



## ST CATHERINE' S COLLEGE

### Code of Practice on Freedom of Speech, incorporating procedures implemented to comply with the Prevent duty

#### Introduction

*Freedom of expression is the lifeblood of a university. By supporting the dissemination of ideas it enables the pursuit of knowledge and truth. It allows students, teachers and researchers to become better acquainted with the variety of beliefs, theories and opinions that exist in the world.*

*Recognising the vital importance of freedom of expression for the life of the mind and academic communities, a university should never censor the content of debate other than as required by law. Equally however, the knowledge- and truth-seeking aims of a university require regulation of the conduct of debate to enable all views to be subject to rigorous academic scrutiny and open intellectual exchange.*

*Therefore, within the bounds set by law, any voice or view that any member of our community considers relevant should be given the chance of a hearing. As an equally integral part of our commitment to freedom of expression, however, we will take steps to ensure that all such hearings happen civilly and with a view to encouraging open and constructive intellectual debate and exchange. With appropriate regulation of the time, place and manner of events, neither speakers nor listeners should have any reasonable grounds to feel intimidated or censored.*

*(Extract from St Catherine's College Prevent Duty Policy 2016)*

A Code of Practice on Freedom of Speech was first issued by the Governing Body of St. Catherine's College, Oxford on 30th June, 1987 pursuant to its statutory duty under Section 43(3) of the Education (No.2) Act 1986.

This amended version, October 2016, incorporates changes which address the duty "to have due regard to the need to prevent people from being drawn into terrorism" placed on the Governing Body by section 28 of the Counter-Terrorism and Security Act 2015.

The freedom protected by this Code of Practice is confined to the exercise of freedom of speech within the law. Examples of statements which involve a breach of the criminal law are incitement to commit a crime, sedition, and stirring up racial hatred in contravention of statute. Statements may also be unlawful if they are defamatory or constitute a contempt of court.

Students, employees, and other members of the College are bound at all times to conduct themselves so as to ensure that freedom of speech within the law is secured for all.

## **1 STATUTORY OBLIGATIONS**

1.1 The Education (No.2) Act 1986, Section 43, imposes on the authorities of universities and their constituent colleges obligations to safeguard the lawful exercise of freedom of speech and requires each of them to issue a code of practice to facilitate the discharge of its duties under the Act. The authorities are further required to take such steps as are reasonably practicable (including, where appropriate, the initiation of disciplinary measures) to ensure compliance with the code of practice. The duties imposed by Parliament, and the interpretation provisions, are as follows:

*“43 - (43.1) Every individual and body of persons concerned in the government of any establishment to which this section applies 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.*

*(43.2) The duty imposed by sub-section (1) above includes (in particular) the duty to ensure, so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with -*

*(a) the beliefs or views of that individual or of any member of that body; or*

*(b) the policy or objectives of that body.*

*(43.3) The governing body of every such establishment shall, with a view to facilitating the discharge of the duty imposed by subsection (1) above in relation to that establishment, issue and keep up to date a code of practice setting out -*

*(a) the procedures to be followed by members, students and employees of the establishment in connection with the organization -*

*(i) of meetings which are to be held on premises of the establishment and which fall within any class of meeting specified in the code; and*

*(ii) of other activities which are to take place on those premises and which fall within any class of activity so specified; and*

*(b) the conduct required of such persons in connection with any such meeting or activity;*

*and dealing with such other matters as the governing body consider appropriate.*

*(43.4) Every individual and body of persons concerned in the government of any such establishment shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the requirements of the code of practice for that establishment, issued under subsection (3) above, are complied with.*

*(43.5) The establishments to which this section applies are -*

*(a) any university;*

*(b) any establishment which is maintained by a local education authority and for which section 1 of the 1968 (No.2) Act (government and conduct of colleges of education and other institutions providing further education) requires there to be an instrument of government; and*

*(c) any establishment of further education designated by or under regulations made under Section 27 of the 1980 Act as an establishment substantially dependent for its maintenance on assistance from local education authorities or on grants under section 100(1)(b) of the 1944 Act.*

*(43.6) In this section -*

*"governing body", in relation to any university, means the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs (that is to say the body commonly called the council of the university);*

*"university" includes a university college and any college, or institution in the nature of a College, in a university*

*(43.7) Where any establishment*

*(a) falls within subsection (5) (b) above; or*

*(b) falls within subsection (5) (c) above by virtue of being substantially dependent for its maintenance on assistance from local education authorities;*

*the local education authority or authorities maintaining or (as the case may be) assisting the establishment shall, for the purposes of this section, be taken to be concerned in its government.*

*(43.8) Where a students' union occupies premises which are not premises of the establishment in connection with which the union is constituted, any reference in this section to the premises of the establishment shall be taken to include a reference to the premises occupied by the students' union."*

