

**CODE OF PRACTICE ON FREEDOM
OF SPEECH AND EXPRESSION**

Code of Practice on Freedom of Speech and Expression

Policy Owner: Board/Resources
Date Approved: 19 October 2023
Next Review: October 2025
Responsibility for Review: Principal and Chief Executive
Policy Review Frequency: 2 years

Applicable to staff: Yes/~~No~~
 Applicable to students: Yes/~~No~~
 Publish on College website: Yes/~~No~~


Consultation:

Undertaken with:	Yes/No:	Date:
Board/Committee	Resources Board	5 October 2023 19 October 2023
ELT	Yes	May 2022 ongoing
CMT	Yes	22 February 2023
Unions	Yes	
Students		
Employees		
Employers/Stakeholders		

Any Associated Documentation, for Reference:

Procedure for Holding Activities in College Health and Safety Policy

ELT Sign-off: Simon Nixon, Principal & CEX



Introduction

1. Freedom of speech and expression are basic human rights protected by law; they are not absolute freedoms but freedoms within the law. Universities and Colleges have a history of being open to debate and ideas, with learners at the forefront of pushing the limits of freedom of expression. This includes the rights of visiting speakers on campus to lawfully express views, as well as of students and staff to express their political views without fear of censorship.
2. The College has a duty to ensure the safety and welfare of our staff, learners and communities. The freedom to express views needs to be balanced with the need to secure freedom from harm for learners and communities. Sometimes an external speaker or their topic of discussion has the potential to go against our conditions for a safe event. We're committed to working together with event organisers and in some cases, external speakers themselves, to make sure that we reach a judgement that is reasonable, informed and within the law.
3. References to Academic freedom in relation to academic staff means their freedom within the law and within their field of expertise to question and test received wisdom, or put forward new ideas and controversial or unpopular opinions, without placing themselves at risk of being adversely affected such as loss of their jobs or privileges at the provider or the likelihood of their securing promotion or different jobs at the provider being reduced.
4. Preston College recognises and endorses that freedom of speech and expression within the law has fundamental importance for institutions as places of education, learning and the disinterested pursuit of truth. In particular, institutions are obliged under section 43 of the Education (No. 2) Act 1986 to take reasonable measures to protect freedom of lawful speech. In addition, a principle of freedom of lawful expression is enshrined in Article 10 of the European Convention on Human Rights.
5. Preston College is also required under section 15 of the Articles of Government to have regard to the need to ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without placing themselves at risk of losing their jobs or any privileges they may have. Institutions have a responsibility, so far as is reasonably practicable, to protect and advance the principle of academic freedom.
6. The Office for Students (OfS) Public Interest Governance Principles include Academic freedom and Freedom of Speech. Under the OfS regulatory framework the governing bodies of registered universities and colleges should take 'such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.'

Aims of this Code of Practice

7. This Code of Practice sets out the rights and obligations inherent within the principles of freedom of speech and expression and academic freedom and the Policy shall be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law.
8. This Code of Practice covers freedom of speech and expression in whatever form that may take including (but not limited to) speeches, debates, meetings, demonstrations, written publications and through the use of College owned social media accounts.
9. Preston College is committed to creating an environment where everyone is treated with dignity and respect and where diversity is valued. Whilst the use of external speakers/organisations to enrich the learning experience is encouraged, it is important that

there is a process in place to ensure to protect staff and learners and the reputation of Preston College and meet our legal obligations in relation to the Prevent Duty Guidance for England and Wales (contained within section 26 of the Counter Terrorism and Security Act 2015). The duty states that specified authorities, including Further Education Colleges, in the exercise of their functions, must have “due regard to the need to prevent people from being drawn into terrorism”.

