



Brasenose College

Code of Practice on Freedom of Speech

The following Code of Practice on Freedom of Speech was approved by Governing Body on 5th July 2024. It supersedes the 2016 Code of Practice on Freedom of Speech.

1. Introduction

1.1 This Code of Practice sets out Brasenose College's values and expectations relating to freedom of speech and academic freedom and how these values and expectations are applied to College activities.

1.2 Freedom of speech means the freedom, within the law, to receive and impart ideas, opinions or information by means of speech, writing or images (including in electronic form).

1.3 Academic freedom, in relation to academic staff at the College, means their freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, including their opinions about the College, without institutional censorship and without placing themselves in jeopardy of losing their jobs or privileges.

1.4 References in this Code of Practice to "College premises" mean all land, buildings, facilities, and other property in the possession of, or leased, used, supervised or controlled by the College, but does not include property that is owned by the College but is leased to third parties.

2. Legislative framework

2.1 The legal duty of UK universities to protect free speech and academic freedom is enshrined in the Higher Education and Research Act 2017, as amended by the Higher Education (Freedom of Speech) Act 2023 (the "Act"). Freedom of speech is also protected under Article 10 of the European Convention on Human Rights which has effect in the UK through the Human Rights Act 1998. Academic freedom is also protected under the Education Reform Act 1988.

2.2 Part A1 of the Act states that:

(1) The governing body of a registered higher education provider must take the steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take in order to achieve the objective in subsection (2).

(2) That objective is securing freedom of speech within the law for—

- (a) staff of the provider,
- (b) members of the provider,
- (c) students of the provider, and
- (d) visiting speakers.

(3) The objective in subsection (2) includes securing that—

- (a) the use of any premises of the provider is not denied to any individual or body on grounds specified in subsection (4), and
- (b) the terms on which such premises are provided are not to any extent based on such grounds.

(4) The grounds referred to in subsection (3)(a) and (b) are—

(a) in relation to an individual, their ideas or opinions;

(b) in relation to a body, its policy or objectives or the ideas or opinions of any of its members.

(5) The objective in subsection (2), so far as relating to academic staff, includes securing their academic freedom.

2.3 Part A1 (8) and (9) also require the College, having particular regard to the importance of freedom of speech, to take reasonably practicable steps in order to secure that, where a person applies to become a member of academic staff of the provider, the person is not adversely affected in relation to the application because they have exercised their academic freedom.

2.4 Part A2 of the Act states further that the governing body must maintain a code of practice setting out certain matters related to freedom of speech, which are addressed in this document.

3. Values

3.1 Freedom of speech and academic freedom are central tenets of College life and must be robustly protected.

3.2 In all its activities, the College seeks to:

(1) secure and promote civic and academic freedoms including freedom of speech;

(2) ensure a very high level of protection for the lawful expression of a viewpoint and for speech in an academic context; and

(3) foster a culture of openness and inclusivity, in which members of our community engage with each other, and the public, in debate and discussion, and remain open to both intellectual challenge and change.

3.3 Inevitably, this will mean that members of the College are confronted with views that some find unsettling, extreme or offensive. The College believes that a culture of free, open and robust discussion can be achieved only if all concerned engage critically but courteously with each other.

3.4 Within the bounds prescribed by law, all voices or views which any member of our community considers relevant should be given the chance of a hearing. Wherever possible, they should also be exposed to evidence, questioning and argument. As an integral part of this commitment to freedom of expression, we will take steps to ensure that all such exchanges happen peacefully and respectfully. With appropriate regulation of the time, place and manner of events, members of our community should have no reasonable grounds to feel intimidated or censored.

4. Conduct

4.1 The College is committed to fostering an inclusive culture which promotes equality, values diversity and maintains a working, learning and social environment in which the rights and dignity of all members of the College community are respected. In accordance with the terms of its Policy and Procedure on Harassment [see [Harassment Policy](#) on the College website] the College does not tolerate any form of harassment or victimisation and expects all members of the College community, its visitors and contractors to treat each other with respect, courtesy and consideration.

4.2 Peaceful protest is a legitimate expression of freedom of speech. However, such protest must not shut down debate. The respect which the College expects all members of the College community to

demonstrate towards each other is particularly important where it comprises respect for the right of others to speak freely and exercise their academic freedom.

4.3 Complaints about the behaviour of individuals should be made under the appropriate procedure:

- i) Complaints about staff members should be made under the College's Policy and Procedure in Annex A of the Harassment Policy;
- ii) Complaints about students should be made under the College's Policy and Procedure in Annex B of the Harassment Policy;
- iii) Complaints about others should in the first instance be made to Bursar.

4.4 Complaints that arise in the University context (ie in the course of University activity or on University premises) should normally be made to the University.

4.5 All activity must be risk assessed and planned in accordance with the College's Health and Safety Policy [Staff Intranet - Health and Safety Policy Statement \(1\)](#).

5. Procedures

5.1 The Act requires that this Code of Practice sets out procedures to be followed in connection with the organisation of meetings and other activities at the College.

5.2 The College ensures that its teaching, research, policies and procedures reflect its duties to ensure, so far as is reasonably practicable and having particular regard to their importance, freedom of speech and academic freedom within the law.

