

ST MARY'S UNIVERSITY, TWICKENHAM

CODE OF PRACTICE ON FREEDOM OF SPEECH

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1. Introduction

- 1.1. The Higher Education (Freedom of Speech) Act 2023 (the “Act”) was introduced with the intention of strengthening freedom of speech and academic freedom in higher education.
- 1.2. St Mary’s University, Twickenham is fully committed to the principle, and to the promotion, of freedom of speech and academic freedom.
- 1.3. 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.
- 1.4. Academic freedom, in relation to academic staff at the University, 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 University, or their likelihood of their securing promotion or different jobs at the University being reduced.
- 1.5. The purpose of this Code of Practice (the “Code”) is to set out:
 - 1.5.1. the way in which the rights and obligations associated with freedom of speech and academic freedom operate at the University;
 - 1.5.2. the procedures to be followed in the organisation of meetings or other activities which take place on University premises; and
 - 1.5.3. how the balance of competing legal responsibilities, including under the European Convention on Human Rights (and associated case law) (the “Convention”), the Human Rights Act 1998, the Prevent duty, the Equality Act 2010 and the public sector equality duty, will be achieved.
- 1.6. This Code replaces the previous ‘Freedom of Speech’ policy.

2. Duties Under the Act

- 2.1. The Act replaces the duty previously imposed on universities under section 43 of the Education (No.2) Act 1986. The insertion of new provisions, A1-A3, into the Higher Education and Research Act 2017 means that Universities are now required to **promote the importance of**, as well as secure, freedom of speech and academic freedom.
- 2.2. The Board of Governors of the University has a responsibility to take all steps as are **reasonably practicable**, having particular regard to the importance of freedom of speech, to ensure that freedom of speech **within the law** is secured for members, students and staff of the University and for visiting speakers. This includes ensuring that the use of any premises of the University is not denied (or the terms on which premises are provided) to any individual or body on any ground connected with:
 - 2.2.1. the beliefs or views of that individual or any member of that body; and
 - 2.2.2. the policy or objectives of that body.

- 2.3. The duty applies to all speech which is “within the law”. All speech is lawful if it is not prohibited by law, which includes: primary legislation legal precedent or court decisions; secondary legislation or byelaws. It does not mean university regulations or contracts with employees or students. See Annex A for examples of relevant legislation which may impact upon the lawfulness of speech. Additionally, the OfS has stated that it will not secure certain types of extreme speech which may sometimes be lawful, such as Holocaust Denial.
- 2.4. The requirement to take ‘**reasonably practicable steps**’ includes taking positive steps and also includes refraining from taking steps which would have an adverse impact on freedom of speech or academic freedom (where not otherwise specified, references in this Code to freedom of speech shall be deemed to include the academic freedom of its academic staff). Factors that are likely to be relevant to an assessment of whether steps are reasonably practicable may include, among other things, the following:
 - 2.4.1. the extent to which taking the step, or not taking it, would secure or restrict freedom of speech;
 - 2.4.2. legal / regulatory requirements, e.g. duties in relation to harassment. If the University is required by law to not do something, then doing it will be unlawful and therefore not reasonably practicable;
 - 2.4.3. maintaining essential functions of the institution (e.g. learning, teaching, research, and administration and institutional resources necessary for essential functions);
 - 2.4.4. physical safety.
- 2.5. Factors likely to be irrelevant are: the reputational impact of the speech on the University (and where this is relevant, the University will give particular regard to academic freedom and freedom of speech); and, the viewpoint that the speech expresses, including whether it aligns with the University’s aims or values, whether it is controversial or offensive, whether external or internal groups approve of the viewpoint that the speech expresses.
- 2.6. If the university is required by law not to do something (e.g. not to permit certain types of speech in certain circumstances), then doing it (e.g. permitting the speech) would be unlawful and therefore not reasonably practicable.
- 2.7. In deciding on what amounts to ‘reasonably practicable steps’ the University will aim to use the least intrusive or restrictive measures to mitigate any risk to freedom of speech and academic freedom. When considering the points above, the University will have particular regard to the importance of free speech.
- 2.8. If, notwithstanding the foregoing, restrictions are placed upon lawful speech the University will ensure that any such interference meets the conditions set out under Article 10 of the Convention. The interference must be prescribed by law and must be proportionate (which the University acknowledges is hard to make out in an academic context). Where consideration is to be had as to whether interference is in line with (or required by (via the Human Rights Act 1998)) the Convention, regard will be had to Annex B.
- 2.9. The Office for Students has published guidance on each of the legal steps outlined above and regard should be had to that guidance before any decisions are taken. It can be found

here: <https://www.officeforstudents.org.uk/publications/regulatory-advice-24-guidance-related-to-freedom-of-speech/>

