

Code of Practice on Freedom of Speech

1. INTRODUCTION

Darwin College is fully committed to the principle, and to the promotion, of freedom of speech. The College is legally required under the provisions of the Higher Education (Freedom of Speech) Act to have in place a Code of Practice on Free Speech. This Code of Practice sets out the College's commitment to freedom of speech, outlines the various legislative frameworks under which such freedoms must be upheld and may be circumscribed, and summarises the procedures used by the College to manage these issues.

2. SCOPE

This Code of Practice applies to:

- (a) all members, staff and students of the College; and
- (b) visiting speakers and all other persons invited or otherwise lawfully participating in College activities on College premises.

The activities of the Darwin College Students' Association (DCSA) are subject to this Code of Practice and adherence of the DCSA to the Code is monitored by the College.

For the avoidance of doubt, this Code of Practice does not apply to purely commercial meetings or events on College premises.

References in this Code of Practice to "College premises" means those premises over which Darwin College exercises control, whether indoor or outdoor.

The University of Cambridge and its associated Cambridge Students' Union both have their own duty to secure freedom of speech within the law and have both issued their own Code of Practice on this topic.

3. KEY CONCEPTS AND LEGISLATIVE FRAMEWORK

Freedom of speech means the freedom, within the law, to receive and impart ideas, opinions or information by means of speech, writing or images (including in electronic form) without interference.

Academic freedom, in relation to academic staff at the College, means their freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without loss of their jobs or privileges at the College, or the likelihood of their securing promotion or different jobs at the College being reduced.

These concepts are underpinned by the Human Rights Act 1998, which brings the European Convention on Human Rights into direct effect in national law. Article 10 of the Convention articulates freedom of expression as a human right and sets out the limited circumstances in which that right might be circumscribed (such as to protect public safety, for the prevention of disorder or crime, or for the protection of the reputation or rights of others). These concepts also exist within other UK legislation. Universities and similar institutions in England (including the College) have duties under the Higher Education and Research Act 2017 (as amended by the Higher Education (Freedom of Speech) Act 2023) to take such steps as are reasonably practicable to secure and promote freedom of speech and academic freedom within the law for staff and students and for visiting speakers.

Section 26 of the Counter-Terrorism and Security Act 2015 places a duty on certain bodies, including higher education institutions such as the College, in the exercise of their functions to have 'due regard to the need to prevent people from being drawn into terrorism'. This necessitates the establishment of protocols and procedures by which to assess the risks associated with meetings or events that are College hosted, affiliated, funded, or branded. The College Prevent statement can be found here (<https://www.darwin.cam.ac.uk/governance-and-policies/#prevent-duties>) This Act also requires the College to have particular regard to its other duties with regard to academic freedom and freedom of speech. Debate, discussion, and critical enquiry are, in themselves, powerful tools in preventing people from being drawn into terrorism.

Under the Equality Act 2010, Fellows, staff and students must not be subjected to 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. However, the provisions of the Equality Act 2010 are not to be interpreted to undermine freedom of speech and academic freedom. As a result, students' learning experience and the working environment of Fellows and staff may include exposure to research, course material, discussion or speakers' views that they find offensive, contentious or unacceptable, but are nonetheless within the law, and unlikely to be considered unlawful harassment or discrimination under the Equality Act 2010.

There are other legislative requirements that may be relevant in particular cases, such as offences under the Terrorism Acts if speech encourages terrorism, or amounts to the incitement of religious or racial hatred or hatred on the grounds of sexual orientation under the Public Order Acts, as well as statutory requirements relating to the holding of processions and assemblies. The College is not under any obligation to secure or promote freedom of speech that contravenes any legislative requirements.

4. VALUES

The College's Strategic Plan includes the following statements of core values:

- We value excellence and intellectual rigour in research, education and learning
- We value diversity and collaboration across academic disciplines, cultural perspectives and personal experiences
- We are supportive, inclusive, respectful and open in our policies, practices and behaviours

Freedom of thought and expression and freedom from discrimination are central to these core values. The College encourages its staff, students and visitors to engage in robust, challenging, evidence-based and civil debate as a core part of academic enquiry and wider College activity, even if they find the viewpoints expressed to be disagreeable, unwelcome or distasteful. These values extend to the DCSA. The steps the College takes to embed its values in practice are set out in section 5 below.