1.2 The Counter-Terrorism and Security Act 2015 (Section 28) places a duty on the Governing Body in the exercise of its functions, to have due regard to the need to prevent people from being drawn into terrorism. In carrying out this duty, the Governing Body must have regard to the protection of the freedom of expression within the law and academic freedom. The following (Section 31 of the Act) provides the interpretation provisions and the manner in which the Governing Body shall carry out its duty specified in Section 28 of the Act:

*"(31.1) This section applies to a specified authority if it is the proprietor or governing body of—*

- (a) an institution that provides further education (within the meaning given by section 2(3) of the Education Act 1996), or*
- (b) an institution that provides courses of a description mentioned in Schedule 6 to the Education Reform Act 1988 (higher education courses).*

*(31.2) When carrying out the duty imposed by section 26(1), a specified authority to which this section applies—*

- (a) must have particular regard to the duty to ensure freedom of speech, if it is subject to that duty;*
- (b) must have particular regard to the importance of academic freedom, if it is the proprietor or governing body of a qualifying institution.*

*(31.3) When issuing guidance under section 29 to specified authorities to which this section applies, the Secretary of State—*

- (a) must have particular regard to the duty to ensure freedom of speech, in the case of authorities that are subject to that duty;*
- (b) must have particular regard to the importance of academic freedom, in the case of authorities that are proprietors or governing bodies of qualifying institutions.*

*(31.4) When considering whether to give directions under section 30 to a specified authority to which this section applies, the Secretary of State—*

(a) *must have particular regard to the duty to ensure freedom of speech, in the case of an authority that is subject to that duty;*

(b) *must have particular regard to the importance of academic freedom, in the case of an authority that is the proprietor or governing body of a qualifying institution.*

(31.5) *In this section—*

*“the duty to ensure freedom of speech” means the duty imposed by section 43(1) of the Education (No. 2) Act 1986;*

*“academic freedom” means the freedom referred to in section 202(2)(a) of the Education Reform Act 1988;*

*“qualifying institution” has the meaning given by section 202(3) of that Act.*

*Section 12 of the Terrorism Act 2000 provides that :*

*“(2) A person commits an offence if he arranges, manages or assists in arranging or managing a meeting which he knows is—*

*(a) to support a proscribed organisation,*

*(b) to further the activities of a proscribed organisation, or*

*(c) to be addressed by a person who belongs or professes to belong to a proscribed organisation.”*

1.3 The University's Statutes include under Statute XI (University Discipline, Part A, Code of Discipline), the following provisions:

*“2. (1) No member of the University shall in a university context intentionally or recklessly:*

*(a) disrupt or attempt to disrupt teaching or study or research or the administrative, sporting, social, cultural, or other activities of the University;*

*(b) disrupt or attempt to disrupt the lawful exercise of freedom of speech by members, students, and employees of the University or by visiting speakers;*

*(c) obstruct or attempt to obstruct any officer, employee, or agent of the University in the performance of his or her duties;*

*(d) deface, damage, or destroy any property of or in the custody of the University or of any college or of any member, officer, employee, or agent of the University or of any college, or knowingly misappropriate such property;*

*(e) occupy or use or attempt to occupy or use any property or facilities of the University or of any college except as may be expressly or impliedly authorised by the university or college authorities concerned;*

*(f) forge or falsify any university certificate or similar document or knowingly make false statements concerning standing or results obtained in examinations;*

*(g) engage in action which is likely to cause injury or to impair safety;*

*(h) engage in violent, indecent, disorderly, threatening, or offensive behaviour or language;*

*(i) engage in any dishonest behaviour in relation to the University or the holding of any university office;*

*(j) disobey a reasonable instruction given within their authority by one of the Proctors or their deputies;*

*(k) refuse to disclose his or her name and other relevant details to an officer or an employee or agent of the University or of any college in circumstances where it is reasonable to require that that information be given;*

*(l) possess, use, offer, sell or give to any person drugs, the possession or use of which is illegal;*

*(m) engage in the harassment of any member, visitor, employee, or agent of the University or of any college;*

*(n) fail to comply with an order made under sections 10, 11, 16 or 25 of this statute*

*(2) No member of the University shall intentionally or recklessly commit a breach of any of the regulations*

*(a) Relating to the use of the libraries or the information and communications technology facilities of the University*

*(b) Relating to conduct in examinations which is designated by Council as a disciplinary regulation for the purposes of this statute*

*(3) Every member of the University shall, to the extent that such provisions may be applicable to that*

*member, comply with the provisions of the Code of Practice on Freedom of Speech issued from time to time by Council pursuant to the duty imposed by section 43 of the Education (No. 2) Act 1986 and duly published in the University Gazette.”*

1.4 The College’s By-law 1.7 requires that Governing Body safeguards freedom of speech and its Regulation G16 requires that the Code of Practice on Freedom of Speech be adhered to by student members as a condition of their membership of the College.

