



Code of Practice on Freedom of Speech

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Code of Practice on Freedom of Speech

Introduction

Aberystwyth University's governing body, the Council, has approved the following 'Code of Practice on Freedom of Speech' (the 'Code') in order to comply with its duty under Section 43 of the Education (No. 2) Act 1986.

This Code shall be reviewed annually to ensure ongoing compliance with the Act and any other relevant legislation. Any proposed amendments of a substantive nature shall be presented to Council for formal approval. Consequential amendments of a minor nature may be incorporated as part of the annual review of the Code.

Nothing in this Code shall be deemed to affect the rights of any person taking any steps pursuant to lawful industrial action or peaceful protest.

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1. Key Principles

1. The University adopts the principle of freedom of speech and expression within the law. This Code therefore intends where practicable to facilitate rather than restrict freedom of speech, and in doing so reduce undue bureaucracy.
2. At times, some views and opinions which are expressed lawfully may be considered by some to be offensive, shocking or disturbing. In such circumstances, the University believes that the institution's role is to provide opportunities to challenge those views and opinions; to widen rather than narrow debate. Therefore, in considering proposals to hold Notifiable Events, the University will consider the perceived value of the event – the expectation being that the event offers more than a platform to air controversial opinions, and seeks to encourage academic debate and the exchange of differing views.
3. The University believes that there is considerable responsibility associated with the right to freedom of speech. It does not provide the right to intimidate or bully individuals, and individuals must recognise that there may be consequences to such actions.
4. Freedom of speech can be limited by law if necessary, for example, to prevent crime, for reasons of national security or public safety, or to prevent unlawful discrimination and harassment. The University will take such legislation into account when applying this Code.
5. Alongside freedom of speech, the University believes in academic freedom within the law. Consequently, and in accordance with Statute 9(2) of the University's 2018 Statutes, "staff shall have freedom to challenge received wisdom and put forward ideas and opinions without placing themselves in jeopardy of losing their jobs or privileges".

2. Applicability

This Code of Practice shall apply to:

1. All events led, hosted or co-hosted by the University, irrespective of where they take place (unless compliance with this Code would breach the law of the country where the event is to take place);
2. All events held at premises used by Aberystwyth University Students' Union, regardless of whether such premises are owned by the University or whether they are on- / off-campus; and
3. Any other events held on University premises, including those organised by external individuals or organisations.

3. Relevant Legislation

The University is required to comply with the requirements of various legislation with respect to freedom of speech, including:

1. Education (No. 2) Act 1986

1. Section 43 of the Education (No. 2) Act 1986 requires a University's governing body to "take such steps as are reasonably practicable to ensure freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers", and issue a 'Code of Practice' to facilitate the discharge of this requirement.
2. In accordance with Section 43(8) of the Education (No. 2) Act 1986, any references to the University's premises shall include those managed by Aberystwyth University Students' Union.

2. Counter-Terrorism and Security Act 2015

Section 26(1) of the Counter-Terrorism and Security Act 2015 imposes a duty on Universities to have due regard to the need to prevent certain individuals from being drawn into terrorism (the 'Prevent Duty').

3. Equality Act 2010

Where the University or the Students' Union are hosting speakers or events, there is potential for legal liability for discrimination against, or harassment of service users, members, and guests. However, the requirements of the Equality Act 2010 need to be balanced against competing rights, including those set out with respect to freedom of speech in the Education (No. 2) Act 1986.

4. Charity Law

1. The University is a registered charity (number 1145141). Our Council members, as trustees of the institution as a charity, are therefore required to ensure that the University complies with charity law, and any other laws that apply to the institution.
2. The University's trustees must also make sure that the University acts in a way which furthers its charitable purposes (which are set out in the Article IV of the University's Charter – 'Objects of the University'). In practice, this means that, at times, there is a limit to the steps that are reasonably practicable for the University to take to ensure freedom of speech, where doing so would divert resources away from the charitable purposes.

