

Higher Education Academic Freedom and Freedom of Speech Policy

Effective Date:	June 2023
Version Number:	6
Author:	Chair of Plagiarism and Academic Malpractice
Review Date:	June 2024
Approved by:	HEQ: June 2023 P&P: June 2023
Quality Assurance:	Office for Students Regulatory Framework 2022 (Conditions E1 and E2)
Disseminated by:	HBUC Website

Contents

Introduction	3
Scope	3

1. Introduction

Academic freedom is the principle that academic staff are free within the law to question, and test received wisdom, and to present new ideas and controversial or unpopular opinions, without adversely affecting their jobs or university privileges. This is included in the public interest governance principles that underpin the Office for Students' (OfS's) regulatory requirements relating to university and college management and governance, and it is a statutory requirement.

Freedom of expression is one of the public interest governance principles upheld in the OfS. This principle requires governing bodies to take reasonable steps to ensure that free speech is protected by law within their universities and colleges. It reflects the statutory duty to free expression that higher education providers must uphold.

Although the principle (and the statutory duty) of the OfS refer to freedom of speech,' this will include written materials and other forms of expression. It does not cease with the spoken word.

Hugh Baird College, University Centre recognises its duty, in relation to section 31 of the Counter Terrorism and Security Act (2015) to pay “particular regard” to both the “duty to ensure freedom of speech” and to the “importance of academic freedom”.

Furthermore, the College acknowledges its obligations under the provisions of the Education Act (No. 2) 1986 to 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.”

and 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.”**

2. Scope of Policy

To understand the context in which free speech operates in English universities and colleges, both English law and the European Convention on Human Rights must be considered (ECHR).

Hugh Baird University Centre is registered with the OfS and is considered a "public body" under the Human Rights Act of 1998. It is illegal for higher education providers to act incompatibly with the ECHR as public bodies. Article 10 of the ECHR addresses free expression.

Article 10

Everyone has the right to express themselves freely. This right includes the freedom to hold opinions, as well as the freedom to receive and transmit information and ideas without interference from public authorities and regardless of borders. This Article does not preclude states from requiring broadcasting, television, or cinema enterprises to be licenced.

The exercise of these liberties, because it entails duties and responsibilities, may be subject to such formalities, conditions, restrictions, or penalties as are prescribed by law and are necessary in a democratic society, for the prevention of disorder or crime, for the protection of health or morals, for the protection of others' reputations or rights, for preventing the disclosure.

There is also legislation concerning free speech in the context of higher education. Section 43 of the Education (No 2) Act of 1986 requires universities and colleges to "take such steps as are reasonably practicable" to ensure that their members, students, employees, and visiting speakers have legal freedom of speech (the "section 43 duty" or "free speech duty").

The acknowledgement of these concepts reflects the importance that society attaches to the rights of individuals to pursue research and aspects of teaching that may be unpopular or controversial. Indeed, whilst a politically and religiously neutral institution, they can be argued to underpin the mission statement set out in the College's HE Strategy (2021-25):

Through progressive and visionary leadership, the Hugh Baird University Centre will provide an inclusive, intellectually stimulating, and creative environment for its community. Teaching and learning will be of the highest standard and will be

supported by and with employers. Student support that is focused on the individual, coupled with a career readiness ethos, will ensure students have the knowledge, understanding and capacity to learn, adapt and be ready to enter the world of work.

More specifically, as a Further Education Corporation, these tenets are upheld within Article 14 of the College's Articles and statements of Governance which recognises the rights of academic staff, under the 1988 Education Reform Act, to:

“...have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without putting themselves at risk of losing their jobs or the privileges they may have at the institution.”

As an organisation the College is mindful of the need to promote freedom of speech within key legal frameworks of relevant UK and European legislation and law. This balance is central to its commitment to the promotion of British Values (Democracy, Rule of Law, individual liberty and mutual respect and tolerance of different faiths and beliefs) whilst upholding its responsibilities under law such as those enshrined within (but not restricted to) the Equality Act (2010) The Human Rights Act (1998) and the Counter Terrorism and Security Act (2015). As such, it is recognised that freedom of speech and academic freedom are qualified rights in terms of the law and in this regard the College will take all appropriate steps to ensure that whilst maintaining the rights of individuals they are commensurate with the interests of society.

Specifically, under Article 10 of the Human Rights Act, 1998, it is understood that these freedoms:

“....may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security..... or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence....”

Therefore, whilst upholding these rights, the College will not tolerate, and will take appropriate action against, any statements or acts, made or enacted by employees, students, or visitors, that discriminate, harass, or incite violence or hatred towards other persons and groups, or which are in contravention to law.

This policy will apply to:

1. All activities undertaken by employees in pursuance of their employment.

In this instance College employees are directed to the relevant sections of their contracts of employment and the Employee Code of Conduct.

2. All activities undertaken by students in pursuance of their studies.

In this instance students are directed to the Student Code of Conduct and HE Student Charter. Course handbooks also contain information on behaviour and specific codes of professional conduct appropriate to specific courses e.g. Initial Teacher Education

3. Meetings and similar organised events arranged internally or by external organisations including student groups.

As outlined in the Visitor Code of Conduct the College will not, as far as is reasonable, deny access to individuals or bodies on the basis of their beliefs, views, or policies. However, any belief, opinion or policy which are in contravention of the Prevent agenda, Equality and Diversity legislation, British Values or the College's Mission Statement will be appropriately challenged. The Visitor Code of Conduct guidelines outline the responsibilities of organisers and the procedure to be followed.

4. The display of signs, posters, and distribution of literature

Only permitted material may be displayed or distributed at Hugh Baird College and Students and Staff are directed to the Policy governing posters, notices, TV screens, clip frames, student zone graphics, temporary signs, and charity activity posters. Appendix 1 sets out protocol for obtaining appropriate permissions together with a non-exhaustive list of permitted material. Appendix 2 contains a non-exhaustive list of material deemed to be in contravention of regulations.

5. The display of audio-visual material

Guidelines relating to the use of College TV screens are contained within the Policy governing posters, notices, TV screens, clip frames, student zone graphics, temporary signs, and charity activity posters. When preparing and deploying audio-visual material, academic staff are to ensure its legitimacy in terms of supporting teaching and learning and genuine academic enquiry. In

terms of this all staff are directed to section 2.8 of the aforementioned policy which forbids the display or circulation of material that is deemed to be “indecent or illegal, or which has the purpose or effect of violating another person’s dignity or of creating an intimidating, hostile, degrading, humiliating, offensive or threatening environment or of making others feel fearful, anxious or vulnerable”.

6. Social and recreational activities

In this instance College employees are directed to the relevant sections of their contracts of employment and the Employee Code of Conduct.

7. Electronic communication

In this instance both College employees and students are directed to the College staff and student social media and ICT policies.

8. Any other activity which the College deems to fall within this policy.

The above list is not exhaustive and, any breaches of College regulations by students and staff may be treated as misconduct under the Student Code of Conduct or appropriate staff disciplinary procedures.

