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Code of Practice on Freedom of Speech



BATH SPA
UNIVERSITY

1. Policy Statement

- 1.1 Bath Spa University (BSU) is fully committed to the principles of, and to securing and promoting Freedom of Speech and Academic Freedom within the law and wants to use this Policy Statement to emphasise the importance that Freedom of Speech plays in our BSU community.
- 1.2 Securing Freedom of Speech within the law is one of the core focuses of BSU, as we believe that this fundamental right lies at the heart of intellectual growth, critical thinking, and the pursuit of knowledge. Therefore, BSU is committed to take reasonably practicable steps to ensure that Freedom of Speech within the law is secured for our staff, members, students and External Speakers.
- 1.3 Our environment is one in which every voice matters, and we hope that the words of all members of our community will contribute to the rich tapestry of ideas that makes up our vibrant intellectual ecosystem. At BSU we seek to foster an environment in which all our academic staff (including associate lecturers) feel able to question and test received wisdom, and to express their ideas and controversial or unpopular opinions, within the law, without fear of intolerance or discrimination.
- 1.4 BSU is also strongly committed to challenging discrimination at all levels and providing an environment that respects and celebrates all members of our community, and is free from discrimination, prejudice, harassment and bullying. Inclusivity is one of our four cultural values so that we can build the creative, innovative and nurturing ethos that we pride ourselves on.
- 1.5 We expect all of our staff, students and visitors to be tolerant of the differing and diverse opinions and views of others, and to be mindful of BSU's core values in terms of Freedom of Speech. Debate and discussion may be (and often should be), robust and challenging, but all individuals have a right to be heard when exercising their right to free speech within the law.
- 1.6 We expect all staff, students and visitors to engage with intellectual and ideological challenges in a constructive, questioning and peaceable way, even if they find the viewpoints expressed to be disagreeable, unwelcome or distasteful. The right for our members of our community to be heard and to protest against certain viewpoints should not obstruct the ability of others to exercise their lawful freedom of expression too.
- 1.7 As well as securing Freedom of Speech within the law, BSU seeks to ensure that Academic Freedom is secured for our academic staff to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing them in jeopardy of losing their jobs or privileges.

2. Introduction

- 2.1 It is the responsibility of students and staff at BSU to familiarise themselves with the Policy Statement and this Code of Practice (Code) and for both BSU and students, staff, members and External Speakers to comply with its provisions. This Code exists because Freedom of Speech is fundamental to us at BSU and we have the responsibility to protect and promote Freedom of Speech and Academic Freedom, and to take reasonably practicable steps to secure such rights within the law. This means that we must enable and empower our community to question and engage in lawful debate. However, we also need to ensure that such activities, and that all expressions of beliefs and views, are compliant with the legal framework within which we operate.
- 2.2 Other legal obligations also exist, which may on occasion set limits on certain types of speech (or the manner in which such speech is expressed), in order to protect the rights and freedoms of others. As a result, we need to be mindful of this and of all our duties owed to all staff, students, and members. BSU's Board of Governors has adopted this Code to ensure that Freedom of Speech within the law is promoted and secured for staff, members and students of BSU and for External Speakers.
- 2.3 The Board of Governors will review this Code as required from time to time to ensure that the Code complies with all laws and guidance relating to Freedom of Speech. The Board of Governors has delegated to BSU's Vice-Chancellor, and any senior staff nominated to act on the Vice-Chancellor's behalf, responsibility for matters pertaining to Freedom of Speech. This includes the handling of any complaints pertaining to Freedom of Speech and matters or any related matters pertaining to External Speakers (whether actual or proposed). However, the Board of Governors retains overall responsibility for Freedom of Speech related matters at BSU.
- 2.4 In this Code and Policy Statement, the following terms have the following definitions:
- "Academic Freedom" means the freedom within the law for academic staff to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without being at risk of losing their job, privileges or experiencing a reduction in the likelihood that they would secure a promotion or a different job at BSU.
 - "Events" means all events including those which make use of the Premises or BSU's virtual spaces, and which relate to the academic life at BSU and which are organised by BSU staff or organised by BSU students (including the BSU Students' Union).
 - "Event Requestor" means any individual BSU staff member or registered student who has requested the Event or External Speaker to take place.

- “External Speaker” means any individual who is invited to speak at an Event by either a BSU member of staff or student, who is not an employee of BSU or a current student.
- “Freedom of Speech” means the freedom to impart ideas, opinions or information by means of speech, writing or images.
- “Premises” means any premises wherever situated, of which BSU has title or possession, by freehold, leasehold, licence or otherwise, including our Newton Park campus, our Locksbrook campus and our London site(s), and any other premises controlled by BSU.