The College fosters an environment in which all of its Fellows, staff and students can participate fully in College life, and feel able to question and test received wisdom, and to express new ideas and controversial or unpopular opinions within the law, without fear of intolerance or discrimination. In exercising their right to freedom of speech, the College expects its Fellows, staff, students and visitors to be tolerant of the differing opinions of others, in line with the College's core value of freedom of expression. The College also expects its Fellows, staff, students and visitors to be tolerant of the diverse identities of others, in line with the College's core value of freedom from discrimination. While debate and discussion may be robust and challenging, all speakers have a right to be heard when exercising their right to free speech within the law. Neither speakers nor listeners should have reasonable grounds to feel censored or intimidated.

The College will ensure that Fellows and staff are able to exercise freedom of thought and expression within the law without placing themselves at risk of losing their job, Fellowship or other College position, or any College privileges and benefits they have or affecting the likelihood of their securing other jobs or roles in the College. The College expects all Fellows, staff and students to engage with intellectual and ideological challenges in a constructive, questioning and peaceable way. The right of Fellows, staff and students to freedom of assembly, and to protest against certain viewpoints, should not obstruct the ability of others to exercise their lawful freedom of speech.

5. STEPS THE COLLEGE TAKES TO ENSURE FREEDOM OF SPEECH AND ACADEMIC FREEDOM

The College will ensure that the College's and the DCSA's events programmes and policies and procedures reflect the College's duties to ensure, so far as is reasonably practicable, freedom of speech and academic freedom within the law and the very high level of protection for the lawful expression of viewpoints and for speech in an academic context. Such programmes, policies and procedures may include, but are not limited to, those in connection with:

- (a) selecting and inviting lecturers and speakers and for managing such events;
- (b) supporting and facilitating research;
- (c) the development, approval, quality assurance, and assessment of any academic programmes;
- (d) admission, appointment, reappointment and promotion;
- (e) equality, diversity and inclusion (including the public sector equality duty) and the Prevent duty;
- (f) its codes of conduct and other behaviour policies, which will ensure no individual will be subjected to disciplinary sanction or other less favourable treatment by or on behalf of the College because of the lawful exercise of freedom of speech or academic freedom.

The College does not enter into non-disclosure agreements related to complaints about sexual misconduct, bullying or harassment.

The College has processes in place to identify and manage any risks to freedom of speech or academic freedom arising from the terms of certain overseas funding, including funding from endowments, gifts, donations, research grants and contracts, and educational or commercial partnerships.

The College shall:

- (a) ensure that this Code of Practice is brought to the attention of new students at registration and new Fellows and staff during induction;
- (b) draw the attention of Fellows, students and staff to this Code of Practice annually, and ensure that it is referred to in other University documentation as appropriate;
- (c) ensure that all relevant Fellows and staff are aware of and/or receive appropriate training on freedom of speech and academic freedom;
- (d) ensure that all relevant decision-makers, in making any decision or adopting any policy that could directly or indirectly (and positively or negatively) affect freedom of speech, act compatibly with the College's free speech duties as they apply in the relevant circumstances;
- (e) periodically seek feedback from Fellows, staff, students and other stakeholders to secure their views on whether freedom of speech and academic freedom at the College are being adequately protected and take the responses into account;

- (f) ensure that there are adequate measures in place to raise concerns about freedom of speech and academic freedom;
- (g) ensure that when new policies and procedures are introduced consideration is given to their impact on freedom of speech and academic freedom;
- (h) ensure that it has appropriate processes for the holding of events and meetings as set out in section 6 below;
- (i) monitor any concerns that have been raised about freedom of speech and academic freedom to ensure that they are addressed so far as is reasonably practicable and to address any lessons learned and draw the attention of complainants to its processes for investigating complaints and the OfS complaint scheme as set out in section 7; and
- (j) take steps to secure compliance with this Code of Practice, including where appropriate taking disciplinary action.

6. COLLEGE AND DCSA EVENTS AND MEETINGS – PROCEDURES AND CONDUCT OF ATTENDEES

Active speaker programmes are fundamental to the academic and other activities of the College and Fellows, staff and students are encouraged to invite a wide range of speakers and to engage critically but courteously with them, including as set out at below in this section. This Code of Practice provides the only mechanism by which the College can cancel or impose conditions on College and student union meetings or events where this action is deemed necessary as a result of the event's subject matter and/or speaker(s). This is to ensure that the use of College premises is not inappropriately denied to any individual or body of persons on any ground connected with their beliefs or views or the policy or objectives of a body (with the exception of proscribed groups or organisations) of which they are a member. However, all speakers should anticipate that their views might be subject to robust debate, critique and challenge.

