



Freedom of Speech Code of Conduct

Myerscough College is committed to safeguarding and committed to protecting the freedom of speech within the law. The concept is core to the College's values demonstrated through its Strategic Plan 2020-2025, the advancement and protection of knowledge, freedom of speech and enquiry.

In accordance with the requirements of Section 43 of the Education (no. 2) Act 1986, the College makes the following Code, governing the conduct of employees and students, and prescribing procedures to be followed in order to maintain freedom of speech within the law on College premises. The Code is set within the framework of UK and European law and Guidance, including the Equality Act 2010 and the Human Rights Act 1998.

It aims to assist the College in promoting good relations on campus.

The Code is to be read in conjunction with other College policies and procedures, including FREDIE and the Positive Behaviour Policy, which it supplements but does not supersede.

This Code is applicable to:

- All employees and students of the College across all Centres
- Visiting speakers and all other persons invited or otherwise lawfully on the premises

All students and employees of the College must familiarise themselves with this Code of Practice to ensure Freedom of Speech (“the Code”).

1. General Principles and Legal Duties

- a) The College values and practises equality of opportunity, transparency and tolerance. It believes in the advancement and protection of knowledge, freedom of speech and enquiry, in the protection of the rights and freedoms of individuals, and in respect for diversity. The College commitments to FREDIE are detailed in the Equality Act.
- b) Section 43 of the Education (No.2) Act 1986 requires the College to take such steps as are reasonably practicable to ensure that freedom of speech within the law is protected for its students, employees and for visiting speakers.
- c) The College has the right and power to regulate the use of its premises, and is under no legal obligation to hold meetings on the campus which are open to the outside public. In compliance with its duties under the above legislation, however, the College will ensure, so far as is reasonably practicable, that the use of its premises is not denied to any individual or body of persons on any ground connected with
 - i) the beliefs or views of that individual or of any member of that body; or;
 - ii) the policy or objectives of that body.
- d) The College is also required to produce this Code, setting out the procedures to be followed by students and employees in connection with the organisation of meetings and other activities which fall within any class specified in this Code, together with the conduct required of employees and students in connection with such meetings and activities.
- e) The College has regard to the need to ensure that students with a diverse range of views feel comfortable, and are encouraged, to express, debate and expand their views, within the law and that students are not disadvantaged (or reasonably feel that they might be) if they choose not to align with a certain viewpoint. Visiting speakers, students, employees of the College must conduct themselves so as to ensure that freedom of speech within the law is secured for members, students, and employees of the College and for visiting speakers. The freedom protected by this Code of Practice is confined to the exercise of freedom of speech within the law. The College believes that a culture of free, open and robust discussion can be achieved only if all concerned avoid needlessly offensive or provocative action and language.
- f) The College has regard to the need to ensure that academic employees have freedom within the law to question and test perceived wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or any privileges that they may have. These rights must be exercised within the law and are subject to this Code. The College will endeavour to uphold these rights for employees who work outside the UK; however, employees also need to have regard to the laws of the country in which they are working.

The College is a fair and inclusive employer; it is important that the College maintains its inclusive, welcoming, and positive reputation with students, potential students, and the wider community. For this purpose, staff are reminded of the need to carefully consider any public views expressed which could, either directly or indirectly, become associated with the College. Whilst the College does not wish to influence or prevent freedom of speech, any views expressed by staff, which go against our values, and impacts, or has the potential to seriously impact, on the reputation of the College may be considered a serious disciplinary offence.

- g) The above principles also ensure that the College is meeting its obligations of The Office for Students (OfS) ongoing conditions of registration in relation to the Public Interest Governance Principles that apply to higher education provision. There are two Public Interest Governance Principles which are relevant:

Academic freedom: Academic staff at an English higher education provider 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 privileges they may have at the provider.

Freedom of speech: The governing body takes such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.

