

## UNIVERSITY OF CUMBRIA

### FREEDOM OF SPEECH CODE OF PRACTICE

#### Secretariat, Legal Services

***NB. This Code of Practice is available on the University of Cumbria website and it should be noted that any printed copies are uncontrolled and cannot be guaranteed to constitute the current version of the policy.***

<b>POLICY SCHEDULE</b>	
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Policy lead contact	Sarah Anderson
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## **Freedom of Speech Code of Practice**

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## **1. Introduction**

- 1.1** The University of Cumbria upholds the following key principles:
- To provide a safe and secure environment for students, staff and visitors, free from intimidation, harassment, fear, abuse, anxiety, bullying or threatening and violent behaviour.
  - To encourage an atmosphere of free and open discussion and participation in democratic processes that is within the law and within the public interest.
  - To build good community relations and prevent segregation and marginalisation within the University and its local environment.
  - To foster shared values and build attitudes of trust and respect amongst all staff and students.
  - To uphold and promote the principles and values of the University of Cumbria and its mission statement.

## **2. Legal Context**

**2.1** Section 43 of the Education (No.2) Act 1986 requires the University to take all reasonable steps to ensure that freedom of speech in accordance with the law is secured for University members, students, employees and visiting speakers. To facilitate the discharge of this duty, the Act requires that a Code of Practice is published by the University. Under this legislation the University must also ensure that it does not deny access or use of its premises to any individual or group on the grounds of that individual's or group's policies, beliefs, views or objectives and the University may only limit access if there is a legitimate justification to do so authorised by law.

**2.2** In developing this Code of Practice, consideration has also been given to other legislative requirements as follows, which although not directly impacting on the Code have clear relevance to it:

- The University must be mindful of requirements arising from current legislation to ensure that academic staff have freedom within the law to question and test received wisdom and to put forward new ideas and controversial and unpopular opinions without placing themselves in jeopardy of losing their jobs or any privileges they may have at the institution.
- The University must be mindful of its obligations to staff, students and visitors arising from all current legislation with regard to unlawful discrimination and promotion of equality of opportunity for all.
- The University must be mindful at all times to prevent any activity which may constitute a criminal offence under any legislation and may itself in certain circumstances be legally required to report a suspected criminal offence, eg. Terrorism Act 2000.

**2.3** The University is also mindful of acting at all times in accordance with its Articles of Association.

### **3. Responsibilities**

**3.1** The University Secretary shall be the Appointed Officer responsible for ensuring as far as is reasonably practicable that the terms of this Code of Practice are observed and he/she may take such measures as deemed necessary to ensure compliance.

**3.2** The University Secretary may delegate responsibility for some or all meetings and events on University premises as follows:

- a) Events organised by staff or students within the Faculties – to the Dean of Faculty
- b) Events organised by staff or students within the Services – to the Head of Service
- c) Events organised by the University of Cumbria Students' Union – to the President of the Students' Union or the Students' Union General Manager
- d) Events other than those falling under a) – c) above – to a member of staff at a suitable level of seniority who is closely and directly involved in the event.

**3.3** Delegated authority may at any time be withdrawn or reassigned by the University Secretary.

### **4. Activities covered by the Code of Practice**

**4.1** This Code of Practice applies to:

- a) All meetings, lectures, talks, seminars, tutorials, classes, short courses, conferences or other teaching or informative activities, whether organised as part of the curriculum or otherwise, that take place on University of Cumbria premises
- b) Publication, distribution or display of any posters, notices, leaflets or other literature on University of Cumbria premises
- c) Conduct of any staff member, student or visitor whilst on University of Cumbria premises for any reason whatsoever.
- d) Informal activities on University of Cumbria premises.

**4.2** For the purposes of this Code of Practice, "University of Cumbria premises" shall be deemed to include all premises owned, leased or occupied under licence exclusively by the University of Cumbria, and premises of which the University of Cumbria enjoys shared occupation with a third party.

