

# ARTS UNIVERSITY BOURNEMOUTH

## CODE OF PRACTICE ON FREEDOM OF SPEECH AND ACADEMIC FREEDOM

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### 1. Introduction

- 1.1 Arts University Bournemouth is committed to the protection and promotion of freedom of speech and academic freedom within the law. This Code of practice sets out the University's approach to these issues.
- 1.2 This Code applies to all members of the University community, including both staff and students; and to any visitors, including those invited to speak, who are lawfully on the premises or invited to join remotely.

### 2. Key principles

- 2.1 Freedom of speech and academic freedom are an essential requirement for the pursuit of higher-level learning and research, which leads to the creation of new knowledge and understandings. They may engender vigorous and open debate, or result in lines of enquiry which are unpopular or controversial; but it is freedom of speech and academic freedom which enable staff and students to put forward and test new ideas, challenge received wisdom, and generate insights which can change and shape our world. We confirm our belief that higher education has a role to play in "shaping a democratic, civilised, inclusive society"<sup>1</sup>. All activity which takes place under the University's auspices or in its name, whether in-person or remotely, will abide by this principle.
- 2.2 AUB also accepts its obligations under the Equality Act 2010, and the Counter-Terrorism and Security Act 2015 and the associated Prevent duty guidance, to secure freedom from harm for staff, students and communities. The law protects the rights of members of the University to engage in debate and argument about social, political, religious, economic and scientific ideas, provided that the views expressed are not contrary to the civil or criminal law. However, the Arts University Bournemouth will not provide a platform, on our campus or in our name, for activity which is defamatory or in contempt of court; or may lead to violence, disorder or a breach of the peace; or incites racial or religious hatred; or encourages terrorism; or is in any other way outside the law.
- 2.3 All members of the University community, and all those who participate in University events, must treat others with respect. Everyone is free to express their views, as long as these remain within the law; and opposition should be expressed through respectful disagreement. Personal abuse, or any action which seeks to limit the free expression of others or to intimidate others into not giving their views, is contrary to the University's values and is not protected under the Code.

#### Freedom of speech

- 2.4 We are committed to creating an environment which promotes freedom of speech within the law. We endorse the right of all academic staff and students to test

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<sup>1</sup> The National Committee of Enquiry into Higher Education, (1977) *Higher Education in the learning society*. NCIHE, London, p72

received wisdom and to put forward new ideas and controversial opinions, some of which may be unpopular.

- 2.5 Freedom of speech means everyone has the right to hold opinions and to exchange information and ideas freely. It is through this interchange that we are challenged to think differently, and in new and creative ways, which is central to the values of the University. This right extends to controversial or contested subjects, and we accept that this includes the right to share ideas which may cause discomfort, or even shock. Arts University Bournemouth is a place where individuals may sometimes hear thoughts or opinions they may find uncomfortable; and we recognise that trigger warnings may be appropriate in certain circumstances. The University has published separate guidelines to support staff who wish to introduce topics which may be controversial or challenging<sup>2</sup>.
- 2.6 The Arts University Bournemouth does not seek to restrict the views which may be expressed by its staff or students in the conduct of their work. However, we expect all debate to be exercised in a spirit of tolerance and respect for others and their views. This is particularly important where contested topics are under discussion. A robust exchange of differing views is a core element of freedom of speech; but disrespect and personal hostility undermines the confidence of others to exercise their own right to free speech. Staff and students should be confident that they will be treated respectfully, whether or not their views are popular or mainstream.
- 2.7 The right to free speech does not include the right to share or promote information which is inaccurate or untrue. Properly exercised, the right to freedom of speech is informed by curiosity and the courage to learn. It should be exercised with a generosity of spirit, and with personal reflection and humility. The right to freedom of speech offers no excuse for abuse, bullying, discrimination, harassment, hatred, intimidation, violence or any act prohibited by law. This would include encouraging, glorifying or promoting any acts of terrorism (including individuals, groups or organisations that support such acts); spreading hatred and intolerance in the community and thus disrupting social and community harmony; or seeking to deny or restrict the freedom of speech within the law of others. The University has published an Equalities Lexicon<sup>3</sup> which lists the most commonly-used EDI terms, which can support staff and students in avoiding unintentional offence.
- 2.8 The University is committed to the creation of an environment which supports and promotes the exercise of freedom of speech. This does not mean that it endorses any of the views which are expressed. In accordance with charity law, the University remains neutral on all political issues except for those which are in direct support of its charitable aims.

