from taking place.

14. The Principal's decision will be communicated to the Principal Organiser in writing no later than a week before the planned activity.

15. Failure or refusal to observe the Principal's ruling will result in disciplinary action as noted in paragraph 27 below.

Special Conditions or Arrangements that may be Required

16. The Principal may lay down such special conditions as he/she considers necessary. These may include (but are not limited to):

- a) a requirement that the activity be ticket only and/or a restriction on the numbers of people attending;
- b) that an adequate number of suitable stewards must be available, in addition to any University security staff that the Principal may feel should be present to maintain good order;
- c) special arrangements for the chairing of a meeting, and as to the circumstances in which the meeting may or must be terminated prematurely;
- d) that the activity be restricted to staff and students of the University⁵;
- e) imposing conditions on whether and how the activity is advertised;
- f) varying the time and location of the activity from the original request;
- g) refusing admission to media representatives.

17. In addition, the Principal has discretion to require any further and subsequent conditions, where appropriate, after consultation with the police for example, requiring the meeting or activity to be declared public (which would permit a police presence). The University Business Resilience Team would be informed of any such conditions and would be involved in the management of event as appropriate.

⁵ The University is under no legal obligation to allow meetings to be open to members of the public.

18. The Principal will normally require the organisers of the activity to meet any reasonable costs incurred as a result of any special conditions or arrangements required by the Principal.

19. If the Principal permits an activity to go ahead in accordance with this Code, the Principal Organiser must immediately notify the Principal of **any** material changes to an approved activity; for example if there was a change in the speakers who had been approved for a debate. Failure to disclose any material changes may be regarded as a major offence for students under the College and University's Disciplinary Regulations, whilst staff may be subject to disciplinary action.

20. The Principal Organiser should also share a copy of the Policy Statement and this Code of Practice with the speaker(s) concerned to ensure that the University's position and protocols are clearly understood.

21. The Principal Organiser must also inform the Principal of any concerns relating to any activities which fall within the remit of this Code, and is required to report back following the completion of the activity, even if there is nothing of concern to report.

22. Notwithstanding the provisions contained within this Code, where an activity takes place which generates concerns received by either the Vice-Principal & Postgraduate Director or Principal, the Principal can request that a College Officer should undertake a review of the activity in question, and bring a report on the findings to the Governing Body.

Request for a Review

23. If the Principal Organiser considers that the request to undertake an activity under the terms of the Code of Practice has not been handled in accordance with the practices of the Code they can request a review. They can do this by writing to the Chair of the Governing Body within 14 days of receipt of the outcome of the decision in relation to the activity. The request must state the grounds for requesting a review.

24. The Chair of the Governing Body (or Vice Chair in his/her absence) may seek any further information they require to reach a view on the request. If the review is upheld, the Chair will ensure that appropriate action is taken to remedy the situation and will inform the Principal Organiser in writing of the outcome. If the review is dismissed then the Principal Organiser will be informed in writing of this and there will be no further opportunity to pursue the matter within the College.

Arrangements for Booking Rooms and off campus activities

25. The College's Conference Manager (who handles all room bookings) shall introduce or modify booking forms in order that the attention of organisers of meetings or other activities is drawn to this Code. Organisers will be asked to declare whether they believe the event engages the provisions of this Code.

Reporting and Infringements of the Code of Practice

26. The Governing Body will receive a report annually on the number and type of activities considered in relation to this Code. The Principal may recommend any changes to the Code at any time. Any

substantive changes to the Code arising from the annual review will be reported to Governing Body for consideration and approval.

27. The Principal shall report to Governing Body the circumstances of any significant infringements of, and departures from, the provisions of this Code. Infringements of, or departures from, these procedures by staff and students, will render them liable to disciplinary action. If infringement is by a student they may be liable to disciplinary action and their actions may be regarded as a major offence under the College's and University's Disciplinary Regulations. If infringement is by those hiring accommodation on College premises, there may be an immediate termination of the agreement to use the College premises.

28. Where any infringement of the Code results in breaches of the law, the College will report these to the appropriate prosecuting authorities and assist the relevant authorities to implement the process of law.

Review and Approval by Governing Body:

Date of review:	September 2020
Author:	The Revd Dr Ashley Wilson Vice-Principal & Postgraduate Director
Version:	2.0

Appendix A

The Principal will request that the following form is completed in relation to those activities which fall within the scope of the Code, to help facilitate a judgement about whether or not an activity can go ahead in accordance with the Code of Practice.

Name and contact details of the Principal Organiser	
Name and details of the activity requested in accordance with the code	
Name and details of any visiting speakers – what organisation do they represent? Have they spoken at the University before or at another higher education institution?	
Date, time and place of meeting or activity	
Overview of the activity – for example the subject matter, appointed chairperson etc.	
What topic will any external speakers be talking about?	
How will the activity be advertised?	
The numbers expected to attend (staff, students, members of the University, guests, general public)	
Conditions applying to the activity (will it be ticketed? Open to the public?)	
Do the organisers have any reason to believe that there may be a threat of disruption caused by the proposed meeting or activity and what is the substance of that threat?	
Any other reason known to the Principal Organiser or others involved in organising the event as to why issues may arise with any external speaker(s).	
Will members of the press, TV or radio be permitted to attend?	
Is the activity being sponsored? If so, who by?	

Appendix B

In reaching a decision about whether an activity can go ahead, the Principal may seek recommendations from the University's Free Speech Group, which is made up of the following people:

- The Academic/Deputy Academic Registrar (convener)
- The Pro-Vice-Chancellor (Education)
- The Pro-Vice-Chancellor and Deputy Warden
- The Dean of Diversity
- The President of the Students' Union (or his/her representative)
- A representative of Council

It is anticipated that input from the Group will, on most occasions, be sought by email although meetings may be called if the situation demands it.

The following individuals may also be consulted by the Free Speech Group in recognition of their particular areas of expertise:

- The Principal Organiser
- The Security and Resilience Manager
- The Equality and Diversity Officer
- The Head of Legal Services
- The Chair of the Safeguarding Operations Group
- The Chaplains
- The Director of Marketing and Communications
- Local Police
- The BIS Regional Prevent Co-ordinator
- Higher Education Institutions known to have hosted or refused activities previously