**4.3** The University of Cumbria Students' Union has endorsed this Code of Practice and adopted its provisions.

### **5. Principles and Procedures**

## Meetings and Events

**5.1** The following procedures must be applied if there are reasonable grounds for believing that any activity covered by this Code of Practice (see Paragraph 4 above):

- a) is likely to give rise to a breach of University of Cumbria regulations or a breach of the peace;
- b) may cause incitement to commit a criminal offence;
- c) may give rise to a likelihood of harm or a threat to the safety of any person;
- d) is related directly to any organisation, faction or group whose aims and objectives are illegal;
- e) is likely to include the expression of views that are in direct contravention of the University of Cumbria's Articles of Association.

Such activities shall be termed "Specified Events". Where there is any doubt, the Appointed Officer shall determine if any activity is to be designated as a Specified Event.

## University Events

**5.2** The organisers of any Specified Event must ensure that a single person is designated as the Principal Organiser for the purposes and duration of that event.

**5.3** The Principal Organiser will notify the Appointed Officer at least 21 days before the proposed date of a Specified Event. Such notification shall contain written details of:

- the subject of the event,
- the names of any speakers
- the name of the person/body organising and promoting the event
- the date, time, duration and venue of the event
- a risk assessment of any potential risks arising from the event, including any measures taken to minimise such risks.

A pro forma for the purposes of paragraph 5.2 and 5.3 is appended to this Code of Practice (Appendix 1).

**5.4** The Appointed Officer shall within seven days of receipt of such notification inform the Principal Organiser whether or not, on the basis of balanced consideration of all the relevant factors, permission is granted for the Specified Event to take place on University premises.

**5.5** The Appointed Officer may grant permission for a Specified Event to take place subject to conditions deemed necessary to ensure that the University fulfils its statutory responsibilities with regard to the protection of Freedom of Speech. The Principal Organiser and every person involved with the organisation of the event shall be required to comply with such conditions, which may include, but are not limited to, matters regarding:

- advertising
- admittance
- ticketing
- proof of identity requirements
- stewarding provision
- security arrangements
- media presence and coverage
- prohibition on specific articles at the event

In addition, the Appointed Officer may require the event to be declared public, which would permit a police presence at the event.

**5.6** The Appointed Officer may at his/her sole discretion withhold permission for any event to take place on University premises. However, permission may only be withheld if it is not reasonably practicable to put in place steps required to ensure the Event can take place within the law.

**5.7** In the event that permission for an event is withheld under this section, a right of appeal is available to the Vice Chancellor of the University. Notice of appeal must be submitted to the Vice Chancellor within 7 days of receipt of notification that permission has not been granted. The Vice Chancellor will consider all the relevant factors and notify the Principal Organiser of a decision within 14 days of receipt of the notice of appeal. The Vice Chancellor's decision will be final.

**5.8** The Appointed Officer may impose additional conditions at any time prior to or during the course of the event if deemed necessary or appropriate in the light of additional information becoming available or any change in circumstances.

**5.9** Permission for an event may be withdrawn by the Appointed Officer at any time if it is considered that adequate arrangements have not been made or conditions have not been fulfilled.

**5.10** Responsibility for decisions under sections 5.2 to 5.8 above in relation to a Specified Event shall rest with the University Secretary and may not be delegated within the terms of section 3.2 of this Code of Practice.

**5.11** The cost of any staffing, security, equipment or other measures required to comply with conditions imposed by the Appointed Officer shall be the responsibility of the organisers of the event.

**5.12** The Principal Organiser has a duty to ensure as far as reasonably practicable that speakers and attendees comply with the law during the course of the Specified Event and the Principal Organiser shall be responsible for the removal of any person acting unlawfully and, where unlawfulness continues, may terminate the event.

### Hire of University Premises by External Organisations

**5.13** The University may apply any of the conditions contained in this Code of Practice to the hire of University premises by an external organisation as it deems fit and the terms and conditions of hire shall include a clause to the effect that the hirer recognises the statutory responsibilities and requirements of the University Freedom of Speech Code of Practice. Thus the hirer bears the equivalent responsibility in all respects to the Principal Organiser as above.

**5.14** If it is apparent at the time of application that the hirer intends to use University premises for an event or activity that is likely to result in an infringement of this Code of Practice, the University may refuse the booking.