#### Academic freedom

- 2.9 Academic freedom refers to the intellectual independence of academics to question and test received views and wisdom, and to put forward new ideas and controversial or unpopular opinions within the law, and for this not to jeopardise their current or future employment or prospects (including their chances of success in any internal application for promotion). This same academic freedom also applies to students who produce and/or disseminate original research.

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<sup>2</sup> Academic freedom: Principles and guidance

<sup>3</sup> Accessible from <https://intranet.aub.ac.uk/compliance/edi/Pages/default.aspx>

2.10 As an institution of higher learning, we are also committed to academic rigour and integrity. Some ideas might be lawful, but may not be based on evidence, or draw on recognised academic sources or approaches. Such ideas would not withstand significant academic scrutiny, and we recognise that they may not be worthy of serious academic attention. We expect academic staff, using their expertise and their own professional commitment to rigour and the proper standards of academic behaviour (such as peer review) to exercise their judgement in identifying ideas or arguments which, while lawful, are of limited value.

### **3. How AUB will secure and promote freedom of speech and academic freedom**

3.1 The University takes certain deliberate steps to secure and promote freedom of speech and academic freedom.

3.2 These rights are respected within:

- i) course development (validation), learning, teaching and assessment, and arrangements for quality assurance. Academic staff will not be instructed what to teach, or how this should be taught or assessed, within the broad parameters of the Learning, Teaching and Assessment Framework.
- ii) research activity. Academic staff are not instructed what they may research. Additional funding or resources for research will be allocated in accordance with agreed University research policy.
- iii) complaints and disciplinary processes. Staff and students will not be penalised for the proper exercise of free speech within the law (although attention is drawn to paragraph 2.7 of this Code of practice).

3.3 AUB is aware that some activity may pose additional risks to freedom of speech or academic freedom. This could include, but is not limited to, the receipt of donations (either from the UK or overseas), or partnerships with external organisations. Before any agreement is reached, the implications for freedom of speech will be considered, and the University will need to assure itself that any risks are minimised before it enters into a formal agreement.

3.4 To ensure that these rights are well understood across the University community, AUB undertakes to:

- i) ensure that this Code of Practice is brought to the attention of new students as part of their induction programme
- ii) remind students annually about the Code
- iii) monitor the annual feedback in the National Student Survey and any other external or internal surveys of students in relation of freedom of speech, and take action if there is evidence that they are not adequately protected
- iv) introduce the Code formally to all staff as part of their induction
- v) ensure that all staff are supported to exercise their responsibilities towards freedom of speech and academic freedom, providing additional training and support if required
- vi) investigate any concerns which are raised about restrictions to freedom of speech and academic freedom, learning any lessons and ensuring that any relevant policies, practices and procedures are reviewed accordingly.

#### **4. Complaints under this Code of practice**

- 4.1 If the University receives a complaint under this Code of Practice, ie that one or more elements of the Code have not been followed, the initial investigation will be conducted in accordance with the first stage of the relevant staff or student disciplinary procedure. If that initial investigation concludes that there is a case to answer, the case will move to the next stage of the relevant procedure (eg Staff Disciplinary Policy or Student Disciplinary Policy, or the University's grievance or student complaints procedures).
- 4.2 Any matter referred for investigation under the staff or student disciplinary, grievance or student complaints procedures which may involve consideration of matters of freedom of speech or academic freedom should be subject to an initial review to determine whether this is a *prima facie* case for investigation. If it is evident that the speech was lawful, this should be clarified without the need for further deliberation. (For the avoidance of doubt, it is recognised that issues of freedom of speech and academic freedom may only form part of the case, and the outstanding issues should still be investigated.) Either the University Secretary or the Director of Student Experience and Employability can advise on whether the incident is a breach of this Code; the staff investigator is encouraged to seek this advice as soon as possible to inform a swift decision. There may also be cases where further information about the context is required to make a decision, and in these cases the investigation should proceed.
- 4.3 As set out in those respective policies and procedures, if any action is also being investigated as possible breaches of the criminal law by the police or other civil authorities, the University will normally suspend its internal process until the external process has been concluded.
- 4.4 Any complaints about visiting speakers should be directed to the University Secretary.

#### **5. Governance, review and monitoring**

- 5.1 The Board of Governors shares the University's commitment to freedom of speech and academic freedom. While operational responsibility is delegated to the Vice-Chancellor, and through them to VCG, the Board will receive an annual report on the operation of the Code of practice, including any proposed amendments.
- 5.2 Any concerns regarding the implementation of this Code of Practice should be raised with the University Secretary.