10. The College wants to ensure that events, activities and initiatives are safe; without risk to the reputation of the College; and are within the law. The policy aims to:
 - provide an environment where freedom of speech and expression are protected and balanced with the need to ensure that our community is free from harm and that incitement to hatred is never acceptable;
 - provide a supportive, inclusive and safe space for learners;
 - provide clearly defined and effective procedures to ensure that the law is upheld;
 - safeguard any risk of attempted radicalisation or exposure to extremist views;
 - collaborate with others to reach sound, evidenced judgements about proposed external speakers ensuring that the College can meet their legal obligations;
 - encourage and provide a balance of opinion at any academic discussion or debate;
 - communicate to all members, volunteers, staff and visitors, that it is our mutual responsibility to comply with equality and safeguarding and that both Preston College and the individual can be held liable if they contravene the laws;
 - signpost procedures for staff when engaging external speakers.

Interpretation of the terms used

11. References to ‘Preston College premises’ and/or ‘facilities’ include premises and/or facilities which are owned by Preston College, premises and/or facilities which Preston College does not own but over which it exercises some degree of control, and premises and/or facilities occupied or controlled by Preston College’s students’ union whether or *not* the College owns or has control of such premises and/or facilities.
12. References to “activities” include (but are not limited to) meetings, demonstrations, events and publication or communication of information externally through whatever media (including College owned social media accounts) which take place or are proposed or planned or due to take place on Preston College’s premises or through its ICT systems. “Information” could include any written or video or audio communications such as (but not limited to) signs, posters, publications, video, audio or social media content.
13. References to events includes any event, presentation, visit, activity or initiative organised by a learner group/society, individual or staff member that is being held on the Preston College premises or where Preston College is being represented by a stand on non-College premises e.g. at an exhibition, school event or fair. It also includes events where external speakers are streamed live into an event or a pre-recorded film is shown. It also includes activity being held on Preston College premises but organised by external venue hire clients.
14. Reference to an external speaker or visitor is used to describe any individual or organisation who is not a learner or staff member for Preston College. This includes any individual who is a student or staff member from another institution. It also includes the main contact from any external venue hire client who is paying to use College facilities.

15. References to an institutional employee (e.g. the Principal and Chief Executive) includes reference to their nominee where appropriate.
16. The distinction between the freedom of speech and expression and academic freedom is outlined in paragraphs 1-3.

Scope

17. This rights and obligations of this Code of Practice shall apply to:
 - Preston College, including members of the Governing Body;
 - all persons (whether academic staff or otherwise) working for Preston College whether for payment or otherwise;
 - all duly enrolled students of Preston College (whether full or part-time);
 - all students studying with Preston College (whether full or part-time) under an agreement with a partner organisation, even if not enrolled as students at Preston College;
 - the students' union and any societies, clubs or associations which normally operate on Preston College's premises; and
 - all persons invited to speak and/or express views (whether in person or otherwise including through the use of College owned social media accounts) and/or otherwise take part in activities which take place on or are planned or proposed or due to take place on Preston College's premises or through its ICT systems in accordance with the provisions of this Code of Practice and the Procedure for Holding Activities in College.

Principles

18. Preston College shall take such steps as are reasonably practicable to ensure that freedom of speech and expression within the law is secured for every person to whom this Code of Practice applies.
19. Every person to whom this Code of Practice obligations apply shall assist in upholding this Code of Practice.
20. Preston College will not suppress freedom of speech and expression, however abhorrent certain expressions may be to the majority of the members, provided that:
 - such speech and expressions do not go beyond the articulation of points of view, are within the law and do not constitute incitement to riot, insurrection, racial hatred, religious hatred, sexual harassment or other activities which are likely to cause a breach of the peace or public disorder, significantly increase the risk of an individual being drawn into terrorism or otherwise be unlawful, and
 - by allowing such views to be expressed, and by allowing the activity to take place in the format proposed would not be failing in its wider legal duties, in particular to have due regard in carrying out its functions to the need to:
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it; and
 - d) prevent people being drawn into terrorism.
21. Preston College shall ensure, so far as is reasonably practicable, that the use of its premises and facilities is not denied to any individual or body of persons on any ground connected with:
 - the beliefs or views of such individual or any member of such body; or
 - the policy or objectives of such body.
 22. Every person to whom this Code of Practice obligations apply shall refrain from organising or engaging in, or otherwise being associated with any conduct (other than by lawful, reasonable and peaceful persuasion) intended to prevent the enjoyment of rights under this Code of Practice.
 23. Preston College take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the obligations under this Code of Practice and the associated Procedure for Holding Activities in College are complied with.