3. Legislative Context

3.1 BSU has prepared this Code in light of the Freedom of Speech duties set out in the Higher Education (Freedom of Speech) Act 2023 (Act). The Act amended the Higher Education and Research Act 2017 to incorporate new provisions relating to Freedom of Speech and to create a number of new (or enhanced) duties relating to Freedom of Speech and Academic Freedom. This includes duties to:

- i. take steps that, having a particular regard to the importance of Freedom of Speech, are reasonably practicable for BSU to take in order to achieve the objective of securing both Freedom of Speech within the law for staff, members, students and External Speakers and Academic Freedom for academic staff. As part of this duty, BSU must not deny its Premises to any individual or body on the grounds of the individual’s ideas and opinions or a body’s policies, objectives or opinions of its members.
- ii. maintain this Code to outline various mandatory sections relating to Freedom of Speech, and to take reasonably practicable steps to ensure compliance with this Code.
- iii. promote the importance of Freedom of Speech within the law and Academic Freedom for academic staff in the provision of higher education by BSU.

The Act also strengthens the Office for Students’ (OFS) regulatory role in relation to Freedom of Speech and Academic Freedom.

4. Limitations on Freedom of Speech and Academic Freedom

4.1 Nothing in this Code shall interfere with the right to assemble, demonstrate, protest and speak or otherwise express oneself, provided that such expression is within the law and does not prevent others from exercising their lawful Freedom of Speech.

- 4.2 As outlined above, Freedom of Speech and Academic Freedom within the law are protected. However, Freedom of Speech does not protect unlawful speech (i.e. speech that is restricted by law). Illegal and unlawful acts will not be tolerated, including activities which are unlawful under a range of legislative provisions, including but not limited to, the Equality Act 2010 (which prohibits discrimination and harassment on the basis of a protected characteristic, and the public sector equality duty), the Public Order Act 1986 and the Counter Terrorism and Security Act 2015. Examples, of the type of activity that will be unlawful under this legislation include the following, (this is by way of example only and is not exhaustive):
- expression of racial or religious hatred or incitement to such hatred or to violence or other criminal acts;
 - direct support of a proscribed organisation in the UK;
 - contravention of counter-terrorism legislation;
 - breach of the peace; and
 - public order offences.
- 4.3 BSU has a duty to protect its staff and students from unlawful discrimination, harassment, intimidation or threats of violence on the grounds of race, sex, age, religion or philosophical belief, sexual orientation, disability, gender reassignment, marriage and civil partnership, or pregnancy or maternity, and this may impact (or in some cases, limit), Freedom of Speech. However, it is important to note that the provisions of the Equality Act 2010 do not automatically restrict Freedom of Speech and Academic Freedom; a fact-specific analysis is required. As a result, students' learning experience and the working environment of staff may include exposure to research, course material, discussion or speaker's views that they find offensive, contentious or unacceptable, but are nonetheless lawful, and will not necessarily be considered unlawful harassment or discrimination under the Equality Act 2010.
- 4.4 BSU is subject to the public sector equality duty and when it is exercising its functions it must have due regard to the following three aims:
- i. the need to eliminate unlawful discrimination, harassment and victimisation;
 - ii. the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - iii. the need to foster good relations between people who share a relevant protected characteristic and persons who do not share it.
- 4.5 When exercising reasonably practicable steps, BSU must have "particular regard" to the importance of Freedom of Speech. That being so, in the context of its duties in relation to Freedom of Speech and Academic Freedom, BSU will consider the potential impact of particular speech on staff and students

who may feel upset, vilified or marginalised by views expressed and take reasonably practicable steps to ensure those staff and students feel included, welcome and supported within the BSU environment so that they feel comfortable to participate fully in activities and discussions.

5. Scope

5.1 Who this Code applies to?

This Code applies to and must be followed by all members, staff and students of BSU and all External Speakers.

5.2 Which meetings and other activities of BSU does this Code apply to?

This Code applies to

- a) meetings of BSU;
- b) Events, however BSU does not consider commercial hires, social events, open days, or offer holder days, to be within the scope of this Code and
- c) teaching and curriculum content.

5.3 Social media

BSU recognises that students, staff and members may exercise free speech online and through social media. However, BSU requires responsible and legal use of the technologies and facilities available to BSU staff and students, including the use of the internet, email and social media. Please refer to [BSU's Social Media Guidance for Students](#) and [Social Media Policy for Staff](#), as amended from time to time, for more information.

6. Values

6.1 As an open and inclusive university, BSU operates with a strong presumption in favour of Freedom of Speech.

In accordance with the above, the following are two relevant values that we care about at BSU:

- i. Freedom of Speech: All individuals associated with BSU shall be entitled to freedom of thought, conscience, and religion or philosophical belief and shall be permitted to hold their own opinions without interference or disadvantage and shall be permitted to exercise freedom of expression and speech within the law, including the right to seek, receive and impart information and ideas of all kinds. This value upholds Freedom of Speech within the law because it creates an open environment which allows

members of our community to think critically, be exposed to range of topics and differing views, and allows for the sharing and dissemination of knowledge.