3. The importance of freedom of speech and academic freedom

3.1. The University considers freedom of speech and academic freedom to be overarching values central to its mission as an institution of higher learning. The right to express views and ideas freely, without fear of interference or persecution, is an essential part of democracy. Academic freedom is also essential to the epistemic mission of the University, and in turn this supports democracy by enabling informed and critical participants. Academic freedom and free speech on campus are therefore the lifeblood of both the University's mission and a properly function democracy. Respectful debate and conversation help us to challenge discrimination, intolerance and harmful attitudes and to build strong positive communities. Freedom of expression is a key part of the higher education experience. Sharing ideas is crucial for learning and allows students to think critically and to challenge and engage with different perspectives, beliefs, theories and opinions. Whilst a University may make rules concerning the conduct of debate it should never prevent speech that is lawful. This Code is intended to implement these values in a practical way which allows freedom of speech and academic freedom to flourish as a central tenet of its culture, thereby achieving the central missions of these essential freedoms. It recognizes the very high level of protection for lawful freedom of speech in an academic context, even if that speech is shocking disturbing or offensive..

3.2. The University's commitment to the principles of academic freedom, is stated in the University's Articles:

The Governors shall have regard to the need to ensure that academic staff of the University have freedom within the law, and the Articles, to question and test received wisdom, and to put forward new ideas and controversial and unpopular opinions, without placing themselves in jeopardy or losing their jobs or any privileges they may have at the University (Articles 21.2).

3.3. The University will foster an environment in which all of its staff, students and members of the public (including any visiting speakers) can participate fully, 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.

3.4. In exercising their right to freedom of expression, the University expects its students, staff, visiting speakers and members of the public to be tolerant (but not necessarily respectful) of the differing opinions of others. Inevitably, this will mean that members of the University are confronted with views that some find unsettling, extreme or offensive. But, within the bounds set by law, all voices or views which any member of our community considers relevant should be given the chance of a hearing. Wherever possible, they should also be exposed to

evidence, questioning and argument. The University will endeavour at all times only to impose restrictions on events, meetings or protests which are viewpoint neutral, applied consistently and are focused instead on the time, manner and place of the speech concerned.

4. The University's values relating to freedom of speech and academic freedom and how it will promote these

- 4.1. The University seeks to conduct its affairs in an open and responsible manner and believes that all staff, members, students and visiting speakers should have the right to speak freely without fear of disciplinary action or any other sanction, provided they do so within the law.
- 4.2. As further described below, this Code applies with respect to all events and activities organized by the University whether they take place on or off campus. It must also be considered and applied by any decision maker of the University when making any decision or adopting any policy that could directly or indirectly (and positively or negatively) affect freedom of speech or academic freedom.
- 4.3. The University will endeavour to ensure that no academic exercising their right to academic freedom, within the law, shall be adversely affected by the likelihood of their securing a promotion or different job at the University being reduced. Furthermore, having particular regard to the importance of freedom of speech the University will take such steps as are reasonably practicable to ensure that when a person applies to become a member of the academic staff of the University, that individual is not adversely affected in relation to their application because they have exercised their freedom within the law to do the things referred to in the University's Articles.
- 4.4. Any restriction which any decision maker imposes, directly or indirectly, on a lawful exercise of freedom of speech or academic freedom may only be done in line with the requirements of this Code (and the underlying legal protections for free speech and academic freedom) and any relevant regulations or policies of the University (which in turn must be interpreted compatibly with such requirements).
- 4.5. Having particular regard to the importance of freedom of speech, the University will ensure that its teaching, curriculum, policies and procedures reflect its duty to secure, so far as is reasonably practicable, freedom of speech within in the law. In particular the University shall ensure that:
 - 4.5.1. no individual will be subjected to disciplinary action or less favourable treatment by or on behalf of the University as a result of the lawful exercise of their freedom of speech or academic freedom;
 - 4.5.2. its processes for course development and approval, academic assessment and facilitating research will respect the rights of freedom of speech and academic freedom;