## **ANNEX ONE: EXTERNAL SPEAKERS AND EVENTS APPROVAL POLICY**

### **Introduction**

1. This Annex should be read in conjunction with the full Code of Practice on Freedom of Speech and academic freedom. The same principles, permissions and restrictions apply.
2. The University welcomes a great many external speakers. An external speaker is defined as someone who is not a member of staff or student of the University or the Students' Union. Thus external speakers include guest lecturers; speakers at conferences, symposia or other similar events held under the auspices of the University; or speakers invited by the Students' Union, or one of its societies.
3. The University does not wish to restrict the opportunities for external speakers, or to place undue barriers in the way of those who can add significant value to the student experience, either through their contribution to the curriculum, to broader academic development, or to student life. However, it is mindful of its responsibilities to ensure that it maintains a due balance between freedom of speech and freedom from harm.
4. No event involving external speakers should be publicised until the speaker has been cleared through the procedures outlined in this Policy. The University reserves the right to cancel or prohibit any event with an external speaker if these procedures are not followed or if the relevant health, safety and security criteria cannot be met. The University similarly reserves the right to deny a platform to any speaker where it has good reason to believe that the content of any speech will not fall within the terms of English law.
5. This Annex refers specifically to ensure the processes which must be followed for hosting speakers who are visitors to the University, and are not covered by the policies relating to staff and students. This includes events which are held online under the University's auspices.
6. AUB reiterates its support for freedom of speech within the law. It is important that staff and students are enabled to hear a wide variety of viewpoints, and are not prevented from doing so where this speech is lawful. If any speaker does break the law, it is the speaker who is culpable, but the University recognises that also has a responsibility to minimise the risk of unlawful speech. AUB recognises that the right to freedom of speech includes the right to protest, but this protest must not itself restrict the rights of others to exercise their own free speech or otherwise restrict debate.
7. Some additional measures may sometimes be required to meet the University's legal obligations. This may include making specific provision to ensure that diverse voices are heard in a debate, particularly voices from underrepresented and marginalised groups.
8. Each event must have a named Event Organiser. This must be a current member of staff or student of the University. The Event Organiser may seek advice from the Director of Student Experience and Employability to ensure that they are fully familiar with the process and what is expected of them.
9. This Policy applies to all events held on AUB premises, or hosted by the University, or otherwise arranged under its auspices (including online). If space has been

booked by an external person or organisation, they must nominate a named Event Organiser (as described under 8 above) who will take on the role as outlined below. In such cases, the University will also name a member of staff to act as the University Liaison with the Event Organiser.

10. Any members of the University who fail to ensure that this procedure or the provisions of the Code of Practice are adhered to may be liable to disciplinary action in accordance with University policies and procedures, in addition to any possible prosecution and/or claim for breach of criminal and/or civil law.

#### **Procedure where the speaker is invited as part of the normal academic curriculum**

11. Many external speakers are invited to contribute as part of the normal academic curriculum. This applies where an event is a mandatory part of the curriculum, and where attendance is restricted to the cohort(s) of students engaged in a particular unit or activity.
12. In these cases the Event Organiser (usually the Course Leader) should conduct a risk assessment which considers whether:
  - there is a risk to the speaker or any other members of the University community or buildings / property
  - there is a risk that the speaker may express views which are contrary to the law, for example:
    - to incite breaches of the law or to intend breaches of the peace to occur;
    - to deny the right for others to hold or to express an opposing opinion;
    - to advocate or engage in violence or non-violent extremism in the furtherance of their political, religious, philosophical or other beliefs (this could also apply to any organisation the speaker represents);
    - to promote any illegal organisation or purpose, including organisations listed on the government's list of proscribed terrorist groups or organisations.
13. If these risks are deemed unlikely to occur, the Event Organiser should notify their Director in writing (usually by email) that they have conducted a risk assessment and do not believe that there are any significant risks to proceeding with the event. This communication will be considered evidence that the risk assessment has been conducted; a further written document is not required. The Event Organiser may proceed with the event. The Academic Office must be notified so that a record of all such speakers can be maintained. If any of the above circumstances change, the Director of Student Experience and Employability should be notified immediately.
14. If it is reasonably foreseeable that one of these events may occur, the Event Organiser should notify their Director and should seek approval through the process below. If there is any doubt about the correct course of action, advice should be sought as soon as possible from the Director of Student Experience and Employability.
15. Event Organisers should be clear that authorisation of the external speaker does not remove the need to consider other relevant issues (eg health and safety, room availability etc).

