

Academic Freedom and Freedom of Speech (and Expression) Policy

Executive Summary:

Bird College is committed to Academic Freedom and to ensuring Freedom of Speech and Expression within the law for students, staff and visiting speakers, and to ensuring that the use of College premises is not denied to any individual or group on any ground connected with their beliefs or views, or their policy or objectives.

This Policy is adopted pursuant to the Education (No. 2) Act 1986, uphold the Public Interest Governance Principles (PIGPs) set out by the Office for Students' Regulatory Framework for Higher Education in England, and the statutory guidance published pursuant to section 26 (1) of the Counter-Terrorism and Security Act 2015 and the College's duties under the Human Rights Act 1998.

Definitions:

Capitalised and Bold terms used in this Code of Practice have the following definitions:

- **ACADEMIC FREEDOM:** Academic Staff at Bird College and all English Higher Education providers have freedom within the law ([Annex B of the regulatory framework, Office for Students](#)):
 - 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 at the provider.
- **FREEDOM OF SPEECH:** The governing body takes such steps as are reasonably practicable to ensure that Freedom of Speech within the law is secured for students and employees of the College, those associated with the College and for External Speakers ([Section 43 of the Education \(No. 2\) Act 1986](#)). The full definition of Freedom of Speech set out in the Education (No. 2) Act 1986 is provided in Appendix 1.
- **OFFICE FOR STUDENTS:** The Office for Students (OfS) is an independent public body, separate from central Government. The OfS reports to Parliament through the Department for Education (DfE). The OfS was established by the Higher Education and Research Act 2017, which also sets out its powers and general duties.
- **PUBLIC INTEREST GOVERNANCE PRINCIPLES:** The OfS require the governing documents for all English Higher Education providers to uphold the Public Interest Governance Principles (PIGPs) that are applicable to the provider. 'Uphold the PIGPs' means as a minimum to reflect them, and where a PIGP requires an active step to be taken, to provide a suitable framework to ensure that that step is identified, defined, taken, and can be shown to have been taken.

- **THE EDUCATION (No. 2) ACT 1986:** The Education (No. 2) Act 1986 is an Act of the Parliament of the United Kingdom that made various legal changes to education in the UK.
- **THE PREVENT DUTY:** The Prevent Duty, which came into force for Higher Education providers in September 2015 as part of the Counter-Terrorism and Security Act 2015, places legal requirements on the College to minimise the risk of individuals being drawn into terrorism and to ensure vulnerable individuals receive timely and appropriate support. The College, therefore, needs to be able to demonstrate it has appropriate processes and policies in place to comply with the [Duty](#) (see the **Prevent Policy**). This also includes visiting speakers and is addressed as part of the '**Procedure and Code of Practice for Meetings on College Premises**' document.
- **COUNTER-TERRORISM AND SECURITY ACT 2015:** The [Counter-Terrorism and Security Act 2015](#) is an Act of the Parliament of the United Kingdom which came into force in July 2015. This Act contains a duty on Schools, Colleges, Higher Education providers and other specified authorities, to have due regard to the need to prevent people from being drawn into terrorism.
- **HUMAN RIGHTS ACT 1998:** The [Human Rights Act 1998](#) is an Act of the Parliament of the United Kingdom which received royal assent in November 1998, and came into force in October 2000. The Human Rights Act 1998 sets out the fundamental rights and freedoms that everyone in the UK is entitled to. It incorporates the rights set out in the European Convention on Human Rights (ECHR) into domestic British law.
- **ARTICLES OF ASSOCIATION:** These are the written rules about running a company agreed by the shareholders or guarantors, directors and the company secretary.
- **VALUES and GUIDING PRINCIPLES:** A value is a fundamental belief or trait of an organisation, while a guiding principle is a standard for behaviour and mindset in the workplace. The Values and Guiding Principles for Bird College can be found here: [Bird College Values and Guiding Principles](#).
- **EXTERNAL SPEAKER:** Anyone other than a current student or current staff member of the College or member of the Governing Body, who may be invited to participate in debate, deliver a speech, expound on a political viewpoint, and similar activities including anything conducted in the name of the College other than timetabled academic / curricula activities. This includes where the External Speaker may be participating in the Event by any means of remote access, such as Microsoft Teams™ or teleconference.
- **VISITOR:** Anyone, other than a current student or current member of staff of the College or member of the Governing Body, who is invited to attend a College meeting.
- **EVENT:** Any meeting, gathering, conference, broadcast or related activity involving a group of people with an external speaker, whether held in person or remotely. This does not apply to normal College activities related to teaching, research, enterprise or administrative operational meetings. All College Events held on College premises or off-campus, and online Events, are covered by this Code, including any Event organised by a student group on College premises.