- 4.6. The University will seek to promote freedom of speech and academic freedom by acting in accordance with the following assumptions and practices:
- 4.6.1. everyone has the right to lawful freedom of speech and access to premises, whatever their opinions or beliefs;
 - 4.6.2. it will always work to widen debate and challenge, never to narrow it;
 - 4.6.3. freedom of expression includes the right to “offend, shock or disturb” (provided it is lawful and the University is required not to secure it with reference to its legal obligations);
 - 4.6.4. balanced and tolerant debate will be encouraged;
 - 4.6.5. decisions about speakers and events are taken, with a presumption in favour of free speech, and a presumption that an event will proceed unless mitigations are not reasonably practicable (with any decisions being taken in good time so as to maximise the chance of any event going ahead); and
 - 4.6.6. peaceful protest is a protected form of expression (under Articles 9, 10 and 11 of the Convention) but will not be allowed to shut down debate or infringe the rights of others.
- 4.7. In approaching its duty to secure lawful freedom of speech and academic freedom, where appropriate and without prejudice to its duties in that regard, the University will:
- 4.7.1. consider its legal duties to not engage in discrimination, harassment, victimization and other behaviour that is prohibited by the Equality Act 2010 (while being cognizant of the difficulty of establishing certain forms of prohibited conduct in an academic setting, given the particular strength of legal protection which speech in academic setting and academic freedom enjoys);
 - 4.7.2. have due regard to the Public Sector Equality Duty under the Equality Act 2010 (while being cognizant that this applies to all protected characteristics, including philosophical beliefs, and the fact that the Duty does not impose any general legal requirement to restrict or regulate speech);
 - 4.7.3. have due regard to its obligations under the Prevent Duty to protect people from being drawn into terrorism (while being cognizant of the fact that it must have particular regard to its duty to secure freedom of speech and academic freedom); and
 - 4.7.4. comply with its obligations under the Human Rights Act 1998 and Convention which embody certain freedoms including freedom of thought, belief and religion under Article 9, freedom of expression under Article 10, and freedom of association under Article 11 (while being cognizant of the permissibility of restrictions on such rights provided they are prescribed by law and are necessary in a democratic society to achieve certain aims, and the exclusions from Convention protection provided for by Article 17). The University recognizes, in particular, that an enhanced level of protection is afforded to certain academic expression under the Convention, and will take due consideration of relevant jurisprudence in that regard.

5. Steps the University will take to ensure freedom of speech and to monitor its compliance with the Act

- 5.1. The University will ensure that its teaching, curriculum, policies and procedures reflect its duties to ensure, so far as is reasonably practicable, freedom of speech and academic freedom within the law. As a minimum, the University will:
 - 5.1.1. ensure this Code, and the principles set out within it, are drawn to the attention of staff and students on arrival at the University and put in a prominent place on its website;
 - 5.1.2. draw the Code to the attention of students annually;
 - 5.1.3. ensure that all relevant staff receive training on their role in helping to discharge the University's obligations in relation to freedom of speech and academic freedom;
 - 5.1.4. ensure that whenever relevant policies and procedures are introduced, consideration is given to their impact on freedom of speech and academic freedom. In particular this will apply to its processes and policies relating to:
 - 5.1.4.1. programme development and approval, quality assurance and academic assessment;
 - 5.1.4.2. facilitating research;
 - 5.1.4.3. admissions, appointment, reappointment and promotion; and
 - 5.1.4.4. policies relating to equality, diversity and inclusion (including the Public Sector Equality Duty) and the Prevent Duty;
 - 5.1.5. ensure that its codes of conduct and other behaviour policies will ensure no individual will be subjected to disciplinary sanction or other less favourable treatment by or on behalf of the University because of the lawful exercise of freedom of speech and academic freedom;
 - 5.1.6. periodically survey staff, students and other stakeholders to secure their views on whether freedom of speech and academic freedom at the University are being adequately protected and take the findings into account;
 - 5.1.7. ensure that there are adequate and effective mechanisms to raise concerns about freedom of speech and academic freedom;
 - 5.1.8. when concerns are raised about freedom of speech and academic freedom, ensure that, so far as is reasonably practicable, they are addressed and any lessons to be learned are incorporated into a review of relevant policies, practices and procedures and that the complainant is made aware of the Office for Students complaint scheme;
 - 5.1.9. take such steps as are reasonably practicable, including where appropriate the initiation of disciplinary procedures, to secure compliance by groups or individuals with their obligations under this Code;
 - 5.1.10. ensure that the University library provides materials that illustrate and illuminate different views on controversial issues so that users may develop, under guidance, the practice of critical reading and thinking; and