2. Limitations on Freedom of Speech

- a) Nothing in this Code shall interfere with the right to assemble, demonstrate, protest and speak within the law. However, hate crime and incitement to commit illegal acts will not be tolerated. The College has a duty to protect its employees and students from unlawful discrimination, harassment, intimidation or threats of violence on the grounds of race, sex, marriage and civil partnership status, pregnancy and maternity, gender reassignment, religion or belief, sexual orientation, disability and age.
- b) The College must comply with its specific obligations in relation to gender segregation pursuant to the Equality Act 2010. Gender segregation (ie the segregation of male and female attendees via seating or standing arrangements) is prohibited by law for all meetings and events save as for meetings and events held for the purposes of religious observance undertaken by the adherents of a particular faith.
- c) Segregation is permissible in these circumstances only. In all other meetings and events, the College is legally obliged to take all reasonably practicable steps to prevent gender segregation.
- d) The College must also take account of other legal obligations which may require it to have regard to what is said on its premises, including complying with the prevent agenda counter-terrorism legislation and criminal law. There are a range of circumstances in which speech may be in breach of criminal law, including:

- Speech causing fear or provocation of violence
- Acts intended or likely to stir up hatred on grounds of race, religion or sexual orientation
- Speech amounting to a terrorism related offence
- Causing a person harassment, alarm, or distress, where this would constitute an offence under the Public Order Act 1986

For example, a speaker who makes slanderous statements or who incites an audience to violence or to a breach of the peace or to racial hatred / 'hate speech' transgresses the bounds of lawful speech. Equally, assemblies of persons, even if directed to lawful purposes, cease to be lawful if they cause serious public disorder or breaches of the peace. Whilst upholding the principle of freedom of speech recognised in this Code, the College also has a right to take action to prevent damage to its property or reputation; such action will not be unreasonably taken.

- e) In the context of the broader notion of academic freedom, it is expected that all statements, claims and predictions or similar, reflect the academic principles of, amongst other things, an accessible evidential base and a coherence of argument within the context of a recognised academic method or approach, the Public interest governance principals recognised expertise.

3. Scope of the Code

- a) The Code shall apply to:

- events to which visiting speakers are invited and to the letting of College premises to external organisations.
- employees and students of the College at all centres
- visiting speakers and all other persons invited or otherwise lawfully on the premises

- b) Subject to the limitations in paragraph 6.2 below, the Code shall apply to all forms of communication and expression utilising the facilities/assets of the College, irrespective of the medium employed, including:

- Meetings and similar organised events arranged internally or by external organisations including student led activities. The procedure to be followed in such cases is set out at paragraph 6.1
- The display of signs, posters and distribution of literature
- The display of internal / non-profit making advertising material
- The display of audio-visual material
- Social and recreational activities
- Online and social media
- Information on the VLE and use of the VLE (Canvas)
- Programme related activities, assessments and products
- College branded events taking place off campus
- Any other activity which the College Board from time to time declares to fall within the Code

4. Responsibilities

- a) The Vice Principal shall be responsible to the College for the operation of this Code. This may include setting up a group to consider a 'designated event' (as defined in paragraph 5).
- b) Any such group shall comprise such representatives as the Vice Principal considers appropriate.
- c) In reaching any decision under this Code, the College will give careful consideration to the relevant issues and all available evidence, and act proportionately. It will endeavour to balance the right to freedom of speech, and its duty to protect it, with any relevant legal limitations. It will also take into account relevant guidance that may be issued by appropriate bodies.
- d) Any decision under the Code will be made as soon as reasonably practicable, and in any event, no more than 10 working days after the Vice Principal receives notification of the 'designated event'.
- e) A written record will be kept of decisions taken under the code to refuse permission for an event to be organised, cancel an event which has already been organised, or impose restrictions or mitigations on an event. The written record will include the factors taken into account and their reasons for making the decision.
- f) Only the Vice Principal, (or, in his/her absence, a member of Principalship nominated by the Vice Principal) has the authority to ban a designated event.
- g) Any instances where the Code has been invoked must be reported to Principalship

5. 'Designated Event' - Definition

A 'Designated Event' is defined as: any meeting, event or other activity due to take place on College premises or utilising College facilities which makes it likely that the College would be failing to act in accordance with duties imposed on it by law, or which would infringe the rights or freedoms of others if no action were taken in respect of the event. For the purposes of illustration only, the following is a non-exhaustive list of possible 'Designated Events':