5.3 This Code of Practice therefore applies to the College procedures to be followed by staff and students (including College Common Rooms and Societies) when organising any activities that relate to academic life, whether those activities take place on or off College premises, including activities relating to: admission, appointment, reappointment, employment and promotion of staff, disciplinary matters, equality, diversity and inclusion, harassment and bullying, IT, social media, Prevent duty, principles of curricular design, academic integrity in research, speaker events, staff and student codes of conduct.

5.4 In making any decision under any of these procedures or otherwise, or adopting any policy that could directly or indirectly (and positively or negatively) affect freedom of speech, the College will take into account:

- (a) the importance of academic freedom (as required eg by the Education Reform Act 1988 and the Act);
- (b) the need to take reasonably practicable steps, having particular regard to the importance of freedom of speech, to ensure that freedom of speech within the law (including academic freedom) is secured (as required eg by the Act);
- (c) the rights and freedoms enshrined in the European Convention on Human Rights and incorporated into domestic law by the Human Rights Act 1998;
- (d) the Public Sector Equality Duty which requires universities to have due regard to the need to eliminate unlawful discrimination, promote equality of opportunity, and foster good relations between different groups; and
- (e) the [Counter-Terrorism and Security Act 2015](#) which requires universities to 'have due regard to the need to prevent people from being drawn into terrorism' (section 26 (1)) and

which also provides that ‘when carrying out the duty imposed by section 26 (1)’, universities ‘must have particular regard to the duty to ensure freedom of speech; and to the importance of academic freedom.’

5.5 A breach of this Code may lead to disciplinary action being taken under the appropriate College procedure (including relevant staff disciplinary procedures or Statute XVI procedures for staff and academics or the Decanal Processes set out in Part C of the Student Handbook Book for students).

5.6 Complaints that the College has breached its duties in relation to freedom of speech under the Act may be raised by using the complaints process set out in Section 7.

6. College Meetings and Events

6.1 Through the implementation of this Code, the College takes reasonably practicable steps to ensure that freedom of speech within the law is secured within its community and that the use of its premises and services is not inappropriately denied to any of the persons listed in section 2.2(2) and 2.3 above on any ground connected with their beliefs or views or the policy or objectives of a body of which they are a member. The College acts in a risk-based and proportionate manner and will always aim to allow an event to go ahead, provided that it is within the law and does not pose unacceptable risks to individuals and will work with the organisers towards this goal. Cancellation of events is undesirable and should be exceptional.

6.2 Fellows, Senior Common Room Members, students (including Common Rooms and College Societies) and employees of the College who are organising meetings or events (including those that take place online) or are responsible for administering external bookings of College premises are responsible for assessing those meetings and events in the context of this Code and other relevant College policies. Where there are concerns that the meeting or event:

(a) may give rise to an environment in which people will experience, or could reasonably fear, discrimination, harassment, intimidation, verbal abuse or violence, particularly (but not exclusively) on account of their age, disability, gender reassignment, marriage or civil partnership, pregnancy, maternity, race, religion or belief, sex or sexual orientation;

(b) is likely to pose a risk to the safety of those lawfully on College premises; or that it may prompt a risk to public safety

the procedure outlined in sections 6.3-6.13 below should be followed. College Common Rooms and College Societies should also follow this procedure where they are organising a meeting or event on College premises. If organisers are in any doubt or have any questions or need for further information, they are encouraged to discuss the situation with the Domestic Bursar or the Dean. No meeting or event which a student (including Common Rooms and College Societies) or employee is proposing to be held on College premises may be refused, cancelled or altered as a result of the beliefs or views or the policy or objectives of any of the persons listed at 2.2(2) or 2.3 above save as a result of consideration by the Dean.

6.3 The meeting or event should be formally notified to the Domestic Bursar and Dean in accordance with the relevant College procedures. Students booking events must use the process and online form as set out in Section C.6 of the Student Handbook,

6.4 In the context of this Code, the Dean is entrusted with the duty to assess the implications of events formally referred to them and to act in accordance with the College’s legal responsibilities, including the conduct and procedures set out in this Code.

6.5 On receipt, the case will be assessed by the Dean who will consult with the Domestic Bursar, other College Officers and University Proctors and Security Services as appropriate. The starting point for the Dean when considering a particular event will be that the event should be allowed unless there are compelling and exceptional reasons for it not to proceed.

6.6 As required by section 12 of the Terrorism Act 2000, the Dean will not give permission to hold a meeting or event where it is known that:

- (a) the proposed speaker belongs to, or professes to belong to, a [proscribed organisation](#); or
- (b) the proposed speaker will use the event to support, or to further the activities of, a proscribed organisation.