## **2 CODE OF PRACTICE**

### **2.1 Rights of Access**

Subject to such limitations on access as may lawfully be imposed by the competent college authorities, it shall be the duty of every employee, student, and other member of the College not to impede any person entitled to be present from entering or leaving any area of the College where the right of freedom of speech is being or is to be exercised.

### **2.2 Rights of Peaceful protest**

Nothing in this Code of Practice shall be taken to prohibit the legitimate exercise of the right to protest by peaceful means; provided always that nothing is done which contravenes this Code, or the statutes, by-laws or regulations of the College.

### **2.3 Academic Activities**

2.3.1 It is not anticipated that events and meetings which have been organised as part of the academic curriculum or co-curriculum will need to be considered under the provisions of this Code relating to the Prevent Duty.

2.3.2 However, events and meetings of the type described in clause 2.3.1 may need to be considered under this Code's provisions relating to the Education Act (no 2) 1986. Specifically, any member, student or employee of the College shall immediately give notice to the Dean, using an Event Referral Form, of any facts coming to their notice which indicate that any academic activity is likely to be delayed or disrupted by improper means.

2.3.3 The Dean shall be empowered to give such directions and to adopt such measures as seem appropriate to the Dean to prevent or minimize the delay or disruption of an academic activity and all persons concerned with the organization or conduct of the academic activity under threat shall co-operate in carrying out the Dean's directions and in facilitating adoption of the relevant measures.

2.3.4 In the event that any academic activity is delayed or disrupted by improper means a report shall forthwith be made to the Dean by the person or persons responsible for the conduct of such activity.

### **2.4 Meetings - Organised by Members of the College**

Any employee, student, or other member of College may hold a meeting, assembly or mount an exhibition, in the College (rooms and grounds) provided that permission has been obtained from the Dean via the Accommodation Office, at least seven working days before the event, using a booking form which can be



obtained from the Accommodation Office. Certain rooms or types of party may require the presence of a Fellow before permission is given.

## **2.5 Meetings – Organised by Outside Organisations**

No employee, student, or other member of College shall permit an outside organization or group to hold a meeting, assembly or exhibition on its premises without the permission of the Dean. Such permission will be conditional upon that organization or group:

(a) in the case of a meeting, assembly or exhibition,

- (i) completing a booking form and returning it at least seven working days in advance of the meeting or exhibition to the Accommodation Office; and
- (ii) undertaking to ensure that the principles embodied in this Code will be upheld; and
- (ii) satisfying the Dean of its commitment and ability to upholding the College's Code of Practice on Freedom of Speech.

(b) in the case of a conference, summer school or other commercial activity arranged through the Conference Office, entering into a contract which will include an undertaking to ensure that the principles embodied in this Code and the College's Code of Practice on Freedom of Speech will be upheld.

## **2.6 Event Referral Form**

2.6.1 All students, employees and other members of the College shall immediately give notice to the Dean, using an Event Referral Form, of any facts coming to their notice which indicate that

- (a) any meeting, assembly or exhibition scheduled to take place in College or outside the College premises but held under the name of the College, is likely to be delayed or disrupted by improper means; or
- (b) any meeting, assembly or exhibition scheduled to take place in College or outside the College premises but held under the name of the College, may create an environment in which people will experience, or could reasonably fear, discrimination, harassment, intimidation, verbal abuse or violence, particularly (but not exclusively) on account of their age, disability, gender reassignment, marriage or civil partnership, pregnancy, maternity, religion or belief, sex or sexual orientation; or
- (c) any meeting, assembly or exhibition scheduled to take place in College is likely to pose a risk to the health or safety of those lawfully on College premises; or

(d) a proposed external speaker is a member of, or is likely to use his or her visit to College, or to an event outside the College premises but held under the name of the College to encourage support for, or to further the activities of, a proscribed organisation; or

(e) there are other grounds for reasonably believing that it would be appropriate for the Dean to carry out a risk assessment of an event scheduled to take place in College or outside the College premises but held under the name of the College, in order to ensure compliance with section 28 of the Counter-Terrorism and Security Act 2015.

2.6.2 The Dean shall be empowered to give such directions and to require the adoption of such measures as seem appropriate to the Dean to

(a) prevent or minimize the improper delay or disruption to any event scheduled to take place in College; or

(b) ensure compliance with section 28 of the Counter-Terrorism and Security Act 2015.

2.6.3 The Dean shall act in a risk based and proportionate manner and with the desire, wherever possible, of enabling a meeting, assembly or exhibition to proceed.