- 5.1.11. the Academic Board will monitor implementation of the Code and monitor the University's approach to compliance with the Act.
- 5.2. The University does not enter into non-disclosure agreements related to complaints about sexual misconduct, bullying or harassment.
- 5.3. The University 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.

6. Scope of the Code

- 6.1. This Code applies to the following people:
 - 6.1.1. the University (which includes all bodies or persons with the authority to determine any matter relevant to this Code);
 - 6.1.2. all persons (whether academic staff or otherwise) whose normal place of work is on premises of the University;
 - 6.1.3. all registered students at the University (whether full-time or part-time including those intermitting their studies or under suspension);
 - 6.1.4. all members of the Board and Governors, visitors, contractors and volunteers;
 - 6.1.5. all bodies or persons not associated with the University who hire or otherwise use the University's facilities
- 6.2. Every person to whom this Code applies is required to assist the University in upholding its provisions.
- 6.3. This Code applies for the following meetings and events:
 - 6.3.1. meetings and events within the University which are arranged by staff or students but on a 'private' basis (where the member of staff is hiring University premises on the same basis as a member of the public); and
 - 6.3.2. meetings and events within the University or other uses of University facilities which are arranged by persons not associated with the University, whether by hire or any other arrangement.
- 6.4. This Code does not apply to the University Chapel, the Crypt or the 'Chapel in the Woods' to which separate rules apply under Canon Law.

7. The Criteria to be used by the University in making decisions about whether to allow the use of its premises

- 7.1. The University will normally allow all meetings and activities to proceed and any cancellation will be exceptional and undesirable. It seeks to expose its members and students to the widest possible range of views.
- 7.2. However, the University recognizes that it is not under an absolute obligation to secure lawful freedom of speech for all people or in all instances; its duty is to take reasonably practicable steps as noted above. By way of illustrative example, the University may consider it reasonable to refuse consent, withhold facilities (including online resources) or impose conditions on any event to which this Code applies where the University reasonably believes or anticipates (from the nature of the speakers or from events at similar meetings in the past whether at the University or otherwise) that:
 - 7.2.1. the views to be expressed by any speaker are reasonably likely to be unlawful and/or are not subject to the protections of this Code (while being cognizant of the fact that an external will be responsible for their own breaches of the law and not the University);
 - 7.2.2. the speaker is reasonably likely to incite breaches of the law or to intend breaches of the peace to occur;
 - 7.2.3. the views reasonably likely to be expressed by any speaker are for the promotion of any proscribed organization or unlawful purpose (including views which are likely to be an offence under the Terrorism Acts);
 - 7.2.4. where the views being expressed or reasonably likely to be expressed constitute extremist views that risk drawing people into terrorism or are shared by terrorist groups, and it is not possible to fully mitigate the risk (e.g. by ensuring that extremist views are challenged by those with opposing views);
 - 7.2.5. it is in the interests of public safety, the prevention of disorder or crime or the protection of those persons lawfully on premises under the control of the University or the Students' Union or affiliated organisations that the event does not take place;
 - 7.2.6. where meetings are reasonably likely to be conducted in such a way as to infringe this Code or other relevant University regulations, including that the meeting will not permit contrary or opposing viewpoints to be held or expressed;
 - 7.2.7. when required to do so by lawful order or advised to by a competent authority, including the Police; and
 - 7.2.8. when to allow the event to proceed would cause the University's insurers to withdraw cover.
- 7.3. The University reserves the right to decide that practical considerations such as the cost, short notice period or difficulty of providing the necessary mitigations may require an event to be modified, curtailed, postponed, or exceptionally, cancelled. The University will liaise with

any event organisers in a timely fashion so as to maximise the chances of any event going ahead and put in place appropriate mitigations to address concerns which are identified.