Introduction:

Bird College is committed to the pursuit of education and training, engagement with local, national and international communities, and the development of intellectual capacity of the highest standard through rigorous and open academic enquiry. Academic Freedom means Academic Staff have the ability to express their opinions, question established ideas and develop new ones, and present controversial or unpopular points of view, without placing their employment at risk. The traditions of Academic Freedom, mutual

tolerance and rigorous and fair, intellectual debate are held in high regard throughout the College and are reflected in its Values and Guiding Principles.

The College's commitment to Academic Freedom and to ensuring Freedom of Speech and Expression within the law is embedded in the College's constitution, including its Articles of Association and Student Handbook. It reflects our core values as an academic community and specific legal obligations on Higher Education providers to promote, protect and respect these key freedoms. However, the rights to Academic Freedom and Freedom of Speech and Expression are not absolute; they are freedoms within the law. Consequently, the criminal and civil law also set limits on the lawful exercise of these rights.

Freedom of Speech and Expression may not be exercised if in so doing it breaks the law or breaches the rights of others, such as if its expression is unlawfully discriminatory or threatens others' safety or Freedom of Expression. Membership of the College and permission to use its premises are predicated upon acceptance of these principles.

The College will not condone any actions by any individual or group that is seeking to support Extremism, intimidate others or prevent a College event which complies with this Code of Practice from going ahead. In line with the commitments in its Equality and Diversity Policy, the College will also not condone any Event in which individuals are unlawfully segregated by gender or any other protected characteristic.

Our bias will always be towards enabling Events to take place as part of our commitment to Academic Freedom and Freedom of Speech and Expression within the law. Permission to conduct an Event will only be withheld in the circumstances specified in the 'Procedure and Code of Practice for Meetings on College Premises' document, and normally only after attempts to engage with the proposers of the Event to put reasonable conditions in place to address the College's concerns have been exhausted. This document also contains an Appeal Process should permission to host an event on College premises be refused.

Context:

The [Education \(No. 2\) Act 1986 \(Section 43\)](#) (see Appendix 1) places a duty on the Governing Body of the College to ensure as far as is reasonably practicable that Freedom of Speech within the law is secured for students and employees of the College, those associated with the College and for External Speakers. This responsibility is reflected in the College's Articles of Association and Student Handbook.

As part of its duty under the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism, the College is also required to have procedures in place for managing the risks associated with external speakers.

To meet these requirements, the Governing Body has endorsed a separate 'Procedure and Code of Practice for Meetings on College Premises' for governing the organisation and running of Events. This Procedure and Code of Practice standardises the management of all Events and sets out approval and booking arrangements and general provisions for their conduct. Detailed operational guidelines, including room booking forms, tariffs and charges for other facilities, are approved by the College as appropriate and are to be read in accordance with the Procedure and Code.

The College reserves the right to take action against individuals or external groups who violate the Code of Practice, including those who seek to prevent Events which comply with the Code of Practice from going ahead. This may include withdrawal of bookings made, with or without refund, and disciplinary procedures under the College's rules of conduct governing student and staff behaviour as appropriate.

The College is also committed to ensuring that students and staff organising or participating in events which have been approved under the Code of Practice are not subjected to detrimental treatment as a result of exercising their rights to Freedom of Speech and Expression and Academic Freedom.

Your rights:

While exercising rights to Freedom of Speech and Expression, the College expects staff and students to do so in a manner that treats others with dignity and respect, and exercise such rights within the law.

The Freedom of Speech and Expression applies not only to information or ideas that are favourably received, but also to those that offend, shock or disturb. It applies to all who wish to seek, receive or impart information and ideas of all kinds, and includes the right to protest peacefully. The College will actively promote and facilitate Freedom of Speech and allow for robust and civil debate. By helping students develop the skills to engage critically with new ideas, the College seeks to prepare them for the challenges they will face once they graduate. Furthermore, it is only through a community that engages freely in training, study, debate and open inquiry, supported by a culture of mutual respect, that the College can achieve its Vision and aims set out in its Mission Statement and maintain its Values and Guiding Principles.