### Published Material Displayed or Distributed on University Premises

**5.15** Posters, notices, literature, signs and other temporary printed material may only be displayed on officially designated notice boards or portable sign boards, and only with the express permission of the person/department responsible for the particular notice board or sign board. Similarly, on-line electronic publication of the material listed in this paragraph is subject to the express permission of the University's Web Services Manager.

**5.16** Leaflets, pamphlets and flyers may only be distributed via designated information points and only with the express permission of the person/department responsible for such information points.

**5.17** All material displayed or distributed shall normally be presented in the English language. Material presented in any language other than English may only be displayed or distributed with the prior permission of the Appointed Officer.

**5.18** All material displayed or distributed must include the name of the author/producer of the material and the department or organisation responsible for its publication and promulgation.

**5.19** Material may not be displayed or distributed which is considered to be in any way offensive, insulting, intimidating, threatening, indecent, or which is likely to be understood to be directly or indirectly encouraging terrorism, or is illegal in any way.

**5.20** Officially designated notice boards and information points within the University of Cumbria are found at, but not limited to, the following areas:

- Campus libraries
- One-stop shops
- Faculty Offices
- Learning and Information Support Service
- Chaplaincy

- Students' Union

### Conduct

**5.21** Staff and students of the University of Cumbria and visitors to the University premises must not engage in any conduct whatsoever that may prevent, obstruct or in any way hinder the upholding of the University's objectives and legal obligations as set out in paragraphs 1 and 2 of this Code of Practice.

**5.22** Conduct which may be unacceptable under this Code of Practice may include but is not limited to:

- Refusing to recognise or denying access to any individual or group on the grounds of particular views, beliefs, religion, race etc.
- Refusing to promote the activities of an individual or group in an equal way to activities of other groups
- Preventing exercise of rights to freedom of expression
- Acting in a threatening or violent manner or in a manner causing fear of violence, or provoking violence
- Acting in a manner damaging to the reputation of the University of Cumbria
- Acting in a manner likely to cause racial hatred
- Inappropriate or unauthorised use of IT facilities, including accessing illegal sites
- Any conduct that constitutes a criminal offence
- Any action exercised in a manner that breaches the rights of others
- Unlawful demonstrations and protests
- Unauthorised occupations of University of Cumbria property
- Intentional disruption or interruption of any authorised function or activity
- Action likely to cause injury to any person or impair safety
- Acts of fraud, deception or dishonesty
- Intentional damage to or defacement of University of Cumbria property or the property of staff, students or visitors to University premises
- Acts of coercion, eg. in relation to religious conformity, attendance or dress code
- Explicit acts of terrorism or overt support for such acts

### Informal Activities

**5.23** Whilst the main thrust of this Code of Practice is aimed at formal, organised activities within the University of Cumbria, it should be understood that the general principles and objectives are also directed at social and recreational activity on the University's premises.



**5.24** Any attempt to disrupt, harass, threaten, harm or intimidate any person participating in a social, informal discussion, on the basis of personal beliefs or views will be considered to be a breach of this Code of Practice.

## **6. Breach of the Code of Practice**

**6.1** Failure by any staff member or student to comply with any part of this Code of Practice may result in disciplinary proceedings in accordance with University of Cumbria policies and process being initiated against them.

**6.2** In addition, if the action involves a breach of the law, the University will assist prosecuting authorities to bring due legal process against such persons.

**6.3** Breach of this Code of Practice by an external hirer of University of Cumbria premises shall be deemed to be in breach of the terms and conditions of the hire agreement and the University will not be held responsible for the hirer's actions.

**6.4** Printed material displayed in contravention of this Code of Practice will be removed and destroyed and the perpetrator required to pay any necessary repair costs.

## **7. Student and Staff Support**

**7.1** Where a staff member or student has reason to suspect that an infringement of this Code of Practice has occurred or is likely to occur their concerns should be reported at the earliest opportunity as follows:

- i) Staff members - report to Line Manager
- ii) Students - report to the student's Head of School or to the Students' Union.

In the event that it is not possible or appropriate for a concern to be reported as above, staff and students may report a concern to the Head of Secretariat.