5. Higher Education (Wales) Act 2015

In accordance with the Higher Education (Wales) Act 2015, the Higher Education Funding Council for Wales (HEFCW) has a role in ensuring that the University's policies and procedures strike the appropriate balance between freedom of speech and 'Prevent' duties.

4. Definitions

1. Authorising Officer

The Council has appointed the Pro Vice-Chancellor (Learning, Teaching and Student Experience) as the University's Authorising Officer in relation to this Code, although the Authorising Officer may delegate this authority in whole or in part to other employees of the University.

2. Organiser

The term Organiser(s) is used in this Code of Practice to indicate the person or persons who are responsible for organising the Notifiable Event in question.

3. Notifiable Event

1. A meeting or event may be considered a Notifiable Event if, having undertaken appropriate due diligence, the Organiser provides a 'Yes' response is elicited to one or more of the following questions:

- i. Is the Organiser aware of any previous controversy surrounding the speaker(s) and their views?
- ii. Is there a likelihood that the speaker(s) may not be able to enter or leave the meeting or event safely and / or require specific security arrangements?
- iii. Is the Organiser aware of any other meetings or events being proposed of a conflicting nature, any practical matters relating to health and safety and / or any impact on the availability of resources?
- iv. Is the Organiser aware of any threats of disruption to the proposed meeting or event, which may occur either inside or outside the event?
- v. Is the Organiser aware of any threats to the University's ability to ensure that freedom of speech within the law is secured for the speaker(s) and attendees?
- vi. Is the Organiser aware of any threats to the University's ability to ensure that "speakers with extremist views that could draw people into terrorism" are challenged as part of that same event, in accordance with the Prevent Duty?

2. If the Organiser or anyone involved in the organisation of the meeting or event or in the issuing of the invitation is in any doubt whether the meeting should be classed as notifiable they should consult the Authorising Officer at least 30 days prior to the date of the meeting or event.

3. Meetings or events may subsequently become notifiable due to changed circumstances, such as: other meetings or events being proposed of a conflicting nature, practical matters relating to health and safety, or the availability of resources.

4. It is the responsibility of the Organiser to ensure that sufficient notice (as a minimum 15 working days) is provided to the Authorising Officer of any Notifiable Events which require authorisation. This is to provide time to consider the proposed Notifiable Event in accordance with the Procedure set out in Appendix 1.

The University will not allow any Notifiable Events to proceed where insufficient prior warning and opportunity for due consideration has been provided by the Organiser.

5. Notifiable Events should not be promoted until they have been authorised to proceed.

4. Students' Union

1. In accordance with Section 43(8) of the Education (No. 2) Act 1986, any references to the University's premises shall include those managed by Aberystwyth University Students' Union.
2. Where a notifiable meeting or event is to be held at premises managed by Aberystwyth University Students' Union, the matter shall be considered in line with the Procedure adopted by Aberystwyth University Students' Union on such matters, ensuring compliance with this Code of Practice.
3. In the case of conflict between the Procedure adopted by Aberystwyth University Students' Union and this Code of Practice, the Code of Practice shall take precedence.

5. Conduct of Meetings and Events

1. Any meeting or event to be held or to take place on the University's premises shall be held or take place only after prior booking through the appropriate Faculty or service department; or through the Students' Union (where the meeting or event is to take place on premises managed by that body).
2. Organisers have a duty to ensure that nothing in the preparations for or conduct of a meeting or event infringes the law or the University Rules and Regulations (<https://www.aber.ac.uk/en/academic-registry/handbook/regulations/>). This includes an obligation to prevent conduct likely to cause a breach of the peace or incitement to illegal acts, including the criminal offences of encouraging terrorism and inviting support for a proscribed terrorist organisation (as outlined in the Terrorism Act 2006).
3. The Chair of the meeting has a duty so far as possible to ensure that both audience and any speakers act in accordance with the law and this Code during the meeting. In case of unlawful conduct or conduct in breach of the University Rules and Regulations, the Chair is required to give appropriate warnings and, in case of continuing unlawfulness or breach, to require the withdrawal or removal of persons concerned by the stewards or security staff.
4. All events led, hosted or co-hosted by the University must consider the requirements of the Welsh Language Standards which apply to the institution.
5. No article or objects may be taken into the building where the meeting is taking place, or be taken or used elsewhere on University premises, if they are intended or may be likely to lead to injury or damage.