- the expression of views which may be contrary to the law, or views which are expressed in a manner which may be contrary to the law;
- A number of different UK laws outlaw hate speech. Among them is Section 4 of the Public Order Act 1986 (POA), which makes it an offence for a person to use "threatening, abusive or insulting words or behaviour that causes, or is likely to cause, another person harassment, alarm or distress". This law has been revised over the years to include language that is deemed to incite "racial and religious hatred", as well as "hatred on the grounds of sexual orientation" and language that "encourages terrorism";
- The Terrorism Act 2006 criminalises "encouragement of terrorism" which includes making statements that glorify terrorist acts;

- Section 127 of the Communications Act 2003 makes it illegal to send a message via a public electronic communications network that is considered grossly offensive, or of an indecent, obscene or menacing character;
- any meeting or other activity where it is likely that the speaker may not be able to enter or leave the building safely and/or deliver his/her speech (see paragraph 6 below);
- any event at which a breach of the peace is likely to occur;
- the commission of, or incitement of persons to commit, an unlawful act;
- organisation of an event by, or on behalf of, any organisation or group which is outlawed under UK law;
- any meeting or event where there is a reasonable risk of unlawful gender segregation. For example, any meeting or event that follows religious worship, where gender segregation has taken place, which is attended by non-adherents to the religion involved.

6. Associated Policies, Regulations and Procedures

- a) Any breach of this Code and any conduct or course of action which prejudices the lawful exercise of freedom of speech or which causes the College to fail in its legal duties as set out in this Code will render those responsible subject to disciplinary proceedings as laid down by the College. In the event of a concern as to whether an activity falls within the definition of a 'designated event' (as defined in paragraph 5), advice should be sought from the Director of Corporate Services alongside the appropriate Assistant Principal and where the activity could pose or content includes safeguarding (including Prevent) issues.
- b) Concerns about compliance with this Code of Practice or general procedures concerning freedom of speech will be addressed using the appropriate procedure; general conduct on campus is regulated by the Student Charter and Student Positive Behaviour Policy and Staff Disciplinary Policy
- c) Additionally, if any such actions involve breaches of the law, the College will be ready to assist the prosecuting authorities to implement the processes of law, and if charges are preferred, may stay disciplinary proceedings pending the outcome of any such proceedings.
- d) Staff who feel their speech has been unlawfully restricted have opportunity to redress their concerns through the College Resolution Policy.
- e) Students who feel their speech has been unlawfully restricted have opportunity to redress their concerns through the College Complaints Procedure. If the complaint is not resolved to the student's satisfaction, further avenues of communication are available through the relevant external agencies as outlined in the College Complaints procedure including the Education and Skills Funding Agency for further education students, or the Office of the Independent Adjudicator (OIA) for higher education students.

6.1 Meetings and Similar Organised Events

- a) All internal bookings of managed rooms on College premises should be made in accordance with Room Booking Procedures.
- b) Any booking of College facilities by, or on behalf of an external person or organisation, must be made subject to the Conditions of Hire of College Facilities. Such bookings are administered by Accommodation Manager.
- c) Arrangements for visiting speakers must be made following the procedural guidelines of the Visiting Speakers policy.
- d) All bookings of rooms or use of spaces on College premises by both internal and external persons are subject to compliance with this Code.
- e) Organisers of meetings and other events are advised that room bookings and/or notification should always take place at the earliest possible date. Bookings may have to be refused, even where minimum times are complied with, if there is insufficient time in which to complete the necessary arrangements and procedures.
- f) It is the responsibility of those who organise meetings or similar events to ensure that the question as to whether a meeting may be a 'designated event' (as defined in paragraph 5) has been properly considered in good time by relevant College employees with all decisions appropriately recorded. In the event of doubt, advice should be sought from the Director of Corporate Services.

6.2 Advertising, Selling and Revenue-Generating Activity

Nothing in this Code shall be interpreted as affording an automatic right for third parties to use College premises for the purposes of advertising, selling or other revenue-generating activity.

6.3 Social and Recreational Activities

- a) Employees should take note of the College's Social Media Policy and Procedure.
- b) Employees and students should take note of the Acceptable Use of IT Resources Policies and Procedures.
- c) Employees and students should make themselves aware of legislation and policies relating to the licensing of events and seek advice from the Facilities Co-ordinator should further information be required.

7. Review

This Code will be reviewed on an annual basis.