**7.2** Any report received under Paragraph 7.1 above must be referred immediately to the Appointed Officer (University Secretary).

**7.3** In the event that a staff member or student is unable for whatsoever reason to report an infringement in accordance with paragraph 7.1, they should report instead direct to the Appointed Officer (University Secretary).

**7.4** The Appointed Officer will consider all the circumstances and available information with regard to a report under paragraph 7.2 or 7.3 above and will instigate appropriate action.

**7.5** Translation services will be made available as and when required for interpreting:

- a) Written material
- b) Spoken addresses
- c) Alleged verbal harassment

**7.6** Information provided by any person to support an alleged infringement or likelihood of an infringement of this Code of Practice will be treated with respect, sensitivity and wherever possible in confidence.

## **8. Related Policies, Protocols and Codes of Practice**

**8.1** This Code of Practice complements other University of Cumbria policies and protocols and is intended to operate in parallel with them to ensure an effective and comprehensive approach to Freedom of Speech and the management of extremist views. This Code of Practice should therefore be read in conjunction with the following University of policies and protocols:

- Equality, Diversity and Inclusion Policy
- Race Equality Policy
- Data Protection Guidance (including guidance on sharing information with the police)
- Freedom of Information Guidance
- Supporting Staff and Students from Faith Communities including Religion and Belief Policy Statement
- Harassment and Bullying Policy (Staff)
- Student Bullying Policy
- LIS Security Guidance (Staff and Students)
- Information Security Policy
- Website and Internet Use Protocols
- Public Interest Disclosure (Whistleblowing) Policy
- Safeguarding Children, Young Persons and Vulnerable Adults Policy
- Emergency Planning Statement
- Students' Union Statement on "Openness and Inclusiveness in its Societies"
- Students' Union "No Platform Policy"

## **9. Records Management Statement**

**9.1** The records associated with this Code of Practice are controlled by the Secretariat Officer (Legal Services) and will be created, stored and disposed of in line with the University's Records Management guidelines and procedures.

**9.2** The University is committed to complying with the requirements of Data Protection legislation and regulations and any personal data created as part of this Code of Practice will be processed in accordance with the University's Data Protection Act procedures. This includes ensuring

that data is held securely, is not disclosed unlawfully and is destroyed when no longer needed.

- 9.3** The University also aims to ensure that users of this Code of Practice are aware of Data Protection, Freedom of Information and Records Management issues associated with this Code of Practice.

## **10. Risk Management Statement**

- 10.1** Failure to comply with this Code of Practice could result in civil and/or criminal liability and reputational damage to the University of Cumbria leading ultimately to a serious business risk to the University's sustainable future.

- 10.2** This Code of Practice mitigates the following risks in the University's Risk Register:

- i) LGM13 – Reputational damage through poor management of the University's operations
- ii) SF2 – Failure to increase social/cultural/environmental activity that has a demonstratable positive impact on communities in Cumbria
- iii) WC5 – Failure to adhere to employment legislation and standards of good practice

## **11. Disability Discrimination, Equality of Opportunity and Equality and Diversity Impact Assessment Statements**

The Disability Discrimination Act 2005, Race Relations Act 1976 and Equality Act 2006 place a positive duty on the University to promote equality of opportunity for disabled people, people from different racial heritages or different genders (respectively) and to eliminate discrimination.

This Code of Practice and its implementation will be monitored in line with relevant legislation for its impact on different groups categorised, for example, by race, gender, age, disability and other categories as appropriate. This process will provide a check on whether there are any differences and allow the University to assess whether these differences have an adverse impact on any particular group such that appropriate action is taken.

## **12. Monitoring and Evaluation**

This Code of Practice is subject to regular monitoring and evaluation and may be amended periodically in response to changes in legislation, regulations or Codes of Practice to reflect best practice. Formal review will take place every three years or sooner if required.

### 13. Contact Details

For further information regarding any of the issues covered by this policy please contact:

Secretariat Officer (Legal Services)

Secretariat

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### UNIVERSITY OF CUMBRIA POLICY DOCUMENT CONTROL SCHEDULE

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