6. Premises used for meetings or activities must be left in a clean and tidy condition in default of which the Organisers may be charged for any additional cleaning and repairs that are subsequently required. A payment in advance or evidence of ability to pay these costs may be required.

6. Infringement of this Code

1. Infringements of, or departures from these procedures in whatever respect by staff or students of the University may render those responsible subject to appropriate disciplinary proceedings.
2. Any member of staff or student of the University who disrupts or prevents any other member of staff, student or member of the University, or any speaker invited under the procedures of this Code, from exercising their right to freedom of speech within the law and within the usual rules of public debate, when that person is participating, or attempting to participate in any meeting or event authorised by the University shall be in breach of this Code and appropriate disciplinary proceedings may be undertaken.

7. Further reading

In developing this latest iteration of the Code of Practice on Freedom of Speech, the University has drawn on the Equality and Human Rights Commission's "Freedom of Expression: A guide for higher education providers and students' unions in England and Wales" (February 2019). A copy of this publication can be accessed at: <https://www.equalityhumanrights.com/en/publication-download/freedom-expression-guide-higher-education-providers-and-students-unions-england>.

Appendix 1: Procedure for Authorising Notifiable Events

1. If a Notifiable Event, as defined in section 3 of the Code of Practice on Freedom of Speech, is to be held on University premises, the Organiser must submit to the Authorising Officer in writing at least 15 working days in advance a risk assessment comprising the following information:
 - i. the name and address of the Organisers and the name and address of a single person who is appointed as Principal Organiser of the meeting or event (referred to in this Procedure as the 'Organiser');
 - ii. the name of any visiting speaker and of any organisation which he or she is to represent or with which he or she is associated while on University premises;
 - iii. the date, time, and place of the meeting or event and the expected timing of the arrival and departure of any speaker together with details of the proposed entry and exit of the speaker to the building in which the event is to be held;
 - iv. the subject matter of the meeting or event;
 - v. the numbers of University staff, students or members of the general public expected to attend;
 - vi. the steps the Organiser intends to take to control admission including, for example, the issuing of tickets;
 - vii. the substance of any threats of disruption of the proposed meeting or event communicated directly or indirectly to the Organiser;
 - viii. the nature of the steps that the Organiser and those associated with them in the organisation of the meeting or event propose to take to ensure that freedom of speech within the law is secured for any speaker. Such steps could include: arrangements to ensure that a debate is properly managed by the Chair of the meeting, the appointment of stewards, and / or providing an opportunity to express opposing views at that same meeting;
 - ix. the nature of the steps that the Organiser and those associated with them in the organisation of the meeting or event propose to take to ensure that "speakers with extremist views that could draw people into terrorism" are challenged as part of that same event, in accordance with the *'Prevent Duty'*; and
 - x. the nature of any proposed publicity and whether members of the press, TV or radio will be permitted to attend.
2. Normally within five working days, following receipt of the details of the Notifiable Event from the Organiser and, where required in accordance with the Prevent Duty, obtaining from the Welsh Extremism and Counter Terrorism Unit (WECTU) the Red Amber Green rating for the external speaker, the Authorising Officer shall decide either:
 - i. that the Notifiable Event may proceed without any further directions as to its conduct, and confirm this decision to the Organiser in writing; or