Relevant Legislation

1. The Education Act (No 2) 1986 (Section 43) imposes specific obligations on organisations to promote and protect freedom of speech and requires that universities: “shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.” The Act includes a duty on governing bodies to issue and keep updated a code of practice setting out the procedures to be followed by members, students and employees in connection with meetings on the premises.
2. Higher Education and Research Act 2017, The Higher Education and Research Act 2017 (HERA) makes it clear that all universities and colleges which register with the Office for Students must uphold the existing laws around freedom of speech. Where they are registered, universities and colleges must follow the OfS (Office for Students) regulatory framework.
3. Freedom of thought, conscience and religion (Article 9); freedom of expression (Article 10); and freedom of assembly and association (Article 11) are safeguarded by the European Convention on Human Rights and incorporated into UK law by the Human Rights Act 1998.
4. The Equality Act 2010 places a duty on the Organisation to eliminate discrimination, harassment and victimisation and further to foster good relations between all members of the Organisations community.
5. The Public Order Act 1986 contains a range of criminal offences relating to violent conduct, speech or actions that threaten violence or cause fear, harm or distress. The Act also makes it an offence to use threatening, abusive or insulting words or behaviour either with the intention of stirring up racial and religious hatred, or in circumstances where it is likely racial or religious hatred will be stirred up as well as stirring up hatred on grounds of sexual orientation.
6. The Terrorism Acts of 2000 and 2006 define certain criminal activities relating to terrorism in terms of inciting acts of terrorism, disseminating terrorist publications or belonging to or supporting proscribed organisations. Terrorism is defined as including the use or threat of serious violence against a person or serious damage to a property for the purpose of advancing a political, religious or ideological objective.
7. The Counter Terrorism and Security Act 2015 places an obligation on the Organisation to have due regard to its duty to prevent people from being drawn into terrorism (as interpreted in the relevant case law).

Linked Policies and Procedures

The following policies, regulation and codes support the legal context and are relevant for the operation of Myerscough’s Code of Practice on Freedom of Speech:

- Procedure for the Management of Events (include External Speakers)
- External / Guest Speaker Information and Procedure
- Visitor Policy
- Myerscough Student Charter
- Student Positive Behavioural Policy and Procedure
- Child Protection and Safeguarding Policy and Procedure
- Bullying and Harassment Staff and Students
- Fitness to Study Policy and Procedure
- Staff Discipline procedure
- FREDIE Policy and Procedure
- Dignity at Work Policy and Procedure
- Health and Safety Policy
- Social Media Policy and Procedure
- Acceptable Use of IT Resources Policy & Procedures
- Room Bookings Procedures
- Residential Guidelines
- Myerscough College - Teacher's Guide for Online Learning
- Protocols for Learners Working Online
- Complaints Policy
- Resolution Policy

Document History			
Author:	Director of Student Support & Welfare	Ref and Document Version:	Freedom of Speech Code of Conduct – V1
Approval:	Senior Leadership Team	Approval Date:	March 2021 (updated March 2022)
Review Date:	March 2023		
Publication:	External Website Staff Intranet Student Intranet		
Quality Assurance			
This Code of Conduct maps to the following external quality assurance frameworks			
Framework		Framework Section Reference(s)	
EIF (Education Inspection Framework)			
MATRIX			
OfS (Office for Students)			
QIA			

ESFA	
Key Changes to Document	
Updated	

All Myerscough College Policies are subject to screening for Equality Impact Assessment

Equality Impact Assessments are carried out to see whether the policy has, or is likely to have, a negative impact on grounds of: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, marriage or civil partnership, sex or sexual orientation

Myerscough College not only fulfils its legal position in relation to current and future equality legislation, but additionally goes beyond compliance in providing and promoting “Opportunities for all to succeed”, free from any aspect of discrimination, harassment or victimisation.

All staff have a duty of care to look after the interests of and support their colleagues. *This policy takes account of* our commitment to eliminating discrimination, identifying and removing barriers and providing equal opportunities for our learners, staff and visitors to ensure that no one feels excluded or disadvantaged.

Safeguarding, Learner Protection and Prevent

All staff have a responsibility to support and promote the College’s commitment to providing a safe environment for students, staff and visitors. Additionally, all staff have a responsibility to report any Safeguarding or Prevent issues to the Designated Senior Lead for Safeguarding and Prevent.

