



University of Essex



Code of Practice: Academic Freedom and Freedom of Speech

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Table of Contents

Code of Practice: Academic Freedom and Freedom of Speech 3

Values	3
The Code	4
Definitions	4
Steps to secure academic freedom and promote the importance of freedom of speech and academic freedom	5
Decision-making framework and protocols	7
Expectations of conduct	7
Complaints	8
Code of Practice Oversight and Review	8

Appendix A: Speaker Protocol 9

Speaker rights and responsibilities	9
External Speaker events	9
Speaker risk assessment	10
Speaker Risk Review and approval process	12
Other events	14

Code of Practice: Academic

Freedom and Freedom of Speech

Values

1. Academic freedom and freedom of speech within the law are fundamental commitments at the heart of our mission at the University of Essex, which we promote as core values and vital components of being an inclusive community. We recognise in full our statutory obligations, with this Code forming an important part of how we fulfil them.
2. Academic freedom and freedom of speech are essential parts of academic and University life, and flourish where there is tolerance of a wide range of ideas and opinions which are lawfully expressed. Promoting the lawful expression of diverse ideas and opinions or the sharing of information by means of speech, writing, images (including in electronic form) or through events that we hold, including the lawful expression of ideas and opinions that some may find objectionable or offensive, is an important part of our responsibility to be inclusive. It enables all members of the University to feel able to express their ideas and opinions within the law and be encouraged to be active members of our University community.
3. By exercising these freedoms with due regard to the values we share as a community, we can make our own contribution to the University, which flourishes when new ideas are generated and different viewpoints are debated, in the context of being an inclusive community. As members of the University, we can do this by engaging in debate in a constructive manner that supports freedom of thought and expression within the law, promoting an enabling and inclusive environment which respects the rights of others.
4. We celebrate the passion of our University members and recognise that there may be occasions when different opinions expressed lawfully by some members of our community (or visitors to our campuses) conflict with those of others. Through our policies and procedures, we acknowledge that counter-speech and protest are also characteristics of a university committed to academic freedom, freedom of speech within the law and inclusion. However, the right to protest against the expression of ideas and opinions should never prevent others from exercising their right to freedom of speech within the law.
5. Universities play an important role in society as places of debate and discussion within the law, where ideas can be tested, where students learn to challenge received wisdom and think for themselves, and where rationality underpins the pursuit of knowledge. The University of Essex is fully committed to promoting an environment in which intense inquiry and informed argument can generate lasting ideas. This commitment is of long standing. The University's Royal Charter provides that "Academic staff shall 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 in jeopardy of losing their jobs or privileges.

The Code

6. In accordance with the statutory duties¹ imposed upon it, the Council of the University has instituted this Code, which sets out how we secure, and promote the importance of, academic freedom and freedom of speech within the law for members of the University and for external speakers.
7. The Code also considers and responds to the University's obligations under:
 - a) Equality Act 2000 and Equality Act 2010, and the Public Sector Equality Duty
 - b) Human Rights Act 1998, and
 - c) Counter Terrorism and Security Act 2015, and the Prevent Duty Guidance 2023

Definitions

8. UK Legislation requires the University, having particular regard to the importance of freedom of speech, to take reasonably practicable steps to secure freedom of speech within the law for:
 - a) staff of the University
 - b) members of the University
 - c) students of the University, and
 - d) external speakers (defined sometimes as 'visiting speakers')
9. Staff of the University are defined as those individuals with current contracts of employment in place at the time of any event or occasion in relation to which questions about academic freedom or freedom of speech have been raised.
10. In line with our Royal Charter, members of the University are defined as "*the Court, the Council, the Senate and the Staff, the Graduates of the University, the Graduate and the*

¹ Currently through the Education (No. 2) Act 1986 and the Education Reform Act 1988 and, should its implementation continue, the Higher Education (Freedom of Speech) Act 2023.

*Undergraduate students of the University*². For the purposes of the Code, ex officio members of the Court, including external members of Council and the Chancellor, as outlined in the Ordinances, are designated as staff, with appointed members of the Court and Graduates of the University (alumni) designated as external speakers.

