



University of Brighton

Code of Practice on Freedom of Speech

Summary

The University endorses the maintenance of freedom of thought and expression as one of the cardinal principles upon which all institutions of learning should be founded. All students, academic and professional members of staff who are engaged in the learning activities that we offer accept obligations and responsibilities which are consistent with promoting the expression of reasonable criticism within a community characterised by honesty, openness, respect and pride in diversity.

Legislative Background

Code of Practice

Section 43 of the Education Act (No 2) 1986 places the University under an obligation to promote and protect freedom of speech. It provides that:

Persons concerned in the government of any establishment.....shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, student and employees of the establishment and for visiting speakers.

The above Act imposes a duty upon the University to produce this “Code of Practice on Freedom of Speech”.

Academic Freedom

The term “academic freedom” is shorthand for the principle originally articulated in the Education Reform Act 1988 and contained in the Instrument and Articles of Government of the University of Brighton at paragraph 9.2:

In making rules [relating to the conduct of staff] the Board of Governors shall have regard to the need to ensure that staff of the University have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or any privileges they may have at the University

Human Rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights into UK law; in particular in this context freedom of thought, conscience and religion (Article 9), freedom of expression (Article 10) and freedom of assembly and association (Article 11). It is unlawful for the University as a public authority to act in a manner incompatible with the Convention Rights.

Equality

The Equality Act 2010 prohibits unlawful discrimination, including detrimental treatment and harassment relating to one of the equality areas including gender, gender reassignment, race, sexual orientation, disability, age, religion and belief, marriage and civil partnership, pregnancy maternity.

Legal Constraints

The rights to freedom of speech and expression and academic freedom of speech are not absolute unfettered legal rights, but are subject to limitation by the general civil and criminal law, the main examples of which are referred to below.

The Public Order Act 1986 creates a number of criminal offences concerned with the fear or provocation of violence, which can be committed where a person uses threatening, abusive or insulting words or behaviour and can include the display of any writing, sign or visible representation which is threatening, abusive, or insulting. There are further offences of stirring up of racial and religious hatred.

The Protection from Harassment Act 1977 creates offences where a course of conduct amounts to harassment or where a person's conduct is oppressive and unacceptable.

Responsibilities

As an academic community of staff and students, all members of the University have the freedom to challenge the prevailing orthodoxies, query the positions and views of others and put forward ideas which may sometimes be perceived as radical in their formulation. However this right to freedom of speech is not open ended or absolute and a proportionate and reasonable limitation of expression is permissible in order to maintain public safety or to ensure that there is no breach of the law. The University will, on occasion, be required to weigh freedom of expression against public safety and the potential for breaches of the law to occur. The University has a responsibility to ensure that acts breaching relevant legislation do not arise on campus, whilst at the same time endeavouring to preserve the general right to freedom of speech. It is in order to try and balance the competing rights above that the University has in place procedures to deal with instances of harassment, intimidation or hate crime under the Student and Staff Harassment Procedures and Disciplinary Processes.

Please refer to the separate Process for Booking External Speakers on Campus.

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