The starting point should always be that the event should go ahead, and that cancellation is exceptional and undesirable. Depending on the circumstances, it may however be reasonable to refuse permission for a University meeting or event where the University reasonably believes (from the nature of the speakers or from similar activities in the past whether held at the College or otherwise) that:

- (a) the views likely to be expressed by any speaker are contrary to the law;
- (b) the speaker is likely to incite breaches of the law or to intend breaches of the peace to occur;
- (c) the meeting will not permit contrary or opposing viewpoints to be held or expressed;
- (d) the speaker and/or the organisation they represent advocates or engages in violence in the furtherance of their political, religious, philosophical or other beliefs;
- (e) the views likely to be expressed by any speaker are for the promotion of any illegal organisation or purpose, including organisations listed on the government's list of proscribed terrorist groups or organisations; or
- (f) it is in the interest of public safety, the prevention of disorder or crime, the proper functioning of the College or the protection of those persons lawfully on University premises, that the meeting does not take place.

The lawful expression of controversial or unpopular views will not in itself constitute reasonable grounds for withholding permission for a College or student union meeting or event.

Where the College is reasonably satisfied that the otherwise lawful expression of views at an event or meeting on College premises is likely to give rise to disorder or threats to the safety of participants or the wider College community, the College shall consider what steps it is necessary to take to ensure the safety of all persons and the security of College premises. These may include,

but are not limited to: requirements as to the provision of security/stewards, the speaker being part of a panel, ensuring that a member of staff is in attendance, or that the event or meeting should take place in alternative premises, at a later date, or in a different format. The College may impose such conditions and requirements upon the organisers as are reasonably necessary in all the circumstances, ensuring that the conditions and requirements go no further than is necessary to address the risks it has identified. The College will only pass on the costs of security for using the premises to those arranging the relevant event or meeting in exceptional circumstances, such as where the costs are wholly disproportionate to the numbers likely to be attending the event and the event could be held in a more proportionate way, or where the visiting speaker could reasonably be expected to have their own security because of the political or state office they hold. Any request to a meeting or event organiser to pay security costs in exceptional circumstances will be in writing and will explain those costs and any appeal mechanism. Any request to pay security costs will not be influenced to any degree by the ideas or opinions of any individual involved in organising the event or meeting, or by the policy or objectives of, or the views of any of the members of, any body involved in organising the event or meeting.

These narrow exceptions to the general principle of freedom of speech are not intended ever to apply in a way that is inconsistent with the College's commitment to the completely free and open discussion of ideas.

Those attending events and meetings at the College are expected to conduct themselves in a manner consistent with the following principles:

- (a) everyone has the right to free speech within the law.
- (b) the aim of events at the College is to expose Fellows, staff and students to the widest possible range of views, within the law.
- (c) protest is itself a legitimate expression of freedom of speech but protesters should recognise the rights of others participating in the event or meeting, and in particular not violate the rights of others to speak during the event. Protest must not shut down debate.

Where any person or body to whom this Code of Practice applies is seeking to hold a College or student association event or meeting on College premises which is outside of the normal academic curriculum the processes in the Annex shall be followed, except where the event or meeting is purely commercial.

7. BREACHES AND COMPLAINTS

Where the College receives a concern about the exercise of academic freedom or freedom of speech or where it has received a concern about a possible infringement or departure(s) from the values and procedures set out in this Code of Practice, it will consider which of its procedures are most appropriate to consider the concern, making such enquiries and seeking such information as it considers necessary. Such consideration may lead to further investigation in accordance with the College's disciplinary procedures (Fellow, staff or student), or the College's grievance or complaints procedures.

The Office for Students (OfS) operates a free speech complaints scheme. Under that scheme, the OfS can review complaints about free speech from College senior members, staff, applicants for academic posts and (actual or invited) visiting speakers. Information about the complaints that the OfS can review is available on its website. Students are not eligible to access the OfS complaints scheme and should instead use the national complaints scheme operated by the Office of the Independent Adjudicator, as outlined on its separate website.

8. MONITORING AND REVIEW

The College Council will periodically review the contents and operation of this Code of Practice and report on its operation.

The initial point of contact for any query about this Code of Practice and its Annex is the Bursar.