At the same time, the College will continue to engage with and provide an environment and infrastructure to support the wellbeing of both speakers and those who may object to a speaker or are for whatever reason concerned or offended by them.

Dignity and Respect:

The College recognises that ideas and viewpoints put forward by members of the College community, or external speakers, will often be in conflict with those of others. In all cases, however, the College expects all staff and students to engage in debate in a constructive manner that complies with its Equality and Diversity Policy and applicable laws. These include regulations relating to harassment, discrimination and defamation. In particular, the right to protest against the expression of views should not prevent others from exercising their right to Freedom of Speech and Expression. In a Higher Education, College environment, debate and challenge should be widened, not narrowed.

Civil Debate within the Law (Our Legal Duties):

In parallel to, and balanced against, these rights of Academic Freedom and Freedom of Speech and Expression are legal duties on the College. These include the obligation to have regard to the prevention of individuals being drawn into terrorism, and to protect the health and safety of staff, students and visitors.

In order to consider these obligations within the broader framework of Academic Freedom and Freedom of Speech and Expression, the 'Procedure and Code of Practice for Meetings on College Premises' provides guidance for staff on managing potentially controversial events, including consideration of how such events may be appropriately facilitated by the College Executive Team.

It must equally be recognised that a commitment to promote Freedom of Speech and Expression and Academic Freedom does not require tolerance of abuse, threats, incitement to violence, hatred, discrimination, or other unlawful acts and in exercising these rights, we must each be mindful of the potential to cause harm and of our own accountability. The College's policies are designed to ensure that debates about controversial ideas are inclusive, peaceful and civil. Participants in these debates should not be intimidated or censored, nor should they intimidate or censor others.

College Policies and other relevant Reference points:

- Equality and Diversity Policy
- Preventing Extremism and Radicalisation Policy
- Procedure and Code of Practice for Meetings on College Premises
- Employee Handbook

Document Control: 2023

The College is committed to keeping these policies and other parts of the Regulatory Framework under constant review, in particular as to how they are being applied in practice. The College will also revise and develop these policies transparently and in consultation with the wider College community.

Document title: **Academic Freedom and Freedom of Speech Policy**

Version	Author		Reviewed/Authorised	
	By	Date	By	Date
1.1	Simon Smith	28.04.2023	Shirley Coen and Luis De Abreu	02.05.2023
1.2	Luisa Figuerola	07.11.23	Luis De Abreu	07.11.2023

Issue: **1.2** Date of current issue: **07.11.2023**

Date of next review: **07.11.2024**

Appendices:

Appendix 1: Section 43 of the Education (No. 2) Act 1986

Section 43: Freedom of speech in Universities, Polytechnics and Colleges:

- 1) Every individual and body of persons concerned in the government of any establishment to which this section applies shall 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.
- 2) The duty imposed by subsection (1) above includes (in particular) the duty 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.
- 3) The governing body of every such establishment shall, with a view to facilitating the discharge of the duty imposed by subsection (1) above in relation to that establishment, issue and keep up to date a code of practice setting out:
 - a. the procedures to be followed by members, students and employees of the establishment in connection with the organisation:
 - i. of meetings which are to be held on premises of the establishment and which fall within any class of meeting specified in the code; and
 - ii. of other activities which are to take place on those premises and which fall within any class of activity so specified; and
 - b. the conduct required of such persons in connection with any such meeting or activity; and dealing with such other matters as the governing body consider appropriate.
- 4) Every individual and body of persons concerned in the government of any such establishment shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the requirements of the code of practice for that establishment, issued under subsection (3) above, are complied with.
- 4A) The establishments in England to which this section applies are:
 - a) any registered Higher Education provider;
 - b) any establishment of higher or further education which is maintained by a local authority;
 - c) any institution within the further education sector.
- 5) In this section, "governing body" in relation to a registered Higher Education provider, has the meaning given by section 85(1) of the Higher Education and Research Act 2017.

End of Academic Freedom and Freedom of Speech Policy