- 7.4. Meetings or other related activities may be terminated early by the University where it becomes apparent in the course of them that any event under Clause 7.2.1 to 7.2.8 above has occurred or is likely to occur.
- 7.5. The above considerations will always be applied with careful consideration of the University's positive duties with respect to free speech and academic freedom as described in this Code. The expression of views which are unpopular, controversial or provocative or which cause offence, shock or disturb do not, if lawful, constitute grounds for the refusal or cancellation.
- 7.6. The University does not allow or condone 'no platforming' of events permitted under this Code. This means that no person to whom this Code applies shall prevent or seek to prevent the holding or continuation of any event, lecture, tutorial or other academic activity because of the views which may be held or expressed.
- 7.7. Those attending events and meetings at the University are expected to conduct themselves in a manner consistent with the following principles:
 - 7.7.1. everyone has the right to free speech within the law.
 - 7.7.2. the aim of events at the University is to expose members, staff and students to the widest possible range of views, within the law.
 - 7.7.3. nothing in this Code shall be taken to prohibit the lawful exercise of the right to peacefully protest. However, protests against an event must be conducted without infringing the rights of other, including others' rights to freedom of speech. No protest should prevent any event permitted under this Code from proceeding.

8. The procedure for approving or withholding consent for an event

- 8.1. Reference should be made to Organised Events: Event Management Policy and Guidance Notes produced by the Health and Safety Officer and the policy on ad hoc room bookings and external events. The Health and Safety Policy identifies an **Event Organiser** who may be a member of staff or a student, or a person hiring University premises.
- 8.2. That Policy requires the Event Organiser to provide notification of an event 28 days before it is due to take place. Key individuals identified in Organised Events: Event Management Policy and Guidance Notes include:
 - The Director of Estates and Facilities
 - The Health and Safety Officer
 - Security Supervisors

- The Conference Office (Event Organiser for most external events)
 - An SU President and the Chief Executive Officer of SMSU
- 8.3. As Heads of School also play an important role in having oversight of events in their Schools, the relevant Head of School must also be notified.
- 8.4. In addition to the requirements of Organised Events: Event Management Policy and Guidance Notes the Event Organiser will agree to abide by this Code and will undertake to inform the University Secretary if s/he believes that there is any potential threat to freedom of speech posed by an event.
- 8.5. Other individuals including but not limited to those identified above should inform **the University Secretary** if they believe that an event may pose a potential threat to freedom of speech.
- 8.6. In consultation with other members of senior management the Deputy Vice-Chancellor (whose contact details are jo.blunden@stmarys.ac.uk) will decide whether permission to hold the event should be withheld with reference to the principles set out in this Code and to relevant legislation or, if it is to go ahead, under what (if any) conditions it may proceed. They will be responsible for any steps to be put in place which allow the event to take place.
- 8.7. The Deputy Vice-Chancellor, or such other person as they identify from time to time, will be the point of contact for questions about the process.
- 8.8. Permission for an event may be:
- 8.8.1. granted; or
 - 8.8.2. granted subject to certain conditions being met (see below); or
 - 8.8.3. withheld.
- 8.9. Event Organisers are required to adhere to any terms and conditions of booking an event on University premises.
- 8.10. Granting permission to an individual or body to hold an event on University premises does not imply that the University endorses any policy, views or objectives of the individual or body.