- ii. Academic Freedom: BSU is committed to protecting and promoting Academic Freedom as a core part of academic enquiry for our academic staff. This is enshrined in BSU's Instrument and Articles of Government, which confirms as follows:

- 6.2 BSU is committed to Academic Freedom because this is an important aspect of Freedom of Speech as it drives forward research, innovation, and discovery and provides academic staff with the opportunity to think critically, challenge and engage with different perspectives. It also ensures that BSU plays its role in national debates and discussions in wider society.
- 6.3 Academic staff at BSU shall have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing them in jeopardy of losing their jobs or privileges or reducing the likelihood of securing promotion or different jobs at BSU.
- 6.4 Academic Freedom shall extend to all academic staff.
- 6.5 Freedom of academic enquiry, thought and speech underpins our activities at BSU and we are proud to be a diverse, global community which explores, studies and discusses a range of issues through our academic research, educational practices, rigorous debate, creative activities and various modes of expression. We foster an environment where ideas are subject to questioning, challenged by rational argument supported by relevant evidence and discussed and debated freely and openly within the law rather than silencing the views of those we do not agree with. We believe that the fundamental right of Freedom of Speech lies at the heart of intellectual growth, critical thinking, and the pursuit of knowledge and helps to advance understanding and address prejudice and discrimination. Our environment is one in which we hope that the words of all our members will contribute to the rich tapestry of ideas that makes up our vibrant intellectual ecosystem.
- 6.6 This means students and staff will sometimes be exposed to views which they may find disagreeable or even deeply offensive. Such an environment is essential to develop a culture of intellectual enquiry, and BSU is committed to creating the conditions where a range of different voices can be heard, challenged, and debated.

- 6.7 BSU therefore enables free and frank intellectual exchanges to take place, within which the diverse views of individuals are tolerated, and members are treated with mutual dignity, tolerance and civility. This includes making sure that the voices of those who wish to peacefully protest are heard. This is central to our culture at BSU.
- 6.8 Whilst BSU is committed to creating an environment which promotes and secures Freedom of Speech, this also requires BSU to identify when expression crosses a threshold and becomes unlawful (as outlined in paragraph 3 above). In practice, it is important to recognise that these are often complex matters requiring difficult judgements and that there may be a perception of conflicting rights which need to be balanced, albeit we will always have particular regard to the importance of Freedom of Speech.
- 6.9 As an institution, BSU does not seek to take a formal position on political issues, but we do seek to provide a platform to facilitate discussion and debate on contemporary matters, where the views of all parties may be heard and are treated with respect. This does not, however, prevent members from our community from taking stances and expressing their views lawfully on such issues.
- 6.10 With this in mind, BSU operates with a strong presumption in favour of Freedom of Speech and provides a high level of protection for the lawful expression of a viewpoint and for speech in an academic context. This means that expressions which prevent others from expressing their lawful views will not be tolerated.
- 6.11 Views expressed by its staff and students that are contrary to BSU values must never be presented as if they were endorsed by BSU.

7. BSU Courses, Policies and Procedures

- 7.1 BSU will ensure that its teaching, curriculum, policies and procedures reflect its duty to take reasonably practicable steps to secure Freedom of Speech and Academic Freedom within the law, having particular regard to the importance of Freedom of Speech. In particular, BSU shall ensure that:
- no individual will be subjected to disciplinary action or less favourable treatment by or on behalf of BSU as a result of the lawful exercise of their Freedom of Speech or Academic Freedom;
 - its processes for course development and approval, academic assessment and quality assurance will respect the rights of Freedom of Speech and Academic Freedom;
 - its processes for facilitating research will respect the rights of Freedom of Speech and Academic Freedom.

7.2 The duties and obligations arising from this Code will be considered in the context of various other relevant policies and procedures.

7.3 Any alleged breach of this Code by staff, students, members or External Speakers may be subject to the relevant disciplinary proceedings of BSU.

8. Procedures in respect of events, conduct required at events and criteria in respect of use of premises

8.1 A copy of our External Speakers and Events Policy can be found on the [BSU website](#). Please note that the External Speakers and Events Policy has been prepared to align with this Code, but it may be updated from time to time as authorised by the Vice-Chancellor of BSU (or any senior staff nominated to act on the Vice-Chancellor's behalf).

8.2 This External Speakers and Events Policy sets out:

- i. the procedures to be followed by staff, students, members and External Speakers (as applicable), in connection with the organisation of Events;
- ii. the conduct required of such persons in connection with any such Event; and
- iii. the criteria to be used by BSU to make decisions about whether or not to permit the Event and/ or allow the use of the Premises and on what terms.

9. Complaints

9.1 Appropriate procedures are in place for members of BSU community to raise concerns about Freedom of Speech or Academic Freedom. Formal complaints may also be raised through the staff grievance process, the student complaints procedure and/or in accordance with our harassment policy.

9.2 The OfS will operate a free speech complaints scheme. Under that scheme, the OfS will review complaints about free speech from staff and External Speakers, (including those who have been invited to be visiting speakers). Information about the complaints that the OfS can review is available on its website: [Raising concerns about free speech - Office for Students](#).

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