#### **Procedure where the speaker is not invited as part of the normal academic curriculum, or where the event is deemed to be higher risk**

16. The Event Organiser must complete an External Speaker Request Form. They are advised to discuss the matter first with their Director, and to provide as much information as possible on the form to enable a swift decision. While the normal expectation is that speakers / events will be able to proceed, speakers are likely to be deemed more than minimal risk if they:
  - are (or are a member of a group) on or linked to the UK Government list of proscribed terrorist organisations
  - are known to have spoken previously on a topic that has caused fear or intimidation of students or staff
  - have a history of denying free speech to others or has otherwise engaged substantially in activities which are inimical to the values which this Code seeks to uphold
  - are generally accepted / publicly acknowledged as being highly controversial
  - have links to any person or group that has been connected with any controversy of a negative or positive nature. It is recognised that this will only be known when these links are generally accepted or publicly acknowledged
  - have a significant profile and attract a following that could create crowd control and health and safety issues
  - are from a political party during an election period.
17. For the avoidance of doubt, speakers are unlikely to be approved if it is probable that:
  - there is a risk to the speaker or any other members of the University community or buildings / property
  - there is a risk that the speaker may express views which are contrary to the law, for example:
    - to incite breaches of the law or to intend breaches of the peace to occur;
    - to deny the right for others to hold or to express an opposing opinion;
    - to advocate or engage in violence or non-violent extremism in the furtherance of their political, religious, philosophical or other beliefs (this could also apply to any organisation the speaker represents);
    - to promote any illegal organisation or purpose, including organisations listed on the government's list of proscribed terrorist groups or organisations.
18. No member of staff may approve their own request. Thus if the Event Organiser is the Director of Student Experience and Employability, approval must be sought from another member of the Safeguarding Team.
19. The Director of Student Experience and Employability (or nominated alternate) may:
  - Approve the event;
  - Request further information from the Event Organiser;
  - Approve the event but impose certain conditions;
  - Refuse permission for the event to proceed.
20. In reaching their decision, the Director of Student Experience and Employability may take any steps they deem necessary, which may include undertaking internet searches; discussing with fellow members of the Safeguarding Team; discussing with local law enforcement officers; and taking advice from the regional Prevent Coordinator. The necessity of undertaking these additional steps should not unduly delay a decision about the event.

21. The Director of Student Experience and Employability has full discretion in the conditions which may be imposed. However, the following is an indicative list of measures which may be identified:
  - The event should be filmed, by independent University staff;
  - The event should be attended / observed by designated staff or students
  - The event should be stewarded, or subject to security on the door, or ticketed
  - An event promoting a particular view should include an opportunity to debate or challenge that view
  - The speaker should be asked to give advance notice of the topics to be covered in the talk.
22. If it deems that additional security is required for the event, the University will normally expect to meet the cost of this. Exceptionally, where the costs are above the thresholds set by the University, the additional costs will be passed to the organisers. Where the event is organised by a member of the University (staff or students), the threshold is set at £1,000. For an event organised by an external organisation but using the University's premises, the threshold is set at £500. These thresholds may be revised from time to time.
22. The decision will be communicated to the Event Organiser as soon as reasonably practicable. If it is estimated that additional costs will be passed on to the organisers, the calculation of these additional costs will also be included, with an explanation that this calculation can be appealed by writing to the University Secretary, whose decision will be final. The Event Organiser is responsible for liaising with the speaker and ensuring that they are familiar with the arrangements and any conditions. Apart from requesting a review of the anticipated security costs, there is no right of appeal against the decision of the Director of Student Experience and Employability at this stage.

#### *Objections from University stakeholders*

23. AUB accepts that judgements about visiting speakers can be complex and are ultimately subjective. If a member of the University community wishes to raise an objection about an approved event, they must do so in advance, in writing, to the Director of Student Experience and Employability. They should set out the reasons for the objection, and why they consider it inappropriate for the event to proceed.
24. The Director of Student Experience and Employability will re-investigate the case, and will either confirm or revise their decision. It is expected that the Director of Student Experience and Employability will seek to reach a satisfactory solution with all relevant internal and external stakeholders to minimise the potential damage to good relations on campus and to facilitate free speech for the widest group. This could include arranging alternative spaces on campus where opposing views can be expressed and/or exploring other ways for different groups of students and staff to work together to promote good relations. If the original decision to proceed is confirmed, the University will consider the potential harm to individuals and relations between groups and will explore appropriate mitigations. This could include signposting internal stakeholders to relevant support services.
25. There is no right of appeal against the decision of the Director of Student Experience and Employability.