11. Students of the University are defined as those people who are currently registered on a programme of study.
12. For the purposes of this Code of Practice, those from outside the University community speaking or making discussion contributions to University activities, and who have been invited to the University, are defined as External Speakers.
13. The University is also required to develop and maintain this Code, including procedures for the organisation of meetings or other activities held or managed on University premises, in fulfilment of the University's duties. For the purposes of the fulfilment of these duties, these activities are defined as events and meetings that take place on University of Essex premises, and are either in support of the University's charitable objects and in the control of the University or its members, or authorised through the Students' Union. For the avoidance of doubt, these activities do not include those undertaken by individuals or groups who have hired space for their own purposes on University premises, or individuals or groups who have not been invited to speak at the University. The University also has a duty 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 in jeopardy of losing their jobs or privileges they may have. Academic staff are defined as those members of staff with an employment contract for teaching and/or research.³

Steps to secure academic freedom and promote the importance of freedom of speech and academic freedom

14. In order to give expression to the University's obligations and commitments in relation to academic freedom and freedom of speech within the law, so far as is reasonably practicable, access to the premises of the University in relation to University or Students' Union activities, which would otherwise have been authorised in line with the University's policies, shall not be denied to any member of the University or to any invited external speaker (being an individual

² <https://www.essex.ac.uk/-/media/documents/about/governance/university-of-essex-charter.pdf>

³ ASE, ASR or ASER

or body of persons), on any grounds relating to their ideas or opinions or their policies or objectives, unless the expression of such ideas, opinions, policies or objectives shall be unlawful, and where it is reasonably anticipated that the unlawful expression of such beliefs, views, policies or objectives might occur on the relevant occasion. It should be noted that the University of Essex's campuses are private property, and no outside organisation or individual has a legal right to invite themselves onto our campuses without permission, or to host events that have not been approved through this Code and its related protocols.

15. The University will take reasonably practicable steps to secure that a person who makes an application to become a member of academic staff is not adversely affected because they have exercised their academic freedom.
16. The University will not use non-disclosure agreements relating to a relevant complaint in connection with members of the University and external speakers which purports to any extent to preclude the person from publishing information about the relevant complaint or disclosing information about the relevant complaint to any one or more other persons.
17. Rights relating to academic freedom and freedom of speech within the law are not absolute. In addition to affirming the University's commitment to promoting academic freedom and freedom of speech within the law, this Code also specifies circumstances in which academic freedom and freedom of speech might properly be restricted.
18. The University may apply restrictions in circumstances where they are necessary for the University:
 - a) to discharge its obligations as set out in law and those specified by the University's regulatory body⁴
 - b) to safeguard the safety, health and welfare of its registered students, employees and other persons lawfully upon the premises or engaged in activities associated with the University, or
 - c) to enable use of the University's premises to be lawfully consistent with maintaining and promoting the efficient conduct and administration of the University's functions
19. Just as the University will not restrict debate or deliberation simply because the views being expressed might be considered unwise or even offensive, it also expects members of the University community to show commitment to this same principle by not obstructing or interfering with the lawful rights of others to express views with which they might disagree profoundly.

⁴ The Public Interest Governance Principles (Office for Students)

20. The University is committed to ensuring that it will bring the provisions of its statutory duties to the attention of all currently registered students at least once a year. All members of the University community are required to adhere to this Code of Practice, which is embedded into essential training for staff and, through registration and supporting communications, for students.

Decision-making framework and protocols

21. The University has established this framework to secure and promote academic freedom and freedom of speech for all speakers, including external speakers. This Code and its decision-making framework apply to all speakers participating in and contributing to all University activities, including all staff, students, members and external speakers.
22. The framework is made up of:
- a) the decisions of the University's Council and Senate, and relevant committees, including Research Committee and Ethics Committee
 - b) the proportionate and risk-based process outlined in The Speaker Protocol (Appendix A), which ensures that anyone invited from outside our community to speak on the University's premises is aware of our expectations to promote academic freedom and freedom of speech within the law, and
 - c) the proportionate and risk-based approach to managing and facilitating safe, on-campus protests through the Protest and Demonstration Management Protocol (.pdf).
23. All members of the University are obliged to comply with the provisions of the decision-making framework, and the associated protocols, which form an integral part of this Code of Practice.
24. The operation of this Code is supported by a range of guidance and material available for members of the University community.