9. Conditions which may be imposed on an event

- 9.1. An Event Organiser may be required, after due consultation, to comply with certain conditions if it is considered that difficulties may be encountered. Those conditions may include but are not limited to the following:
- approved arrangements for the chairing or other general management of the event are in place;
 - the event is ticketed and/or that attendance is monitored;
 - that an event promoting a particular view includes an opportunity to debate or challenge that view,
 - approved stewards or security arrangements are in place;
 - alcohol is not permitted at the event;

- special conditions for the admission of representatives of the press, radio or television are in place; and;
 - variation of location or time.
- 9.2. The University shall ensure that such conditions or requirements go no further than is necessary to address the risks identified. The University will endeavour at all times only to impose restrictions on events, meetings or protests which are viewpoint neutral, applied consistently and are focused instead on the time, manner and place of the speech concerned. Other than in exceptional circumstances, which will arise only rarely, the costs of security relating to the use of the premises shall not be passed to the person or organization arranging the event.
- 9.3. Exceptional circumstances are when security costs exceed £700.00. Where it is proposed that security costs exceed this threshold and will be passed on to the Event Organiser above that level, the University will provide them with a written summary of its calculation of the expected security cost and an explanation for the calculation. If the Event Organiser wishes to appeal that calculation, they may – within 5 days of being sent it – submit a written appeal to the Vice Chancellor setting out the basis for their disagreement. The decision of the Vice Chancellor in relation to the appeal shall be final.
- 9.4. In cases where it is reasonable for the University to believe that disruption may occur at an event, whether at the approval request stage or at any time thereafter in the run-up to the event, the University shall be entitled to consult with the Police as to the measures necessary to prevent or minimize any such disruption. These measures could, in rare circumstances, include cancellation of the event.
- 9.5. The terms and conditions of bookings must make it clear that:
- 9.5.1. any failure to disclose full event and/or speaker details may result in an event/booking being cancelled;
 - 9.5.2. the University reserves the right to cancel any event for which permission may have been given if the potential risk increases; and
 - 9.5.3. the University must be informed of any changes to an event for which permission has been given, and that these will need to be considered by the process outlined above.
- 9.6. If permission is granted, subject to certain conditions being met, the Event Organiser is responsible for ensuring that all conditions are met.
- 9.7. Should permission be withheld the Event Organiser will be informed of the reasons for the decision with reference to the principles set out in this Code and to relevant legislation if necessary.
- 9.8. If permission is refused, the Event Organiser may make an appeal to the Vice-Chancellor within 14 days of permission being refused.
- 9.9. Any appeal will be considered by the Vice-Chancellor (or their nominee) as soon as reasonably practicable. The Vice-Chancellor's ruling will be final.

10. Complaints

- 10.1. Staff may submit a complaint related to their freedom of speech (or for academic staff, their academic freedom) under the Grievance Policy and Procedure. If a member of academic staff claims that action taken against them under one of the University's HR policies results from their exercising academic freedom, it will be considered by the Deputy Vice-Chancellor and a decision will be taken.
- 10.2. Where an individual (staff, student or external speaker or visitor) considers there to have been a breach of this Code, they may make a formal complaint in writing to the Deputy Vice-Chancellor. A complaint may include:
 - 10.2.1. being prevented from arranging, speaking at or attending an event of the type envisaged by this Code;
 - 10.2.2. alleged infringements of freedom of speech; and
 - 10.2.3. allegations that an external speaker at an event of the type envisaged by this Code breached, or is likely to breach, the external speaker code of conduct.
- 10.3. If the nature of the Complaint falls within an existing University Policy, for example the Grievance Policy and Procedure, the complaint will be dealt with in accordance with that Policy. In all other instances the Deputy Vice-Chancellor in consultation with other senior members of staff of the University will consider the Complaint. Such consideration may include:
 - 10.3.1. requesting further information from the complainant; and/or
 - 10.3.2. meeting with the complainant;
 - 10.3.3. the University will endeavour to provide a formal written response to the complainant within 30 days.
- 10.4. In all cases above, where issues of free speech or academic freedom are engaged, any decision maker shall be cognizant of the protections for such freedoms as described in this Code (and relevant underlying law).
- 10.5. The Office of the Independent Adjudicator runs a free complaints procedure for students. See details here: <https://www.oiahe.org.uk/students/how-to-complain-to-us/>
- 10.6. The University understands that the OfS will set up a free complaints scheme. Under that scheme, the OfS will be able to review complaints about free speech from members, students, 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 [Complaints about the OfS - Office for Students](#). At the time of the implementation of this Code, this complaints scheme is not yet set up, We will update this aspect of the Code when the complaints scheme is operational.