2.6.4 All persons concerned shall be bound to co-operate in carrying out the Dean's directions and in facilitating the measures required to be adopted.

2.6.5 Any student, employee or other member of the College who is in doubt about the application of this Code to any meeting, assembly or exhibition on College premises, or outside the College premises but held under the name of the College, is under an obligation to raise his or her doubt with the Dean, who will determine whether the provisions of the Code apply.

## **2.7 Powers of the Dean**

2.7.1 In relation to any academic activity or any meeting, assembly or exhibition scheduled to take place in College or outside the College premises but held under the name of the College, which the Dean believes to be:

(a) likely to be delayed or disrupted by improper means; or

(b) in need of action to ensure compliance with section 28 of the Counter-Terrorism and Security Act 2015

the Dean may give directions and require measures to be adopted in relation to the following matters:

- (a) the number of persons to be admitted to the premises where the meeting, assembly or exhibition is to be held;
- (b) the issue of tickets of admission;
- (c) the designation of one or more persons as the official organizers of the meeting, assembly or exhibition with direct responsibility to the Dean for all the arrangements thereof;
- (d) the designation of a person as the chairman of the meeting, assembly or exhibition with responsibility for its proper conduct;
- (e) the admission (or non-admission, as the case may be) of members of the University who are not members of the college, or members of the public generally;
- (f) the appointment of stewards to assist with the control of the meeting, assembly or exhibition;
- (g) the employment of security staff to ensure the orderly conduct of the meeting, assembly or exhibition and safe access to and egress from it;
- (h) the carrying of banners, placards and similar objects into the meeting, assembly or exhibition;
- (i) the place where the meeting, assembly or exhibition is to be held, which may be at premises other than those belonging to the College.

2.7.2 Where the risks posed to or by a proposed meeting, assembly or exhibition cannot be reasonably mitigated by other conditions, the Dean will in the Dean's sole discretion cancel the event. The cost of cancellation will rest with the organisers.

2.7.3 The Dean will communicate decisions made under the Code to the organisers of events promptly in writing in a manner which sets out the reasons for them.

2.7.4 The Dean may, as the Dean considers necessary, consult with the Proctors and the local police about forthcoming meetings and other events covered by this Code. In any case where serious disruption may be anticipated the Dean will in the Dean's sole discretion, and after having taken into consideration such advice from the police as may be available, order the cancellation, postponement, or relocation of the meeting.

2.7.5 The Dean will observe all restrictions on contact with the police contained in the College's Prevent Duty Policy.

## **2.8 Safeguarding Expenses**

Where expenses are incurred (e.g. in the engagement of stewards, the employment of security staff or the costs involved in the hire of premises other than those belonging to the College) to safeguard an academic activity under this Code of Practice the cost thereof shall be borne by the College. In all other cases the cost shall be borne by the person or persons organizing the meeting, assembly or exhibition save that the Dean may in the Dean's sole discretion make representations to the Governing Body of the College suggesting that the cost shall be borne in whole or in part by the College, in which case the Governing Body shall decide the matter.

## **2.9 Records**

2.9.1 Copies of all booking and event referral forms, any risk assessment carried out by the Dean and any letter giving a decision by the Dean under this Code shall be retained by the Dean for a period of one year.

2.9.2 Copies of all contracts for commercial activities shall be retained by the Conference Office for a period of seven years.

## **2.10 Appeals**

2.10.1 If an organiser of a meeting, assembly or exhibition is unhappy with the outcome of a decision taken by the Dean under this Code, that person may write to the Master, setting out clear reasons for his or her unhappiness and requesting a reconsideration of the decision.

2.10.2 One receipt of a letter under clause 2.10.1, the Master, or a person delegated by the Master, will decide the matter promptly and fairly, and communicate his or her decision and the reasons for it to the relevant organiser in writing within a reasonable period.

2.10.3 No meeting, assembly or exhibition shall take place whilst it is the subject of an appeal against a decision of the Dean.

### **3 Miscellaneous**

3.1 The Governing Body of the College is under a duty pursuant to Section 43(3) of the Education (No.2) Act 1986 to keep this Code of Practice up to date. The Prevent Working Group shall review the operation of this Code, and any forms used under it, after its first 12 months and report to the Governing Body on any recommended changes.

3.2 Failure to comply with the provisions of this Code of Practice may render the offender liable to disciplinary proceedings. Nothing in this Code of Practice affects the normal operation of the criminal law.

3.3 The Dean and the staff of the Accommodation and Conference Offices shall ensure that they are aware of the following guidance, as amended from time to time:-

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/538297/20160715-Proscription-website-update.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/538297/20160715-Proscription-website-update.pdf)