Expectations of conduct

25. We recognise in full the rights of all to free speech within the law. All current students are required to comply with the provisions of this Code, in line with their obligations under their Student Contract and the Code of Student Conduct. All currently employed members of staff are required to comply with the provisions of this Code, in line with their obligations under their contracts of employment, and to undertake essential training on the matters referred to in this Code, where this has been made available.

26. Where there is evidence of non-compliance, action will be taken to prevent future occurrences and address barriers to compliance. Appropriate action may include additional support and training. Where necessary and appropriate, such matters will be dealt with using standardised disciplinary and/or conduct procedures.
27. It is noted that if, when speaking, a speaker goes beyond the law, it is the speaker who is culpable.

Complaints

28. The management of complaints or concerns about academic freedom and freedom of speech within the law in relation to action taken or not taken by the University is explained in the [University's Freedom of Speech Complaints Policy \(.pdf\)](#).

Code of Practice Oversight and Review

29. On behalf of the University Council, the Registrar and Secretary is responsible for ensuring that this Code operates effectively and is reviewed appropriately and remains fit for purpose in meeting its aims and supporting the University's mission.
30. On behalf of the Registrar and Secretary, the Deputy University Secretary co-ordinates all aspects of the administration and operational delivery of the Code, providing a focal point for its operational management and a first point of contact.
31. The operation of the Code of Practice is reviewed regularly and at least annually to ensure it continues to meet the University's legal obligations and strategic and operational requirements, with changes considered and approved by Senate and Council as appropriate, and annual assurance of compliance reported to the University Council.

Appendix A: Speaker Protocol

Speaker rights and responsibilities

1. The University strives to be a mutually supportive community. All individuals speaking and participating in University activities are free to express their ideas and opinions, and to seek, receive and impart information and ideas of all kinds within the law, including those that may be considered to be offensive by some.
2. All speakers are requested to recognise that freedom of speech, thought and expression come with responsibilities. When expressing ideas or planning activities where differing ideas are likely to be aired, those contributing are asked to consider the potential impact on individuals or groups within the University community who may be affected by the subject matter, either directly or indirectly. The University's Equality Diversity and Inclusion Policy outlines our approach.
3. All members of the University community are required to read and adhere to this Protocol.
4. University staff are required to read and adhere to the Code of Practice and this Protocol, which are embedded into training appropriately as part of induction and annual staff booster training.
5. All members of Students' Union (SU) Clubs and Societies are required to read and adhere to the Code of Practice and this Protocol before arranging activities. The University works in partnership with the Students' Union to ensure appropriate training is in place for students involved in SU activities that require it. The need to adhere to the Code and this Protocol is promoted to all students, particularly during Welcome and induction activities.
6. For the purposes of this Speaker Protocol, those from outside the University community speaking or making discussion contributions to University activities are defined as External Speakers.

External Speaker events

7. Any member of the University who wishes to invite an External Speaker to contribute to any activity is required to undertake an External Speaker Risk Assessment (hereafter known as the risk assessment) to determine the level of oversight and approval required before the activity may proceed. The risk assessment is based on a set of areas for consideration related to the nature of the activity and those invited to participate and contribute.

8. Where a room has been booked in advance to support an activity, either individually or as part of a block booking, all provisions in this Protocol must be completed in full. Approval of a room booking does not signify approval for an External Speaker to participate in an activity.
9. All activities involving an External Speaker must have a named activity owner, who is usually a member of staff or a student, who is accountable and has responsibility for ensuring that these activities are organised, managed and run in accordance with the University's policies and legal obligations. Activities include funded, affiliated or branded events, which may be held off the University's premises, or hosted online.
10. As a minimum, in preparing to run an activity, all activity owners are required to:
 - a) complete the External Speaker Protocol Moodle module within which they are asked to sign a declaration to confirm that:
 - they have read this Speaker Protocol and the Code of Practice: Academic Freedom and Freedom of Speech, that they will read any University guidance relevant to their speaker and the event, and that they will share all these documents with all participating External Speakers prior to their arrival at the event so that they are aware of our policies, our commitment to freedom of speech and of any arrangements of relevance to the event
 - if, before a decision is reached or the review determines that the activity may proceed, there is a change of topic or speaker, they will notify the University through the online system and recognise that any replacement activity or speaker will be subject to a new risk assessment
 - they have provided the correct information as part of the referral so that any risks associated with the activity can be considered properly, and
 - they understand that conditions may be determined in order to enable the activity to take place
 - b) provide to all External Speakers a copy of the Code of Practice: Academic Freedom and Freedom of Speech which contains this Protocol, along with the University's Equality, Diversity and Inclusion Policy.
11. External Speakers must not be confirmed until the requirements of this Protocol are completed in full.