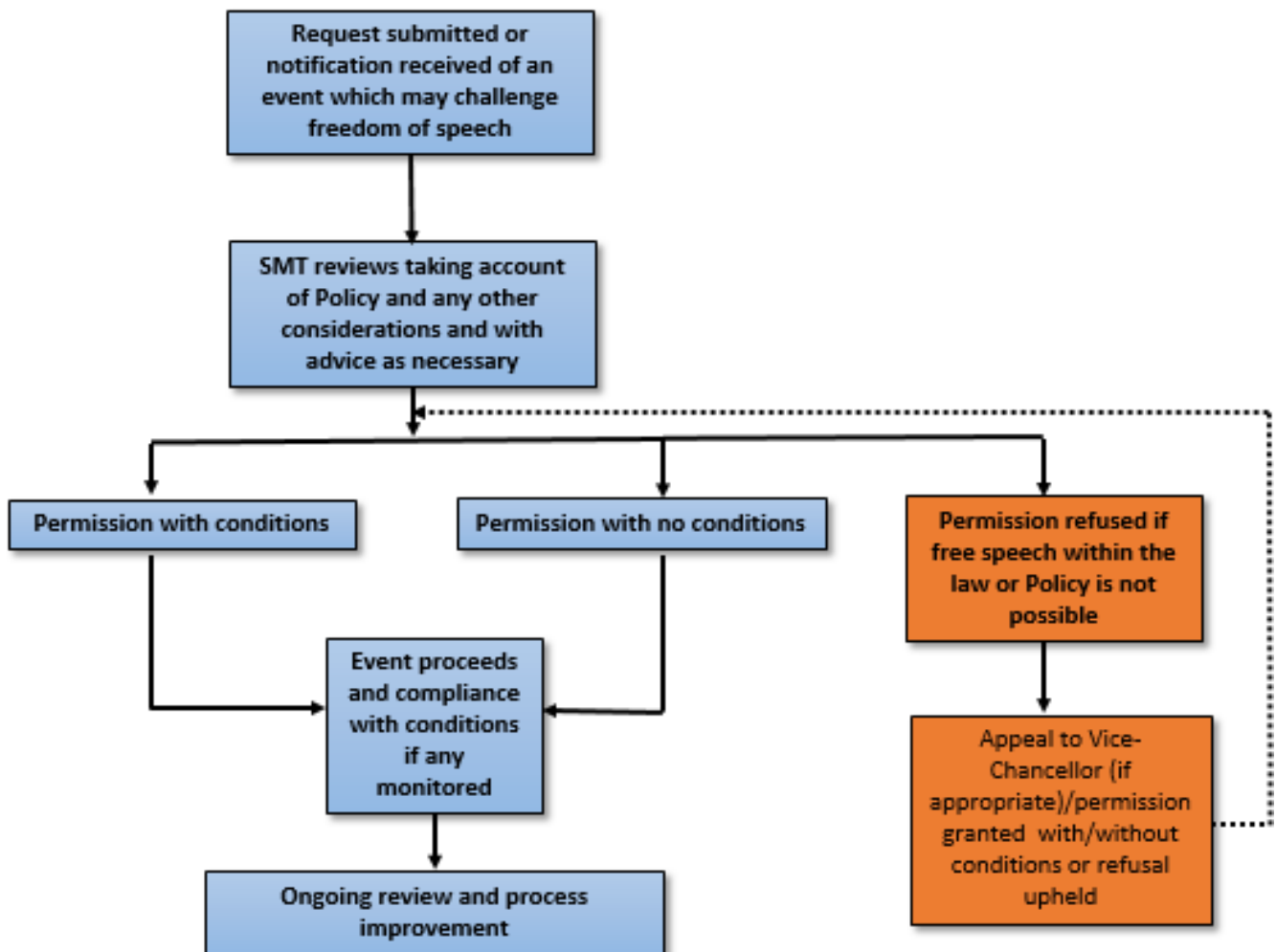
11. Other applicable University Policies and Legislation to be read in conjunction with this Code

11.1. This Code should be read in conjunction with the following:

- a. The University's Prevent policy
- b. The University's policy on External Speakers
- c. Organised Events: Event Management Policy and Guidance Notes (Health and Safety)
- d. The University's IT Policy (usage restrictions)
- e. The University's Equality and Diversity Policy Statement and Code of Practice
- f. The University's, Dignity at Work Statement
- g. The University's Internal Student and Staff Complaints Procedures
- h. If appropriate, relevant SMSU policies and procedures governing external events.
- i. Appendix A which sets out the legal framework within which the policy sits.

