

1. Introduction

- 1.1 Freedom of Expression is a fundamental right under both British and European law and is protected by Article 20 of the European Convention on Human Rights. Article 10 is a qualified, not an absolute, right which means that the rights of the individual must be balanced against the interests of society. Article 10 allows for restrictions to be placed for specific purposes.
- 1.2 This policy describes the philosophy, principles and procedures relating to our responsibility to foster freedom of expression and the circumstances in which that freedom might be restricted in order to prevent violence, abuse or discrimination. The policy also details the college's responsibilities regarding visiting speakers.
- 1.3 Walsall College is committed to upholding academic freedom of enquiry in its education and believes that a culture of free and open discussion is essential. This open culture of discussion can only be achieved if all concerned behave with tolerance, and respect the College's values as stipulated in the 'Ready, Respectful, Safe' Code of Practice. This ensures good relations and the safety of students and staff.

2. Scope of the Code

- 2.1 The rights and obligations of this code apply to:
- All members of college staff and those working on behalf of the college (including sub-contractors);
 - All enrolled students of the college, whether full time, part time or apprentices, and regardless of age or level/type of study;
 - All students studying at the college under an agreement with a partner organisation;
 - The Students' Union;
 - Any events organised by other affiliates of the College;
 - All persons invited to speak or otherwise take part in events to be held at the college in accordance with the provisions of this Code; and the External Speakers and Events Policy and Procedure.

3. Objectives

- 3.1 To clarify the college's responsibility to promote freedom of expression;
- 3.2 To identify the circumstances under which freedom of expression may legitimately be restricted.
- 3.3 To outline the college's responsibilities regarding visiting speakers.

4. Related Policies, Procedures and Documents

- 4.1 Safeguarding Policy and Procedure (Adults at Risk of Harm)
- 4.2 Safeguarding Policy and Procedure (Child Protection)

- 4.3 The Counter Terrorism and Security Act 2015
- 4.4 Prevent Strategy
- 4.5 Equality, Diversity and Inclusion Policy
- 4.6 Code of Conduct
- 4.7 Staff Disciplinary Policy
- 4.8 External Speakers and Events Policy and Procedure
- 4.9 Other policies and documents may be identified from time to time as circumstances change and may be added to this list.

5. Rationale

- 5.1 Section 43 of the Education Act 1986 places a positive duty on Further and Higher Education establishments to ensure that freedom of speech within the law is secured for their members, students, employees and for visiting speakers. This includes the duty to ensure the use of any premises of the establishment is not denied to any individual on any ground connected with their belief or views.
- 5.2 Colleges are expected to allow open debate of challenging ideas which may need to use controversial resources. Controversial materials should not be left unchallenged by the member of staff using them.
- 5.3 The Act further requires the governing body of the institution to issue a code of practice setting out the procedures to be followed by students and employees of the establishment in connection with the organisation of meetings and other activities which are to be held on college premises and the conduct required of such persons in connection with any such meeting or activity.
- 5.4 Every individual and body of persons concerned in the governance of the college is required to take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure compliance with the code of practice.
- 5.5 In addition, clear guidance is required to students, staff, governors and external agencies as to how the college manages freedom of speech as part of its Prevent Duty Guidance and in line with the Counter-Terrorism and Security Act 2015.

6. Core Principles

- 6.1 The college has a duty to promote the fundamental British Values of:
 - Democracy;
 - The rule of law;
 - Individual liberty;

- Mutual respect;
- Tolerance of those of different faiths and beliefs.

6.2 Freedom of expression does not protect statements that unlawfully discriminate against or harass, or incite violence or hatred against, other persons or groups, particularly by reference to their race, religious belief, gender or sexual orientation, nor does it limit or undermine the human rights of others.

6.3 The college is subject to the statutory duty to have due regard to the need to promote good relations between different communities protected by equality law. This may require active challenge to the use of offensive communication and hate speech.

6.4 The college also has statutory duties under the Counter Terrorism and Security Act 2015, to prevent people from being drawn into terrorism.

6.5 The Public Order Act 1986 makes it an offence to use threatening, abusive, insulting words or behaviour either with the intention of generating racial hatred, or in circumstances where it is likely that racial hatred will be generated.

6.6 The Counter Terrorism and Border Security Act 2019 also advocates that it is a criminal offence if a person expresses an opinion or belief that is supportive of a proscribed organisations that commit or participate in terrorism, prepares for terrorism, promotes or encourages terrorism, or is otherwise concerned with terrorism.

6.7 The Counter Terrorism and Security Act 2015 places an obligation on the College to enforce its duty to prevent people from people being drawn into terrorism (Prevent Duty)

6.8 Although there is no universally accepted definition, hate speech is generally understood to describe forms of expression which incite violence, hatred or discrimination against other persons or groups, particularly by reference to their ethnicity, religious belief, gender or sexual orientation, language, national origin or immigration status.

7. Visiting Speakers

7.1 The college has a separate External Speakers and Events Policy and Procedure.

8. Equality Analysis

8.1 By virtue of the Equality Act 2010, the college has a duty to have due regard to the need to:

- i. Eliminate unlawful discrimination, harassment, victimisation and other prohibited conduct;
- ii. Advance equality of opportunity between people of different groups;
- iii. Foster good relations between people of different groups when implementing the strategy.

8.2 In implementing this policy and associated procedures, the college will actively take these aims into account as part of its decision making process and demonstrate how this has been undertaken.

8.3 Where necessary, a full equality impact assessment will be undertaken.

9. Implementation, Monitoring and Review

9.1 The college will ensure that this policy is effective in terms of outcomes as well as intent. The Assistant Principal for Quality and H.E will be accountable for the delivery of this policy.

9.2 This policy will be reviewed annually and updated, by the Board of Governors to ensure that it remains appropriate in the light of relevant changes in the law, organisational policies or contractual obligations. Changes in law will trigger an immediate review of this code.