Speaker risk assessment

12. Where there is doubt about whether an activity requires a risk assessment, an assessment must be undertaken.
13. For all University-led activities where a risk assessment is deemed necessary, the activity owner is required to:

- have completed the essential training required by the University for this role prior to commencing actions as an activity owner, so as to enable them to discharge their responsibilities as set out in this Speaker Protocol and the Code of Practice: Academic Freedom and Freedom of Speech
- complete and submit the External speaker online notification form and Speaker risk assessment at least 15 working days before the event is due to take place
- where the risk is deemed low in light of the risk assessment outcome, take full responsibility for the organisation, management and running of the activity in accordance with the University's policies and legal obligations, supported by relevant training and guidance
- where the risk is deemed high in light of the risk assessment, refer the activity for a risk review (paragraphs 20 to 29)
- where the risk is deemed high and approved to proceed, take full responsibility for the organisation, management and running of the activity in accordance with the University's policies and legal obligations, taking into account any conditions attached to the approval decision, supported by relevant training and guidance and drawing upon other sources of support from within the University as necessary, and
- where the outcome of a risk assessment is unclear or borderline, refer the activity for a risk review

14. Students' Union-led activities are risk reviewed by the Students' Union, who will determine if the activity is deemed low or high risk. High risks activities are referred by the Students' Union to the University for a risk review. Individual students undertaking activities are required to follow the process as described in paragraph 11 through their academic department or school.
15. All risk assessments should be conducted at least 15 working days before the event is due to take place. This ensures that there is adequate time for a risk referral to be undertaken if necessary and for support arrangements to be identified and implemented where required. Where adequate notice is not provided, this may mean an activity cannot proceed on the specified date.
16. The circumstances relating to an external contribution to an activity may change at any point up until it takes place and following completion of the requirements of this Protocol. It is the responsibility of the activity owner at all times to report any changes through the online system and to undertake a revised risk assessment to determine whether the risk level has changed, and whether the activity should be referred for risk review.
17. For activities deemed high risk or that have undergone a risk review, no substantive changes may be made to the activity without referral to the Compliance Manager (Safeguarding) or

nominee. Examples of substantive changes that could occur include removing an invitation to an external party to participate, cancelling the activity or inviting participation from additional external speakers or contributors. Following any referral in relation to changes, recommendations may be made to the Academic Registrar or nominee in their absence, who is the approval authority for high risk or risk reviewed events, and any changes to these events' arrangements.

18. Regardless of the risk assessment outcome and risk review decision, where the circumstances require it and/or relevant information comes to light that may affect the safety of the University community or the University's legal obligations, any activities may be cancelled or revised arrangements put in place before or during the activity. Recommendations to cancel an activity or to make substantive changes are made to the Academic Registrar or nominee in their absence, who is the approval authority.

Speaker Risk Review and approval process

19. Where an activity includes an External Speaker and where the risk assessment determines that the activity is deemed high risk or the outcome of the risk assessment is unclear or borderline, the activity owner is required to refer it for a risk review through the online system.
20. The named activity owner should consider all risks involved in running the event, which may include:
 - a) If there are any concerns that the views of the visitor could contravene or breach the University's policies and legal obligations
 - b) If the visitor, because of their subject or otherwise, is likely to express views, or is likely to attract attendance from individuals or groups, whose views might be perceived as contravening or breaching the University's policies and legal obligations, or
 - c) If there are any security-related risks associated with the visitor, their organisation or the subject of their speech
21. The activity owner should discuss any risks with their Head of Department and consider appropriate mitigating actions to allow the event to proceed if at all possible. These may include, for example, consulting with the Head of Security and Campus Safety, Student Wellbeing and Inclusivity Service, People & Culture (such as Inclusion and Occupational Health), and Communications and External Relations.
22. The named activity owner is responsible for ensuring that the activity is organised, managed and run in accordance with the University's policies and legal obligations and in accordance with the Code of Practice: Academic Freedom and Freedom of Speech. The activity owner is required to include in the referral all information about the planned activity to the best of their knowledge to support the review.