11.2. If this Code undermines or conflicts with any of the existing University policies this Code will take precedence:

12. Procedure: Flowchart



13. Appendix A

The Higher Education and Research Act 2017

Provides that all colleges and Universities that are registered with the Office for Students must abide by its regulatory framework. Pursuant to this framework the governing bodies of registered Universities should take “such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider”.

The Human Rights Act 1998

Freedom of thought, conscience and religion (Article 9), freedom of expression (Article 10), freedom of association (Article 11) are safeguarded by the European Convention on Human Rights and incorporated into UK law by the Human Rights Act 1998.

The Equality Act 2010

Imposes a general equality duty on public authorities ("PSED") to have due regard to the need to eliminate discrimination, harassment and victimization, advance equality of opportunity and foster good relations between all members of the University's community.

Guidance issued by the Equality and Human Rights Commission ("EHRC") states as follows with respect to the harassment provisions under section 26 of the Equality Act 2010:

"The harassment provisions cannot be used to undermine academic freedom. Students' learning experience may include exposure to course materials, discussions or speaker's views that they find offensive or unacceptable, and this is unlikely to be considered harassment under the Equality Act 2010.

Also, if the subject matter of a talk is clear from material promoting an event, then people who attend are unlikely to succeed in a claim for harassment arising from views expressed by the speaker.

Views expressed in teaching, debate or discussion on matters of public interest, including political or academic communication, are therefore unlikely to be seen as harassment, even if they are deeply offensive to some of the people who are listening, as Article 10 will protect them".

In relation to the discharge of the PSED in the context of freedom of expression the EHRC guidance states:

"This means HEPs have a legal responsibility to think about how they can promote equality and minimize tension and prejudice between different members on campus. This is something that HEPs must consider when they are promoting freedom of expression. For example, when a HEP takes steps to ensure a debate on a divisive topic can go ahead – to protect free speech – it must consider the potential impact on students who may feel vilified or marginalised by the views expressed. They should think about how to ensure those students feel included and welcome with the HEP environment. HEP's who are subject to the s.43 duty [now the A1 duty] should therefore use the PSED to encourage good relations, but without restricting lawful free speech".

The Protection from Harassment Act 1997

Creates both criminal and civil offences for harassment.

The Public Order Act 1986

Imposes a range of criminal offences relating to violent conduct and speech and actions that threaten violence causing someone to fear for their safety or causing another person harassment, alarm or distress. This Act also makes it an offence to use threatening, abusive or insulting words or behavior 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.

The Terrorism Acts of 2000 and 2006

These acts define certain criminal activities including inciting acts of terrorism, disseminating terrorist publications or belonging to or supporting proscribed organisations.

The Counter Terrorism and Security Act 2015 places an obligation on the University to have due regard to the need to prevent people from being drawn into terrorism (“the Prevent Duty”), whilst also having particular regard for the duty to ensure free speech and to the importance of academic freedom.

The University is complying with this duty in all its aspects, which in practice means striking a fine balance between concerns around extremism and concerns about censorship. This duty must be interpreted in a manner compatible with the legal duties on universities to secure freedom of speech and academic freedom.

Charity Law

As a Charity, the University’s governing body must ensure that the University carries out its charitable purposes for the public benefit. Charitable purposes usually advance learning and knowledge through teaching and research. Achieving this purpose requires the University to ensure that there is freedom, within the law, to pursue all relevant lines of enquiry and to question and challenge ideas, views and opinion.

Regulatory Considerations

It is a condition of the University’s registration with the OfS that it delivers, in practice, the OfS “public interest governance principles”. These include commitments to academic freedom and freedom of speech.

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