Annex: Processes for meetings and events on College premises

A1. This Annex is issued under the College's Code of Practice on Freedom of Speech, which reads: "Where any person or body to whom this Code of Practice applies is seeking to hold a College event or meeting on College premises which is outside of the normal academic curriculum the processes in the Annex shall be followed, except where the event or meeting is purely commercial."

A2. Events or meetings on College premises which are academic or academic-related are normally organised by one (or more) of the following:

- (a) The Education and Research Committee (e.g. the Darwin College Lecture Series, Erasmus Seminars)
- (b) A Fellow or other member on behalf of the Education and Research Committee (e.g. Science and Humanities Lunchtime seminars, Chalk Talks)
- (c) A Fellow or student on their own behalf primarily for the benefit of the Darwin College membership
- (d) An individual or society on behalf of, or through, the DCSA

A3. Events which are social, or organised on behalf of an external individual or institution (e.g. a University Department) will be evaluated within the guidance of the Code of Practice but may be the subject of a charge for room hire, or may be refused where the event is not appropriate for College premises.

A4. Events or meetings falling into categories A2(a) and (b) are overseen by the Education and Research Committee who must apply the principles and fulfil the obligations set out in the Code of Practice. In cases where mitigation or refusal as set out in Section 6 of the Code of Practice may be considered or required, the final decision shall rest with the Committee in conjunction with the Master.

A5. Events falling into categories A2(c) and (d) organised through the Bursary Office (bursary@darwin.cam.ac.uk) under the operational supervision of the Second Bursar.

A6. For any such event, the following information shall be provided before an event can be confirmed:

- (a) Name and contact details of the event organiser.
- (b) Confirmation of whether they are acting in a personal capacity or on behalf of an organisation of any type.
- (c) If working for an organisation, the name, address and (if relevant) company number of the organisation.
- (d) Proposed date, time and (if relevant) location of the event.
- (e) Overview of the event, including:
 - (i) Its format (meeting, conference, party, activities).
 - (ii) Its nature (both its subject matter, and whether the event is commercial, academic, religious, or social).

- (iii) Its sponsorship (if there is any sponsorship – financial or otherwise, the details of each organisation and what agreements there are with them about publicity and advertising).
 - (iv) Its size (projected number of attendees and speakers).
 - (v) Its attendees (whether the event public or closed, and if so, to whom).
- (f) Formal speakers at the event, including:
 - (i) Their full names.
 - (ii) Their affiliations (either the Collegiate University or external, and if so, their organisation's details).
 - (iii) Proposed publicity and marketing (including whether any media will be invited).
- (g) If the event include any activities that may represent a risk to the health or safety of any individual, full details of such activities.
- (h) If any of the speakers at the event previously expressed views which may be interpreted as causing controversy, or promoting extreme intolerance of the views of others, details should be provided and reference should be made to the College Prevent Duty (<https://www.darwin.cam.ac.uk/governance-and-policies/#prevent-duties>) .

A7. It is anticipated that, in the vast majority of cases, the Bursary will straightforwardly consider the request as part of normal business and will respond in a timely manner.

A8. Where the Bursary evaluates an event or meeting request to demonstrate a heightened risk of disruption, a reputational risk, or where there is a potential risk to the health and safety of event organisers, attendees, members of the College or members of the general public, the approach to mitigation measures shall be determined by the Second Bursar in conjunction with the Bursar and Senior Tutor, ultimately referring to the College Council if necessary. These may include, but are not limited to: requirements as to the provision of security/stewards, the speaker being part of a panel, ensuring that a member of staff is attendance, or that the event or meeting should take place in alternative premises, at a later date, or in a different format. Once approved, the organisers of meetings and events must comply with any conditions set by the Bursary. Such conditions may include the requirement that tickets should be issued, that an adequate number of stewards or security staff should be available, that the Porters and/or University Security and/or the Police should be consulted and their advice taken about the arrangements, and that the time and/or place of the meeting should be changed. The cost of meeting the conditions, apart from security costs, and the responsibility for fulfilling them, rests with the organisers. Security costs will be borne by the College other than in exceptional circumstances, as set out in Section 6 of the Code of Practice.

A9. In the exceptional circumstances that the Bursary considers that the holding of the meeting or event should be refused on any of the grounds set out at Section 6 of the Code of Practice, this decision shall be escalated to a Referral Group consisting of the Bursar, Second Bursar, Senior Tutor and Master who shall make a decision within 7 working days. Records of any such refusal decisions will be held and maintained by the Bursary.