- ii. that the Notifiable Event may proceed, subject to directions as to its conduct as specified by the Authorising Officer in accordance with paragraphs 8 and 9, and confirm this decision to the Organiser in writing; or
 - iii. that, a breach of the University's Code of Practice on Freedom of Speech being possible, the Notifiable Event shall not take place, and confirm this decision to the Organiser in writing, both of the decision and of the reasons for it.
3. If the Organiser does not agree with the Authorising Officer's decision for the Notifiable Event, they may request that the Authorising Officer refers the matter to the Appeal Panel. Such a request should be made within five working days of receiving the Authorising Officer's decision.
4. Where a request is received for the Notifiable Event to be considered by the Appeal Panel, a meeting of the Appeal Panel shall normally be convened within five working days of that request.
5. The Appeal Panel shall be formed by the Vice-Chancellor, and shall comprise of three from the following pool, one of whom to chair: University-level Executive lead on Equality and Diversity; Communications and Equality Officer; Head of Student Support; Head of Health, Safety and Environment; Head of Communications and Public Affairs; Head of Facilities Management; Aberystwyth University Students' Union Student Support and Representation Manager. In forming the Appeal Panel, the Vice-Chancellor shall have due regard to its gender balance, and the need for members with a variety of perspectives.
6. When a proposal is referred to it, the Appeal Panel shall consider the details of the Notifiable Event originally submitted, and may decide that the Notifiable Event may go ahead in accordance with either paragraphs 2i or 2ii. However, if it is satisfied that no reasonably practicable steps can be taken to ensure there will be no breach of the University's Code of Practice on Freedom of Speech or the institution's Rules and Regulations, it may decide that the Notifiable Event shall not be led, hosted or co-hosted by the University, or take place on premises.
7. When the Appeal Panel decides that the Notifiable Event may proceed, the Authorising Officer shall notify the Organiser in writing. Where the Appeal Panel authorises the meeting or event it may impose such requirements as are permitted by paragraphs 8 and 9, and the Authorising Officer shall notify the Organiser in writing of them.
8. If the Appeal Panel decides that the Notifiable Event shall not take place, the Authorising Officer shall notify the Organiser in writing, both of the decision and of the reasons for it.
9. As part of their respective considerations, both the Authorising Officer or the Appeal Panel have the power to vary at any stage any of their respective requirements in the light of further information about the proposed Notifiable Event.
10. Where the Authorising Officer decides initially, or where the Appeal Panel decides, that the proposed Notifiable Event may proceed subject to directions as to its conduct and venue, they may direct the Organiser as to the manner in which:
 - i. entry to the Notifiable Event is to be properly managed, including, for example, a requirement that identity cards or tickets should be used;

- ii. the conduct of the Notifiable Event is to be properly managed, including, for example, the conduct of any debate, or the disposition of any seating or stewarding;

and shall invite the Organiser to discuss the arrangements which they consider desirable with the Authorising Officer or the Appeal Panel.

- 11. In addition to the conditions set out above, the Authorising Officer or the Appeal Panel have discretion to lay down further conditions to enable the Notifiable Event to proceed, if appropriate, after consultation with the police. Such conditions may include:

- i. that a more suitable venue be found for the Notifiable Event;
- ii. that the Notifiable Event to be declared public (which would permit a police presence);
- iii. arranging for University staff to be responsible for all security arrangements connected with the Notifiable Event;
- iv. the appointment of a member of staff as 'Controlling Officer' for the Notifiable Event;
- v. stipulating that the media must register in advance to be present in the location where the Notifiable Event is to take place;
- vi. requesting to see any promotional materials before the Notifiable Event, including any materials to be distributed at Notifiable Event.

- 12. The cost of any measures required by the Authorising Officer or Appeal Panel shall normally be borne by the Organiser of the Notifiable Event.

- 13. If during the course of the meeting the Authorising Officer or the Controlling Officer believes that:

- i. a person will be injured should the Notifiable Event, continue; or
- ii. that damage to property will occur should the Notifiable Event continue; or
- iii. a breach of the law will occur;

they shall adjourn or conclude the Notifiable Event.

Appendix 2: Authorising Notifiable Events – flow chart