23. In order to allow sufficient time for the referral to be reviewed and a decision to be taken, all risk review referrals should be made at least 15 working days prior to the activity taking place. The purpose of the notice period is to ensure there is adequate time for support arrangements to be identified and implemented where an activity is permitted to proceed.
24. The risk review is normally conducted by the Compliance Manager (Safeguarding) or nominee, who considers the possible risks associated with the planned activity and who may consult with key stakeholders, including Security and Campus Safety, Student Wellbeing and Inclusivity Service, People & Culture, Communications and External Relations and the Students' Union, as part of the risk review process. In determining whether and/or how an activity may take place, consideration is given to conditions that may be attached to support its success and to identify arrangements that may be appropriate to support the University's other legal obligations.
25. Where the initial review by the Compliance Manager (Safeguarding) or nominee concludes that the proposed activity poses a significant risk, they will refer it to the Academic Registrar or nominee in their absence for final decision and to determine any conditions. Legal advice may be taken in complex cases where it is deemed to be warranted, with escalation in these cases for approval and a final decision by the Registrar and Secretary.
26. Conditions imposed to support an activity to proceed may include, but are not limited to, the following:
- specific support arrangements that are required or to be explored and identified, in consultation with those members of the University community who may be affected by the activity
 - that provision is made for diverse voices to be heard on particular issues. This might be achieved by considering the appropriate composition of a panel of speakers, ensuring that there are additional single speaker events at which an alternative idea or opinion is expressed or providing assistance for counter-speech or protest to be expressed appropriately, safely and peacefully
 - the activity is recorded using the University's 'Listen Again' facility or appropriate online platform, with a documented lawful basis and in line with all obligations under the Data Protection Act 2018 and the General Data Protection Regulations (together, UK GDPR)
 - the activity is referred to the Head of Security & Campus Safety to enable further security requirements to be arranged and to provide support to the activity owner
 - specific guidance is provided to the External Speaker by the activity owner
 - the appointment of a specific Chair for the activity, whose knowledge and experience is relevant to the topic or requirements

- the activity is ticketed using a recognised ticketing mechanism, such as Eventbrite (public) or essexstudent.com (current students only)
 - written confirmation is required from any External Speaker that they have received, understand and agree to the conditions and the University's legal obligations and wider policies and commitments
27. The outcome of the review will normally be communicated to the activity owner within 5 working days of the referral, either that the activity has been (i) approved to proceed or (ii) approved to proceed with conditions; or (iii) the activity has not been approved to proceed on the basis of the risks identified.
28. The University will not put unnecessary barriers in place which may stifle/prevent freedom of speech, for example, reasonable security costs. Should these costs, however, be beyond the reasonably practical ability of the University to bear to allow the event to take place, consideration will be given to asking the external speaker to contribute in a proportionate way, calculated and shared in advance.
29. The activity owner may appeal the review outcome by submitting a detailed explanation for the grounds of appeal by email to: speaker@essex.ac.uk. The Registrar & Secretary will identify an appropriate member of University staff not previously involved in the risk review to undertake an independent review of the activity and make a final decision.
30. Staff, students, external speakers and members of the public who have complaints or concerns about the application of this Protocol should refer to the complaints procedures set out in the University's Code of Practice: Academic Freedom and Freedom of Speech.

Other events

31. The following activities are exempt from the requirement to undertake a Speaker risk assessment:
- a) Activities related to the delivery of a teaching module. Without exception, the module leader is the activity owner and accountable for all aspects of activities related to the module and for ensuring that these activities are organised, managed and run in accordance with the University's policies and legal obligations, and in accordance with the Code of Practice: Academic Freedom and Freedom of Speech.

- b) Activities considered to be a centrally delivered learning event, as determined by the Academic Registrar or nominee. If the learning event is delivered by an external trainer, the organiser is responsible for completing the Service License Agreement⁵.
- c) Activities related to the procurement of goods and services. The relevant named member of staff leading the procurement process for contracts is the activity owner and responsible for the activity.

⁵www1.essex.ac.uk/forms/staff/training-service-level-agreement.aspx

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