Holding activities and obtaining approval for external speakers/organisations at the College

24. When arranging for external speaker/organisations to visit Preston College the Procedure for Holding Activities in College must be followed when holding activities where:
 - external speaker/organisations are to deliver/present to learners;
 - it is reasonably foreseeable (in the reasonable opinion of event organiser and/or their line manager) that the activity will raise issues which may be controversial in some way.
25. Preston College reserves the right to cancel, prohibit or delay any event with an external speaker if the Procedure for Holding Activities and Communication of Information Externally is not followed or health and safety or security criteria cannot be met. Where an event is refused on the basis of security costs, the reasons must be clearly explained. In most cases it should be possible to at least mitigate the issues of security costs and, wherever possible, individuals wishing to express lawful views should not suffer as a result of the unlawful attempts of others to disrupt their right to free speech.
26. Preston College premises cannot be hired by groups whereby the hire of the premises may result in Preston College being in breach of any of its legal or regulatory obligations, including but not limited to its obligations under the Equality Act.
27. If Preston College reasonably determine that a particular speaker may prove controversial and require the hiring of security for the event, then the organiser of the event will be responsible for any security costs that Preston College require.
28. Preston College reserves the right to prohibit any third party from hiring space at Preston College commercially if Preston College reasonably determine that the third party may cause significant disruption to the normal running of the College and the education of pupils, and Preston College do not believe that these disruptions can be managed through the use of security.

Practical Measures

29. Preston College shall permit the use of its premises and ICT systems only by organisers or other individuals otherwise involved in an activity or proposed activity who undertake in writing to comply with all lawful instructions and conditions issued by Preston College in relation to

(but not limited to) the location, arrangements, form and conduct of such activities, including adequate stewarding, chairing and provision of adequate control over entry.

30. In cases in which it is reasonable to assume that there is a possibility of disruption arising from the activity taking place, the Executive Leadership Team may consult with the police. If the activity is a public one the police may be prepared to be present throughout the event to minimise any disruption.
31. Any organisers or other individuals otherwise involved with an activity to take place on Preston College's premises or through its ICT systems shall be responsible for any costs involved in organising and holding such activities and for ensuring, as far as reasonably possible, that nothing in the organisation and holding or arrangements of such activities infringes the law or any institutional rule, regulation or procedure in any way.

Publishing information externally

32. When, in the reasonable opinion of the writer that the information will raise issues which may be controversial in some way, they should seek advice from their line manager.

Communication of this College's Code of Practice on Freedom of Speech and Expression – Promotion of the importance of freedom of speech and academic freedom

33. The governing body should promote the importance of
 - freedom of speech within the law, and
 - academic freedom for academic staff and their constituent institutions, in the provision of education."
34. The governing body should, at least once a year, bring this Code of Practice and any associated procedures, to the attention of all of its students and staff.

Sanctions and Penalties

35. Where those responsible for the breach of this Code of Practice are students or staff, action may be taken against them under the relevant disciplinary procedure.
36. Any member of the Governing Body who breaches this Code of Practice may be removed from office under clause 10 of the Instrument of Government.
37. Where those responsible for the breach are students or staff of a partner organisation, consideration shall be given as to whether to inform the partner organisation with a view to that partner organisation taking action (whether as well as or instead of) under its relevant disciplinary procedure.
38. Where a breach of this Code of Practice takes place at an activity or as a result of an activity taking place, the College may take steps to assist the police to secure identification of the persons suspected of committing offences with a view to appropriate action being taken against them.

Review and Amendment of the Code of Practice

39. Preston College acknowledges its duty under subsection 3 of section 43 of the Education (No. 2) Act 1986 to issue and keep up to date a Code of Practice on freedom of speech.
40. The Governing Body will receive a report on the operation of this Code of Practice, together with any recommendations for revision of it, every two years.