6.7 In exceptional circumstances, it may be reasonable to refuse permission for a College meeting or event where the Dean reasonably believes (from the nature of the speakers or from similar activities in the past whether held at the College or otherwise) that:

- the views likely to be expressed by any speaker are contrary to the law;
- the intention of any speaker is likely to be to incite breaches of the law or to intend breaches of the peace to occur;
- the meeting is likely to include the expression of viewpoints that are reasonably believed to be highly controversial and/or offensive and the organisers will not permit contrary or opposing viewpoints to be held or expressed;
- the views likely to be expressed by any speaker are for the promotion of any illegal organisation or purpose, including organisations listed on the government's list of proscribed terrorist groups or organisations; or
- it is in the interest of public safety, the prevention of disorder or crime, that the meeting does not take place.

6.8 The lawful expression of controversial or unpopular views will not in itself constitute reasonable grounds for withholding permission for a College meeting or event.

6.9 Where the College is reasonably satisfied that the otherwise lawful expression of views at an event or meeting on College premises is likely to give rise to disorder or threats to the safety of participants or the wider College community, they shall consider what steps it is necessary to take to ensure the safety of all persons and the security of College premises. This might include postponing or relocating a meeting or event or imposing conditions. The responsibility for fulfilling these conditions rests with the organisers.

6.10 The College will cover the costs of security for using the College's premises for a meeting or event falling under this Code of Practice up to £500 per event. If the College anticipates that the costs associated with the event may exceed this, it will ask the organiser of the event if they wish to bear the excess costs over £500. The College will supply the organiser of the event with a clear written summary of its calculation of the expected security cost and an explanation for this calculation. If the organiser agrees to bear the excess costs of security, the College will arrange the event accordingly and charge the organiser the excess costs.

6.11 In the exceptional event that the Dean considers that the risks cannot be mitigated by the imposition of conditions, or the organiser(s) refuse(s) to comply with the Dean's conditions, or does not agree to pay the excess costs identified in clause 6.10, the Dean has the right to cancel the meeting or event and they may do so even if the relevant College procedure has not been exhausted.

6.12 The Dean will communicate their decision promptly and will set out the reasons for the decision.

6.13 If any of the individuals listed in section 2.2(2) and 2.3 above is dissatisfied with the decision of the Dean in relation to a meeting or event they may refer the matter under the College's Complaints Procedure as set out in Section 7.

7. Complaints Procedure

- 7.1 Complaints that the College has breached its duties in relation to freedom of speech under the Act may be raised by any of the individuals listed in section 2.2(2) and 2.3 above. Complaints may also be brought by a person who was formerly within one of those categories, where their complaint relates to events which occurred while they had that status and which impacted them in that capacity.
- 7.2 Before making a formal Complaint, the Complainant should consider taking steps to resolve the matter informally. This might include discussing the matter with College staff responsible for the matters which are the subject of the Complaint.
- 7.3 The Office for Students (OfS) operates a free speech complaints scheme. Under that scheme, the OfS can review complaints about free speech from members, students, staff, applicants for academic posts and (actual or invited) visiting speakers. Information about the complaints that the OfS can review is available on its website.
- 7.4 A complaint is qualified to be considered under this procedure if
- i. it alleges that the Complainant has suffered adverse consequences as a result of action or inaction of the College; or
 - ii. it alleges that, or gives rise to a question as to whether the action or inaction was a breach of one or more of the Freedom of Speech Duties (per section 2 of the Code of Conduct); and
 - iii. it should not more appropriately be considered under a different College procedure eg staff grievance)
- 7.5 Complaints should be made in writing to the Principal, who will decide whether the complaint should be considered under this procedure or whether another procedure is more appropriate.
- 7.6 If the complaint should be considered under this procedure the Principal may consider the complaint directly (ie act as the "Decision maker") or appoint someone else to be the "Decision Maker".
- 7.7 The complaint should be made as soon as possible and at the latest within 14 days¹. All Complaints will be dealt with promptly. Any time-critical factors set out in the complaint will be taken into account.
- 7.8 Time limits in this procedure should usually be met by all parties. Time limits may only be extended by the relevant Decision Maker where it is necessary to do so in order to ensure a fair outcome (for example, where more time is needed because of a participant's illness or during the holidays).
- 7.9 If the Decision Maker considers it appropriate to reduce the risk of harm arising from the alleged breach they may impose appropriate interim measures pending determination of the

¹ 14 days proposed as preliminary time frame; as suggested by Conference of Colleges template, the time-limit will then be adjusted to mirror the time-limit the OfS sets for complaints to their scheme when this is available.

Complaint under this procedure. When deciding whether or not to impose an interim measure the Decision Maker shall also take into account all relevant circumstances, including the impact of the measure on the College or any other person.

- 7.10 All parties involved in a Complaint are required to act reasonably and fairly towards each other and to respect this Code of Conduct and the procedures set out within it.
- 7.11 Complaints will be dealt with confidentially by all parties involved. The College will need to share the information on a confidential basis, including with third parties, where: it is necessary to do so to ensure a fair investigation, in the course of a subsequent procedure involving the same subject matter and/or to perform our legal and other responsibilities. Data will be processed in accordance with the College's data privacy policies.
- 7.12 There is no right of complaint over matters of academic judgement.
- 7.13 Nobody who has a conflict of interest should be involved in decision-making under this procedure.

Investigation

- 7.14 The Decision Maker will decline to consider the Complaint if in their sole discretion (and acting reasonably):
 - a) if it is malicious, vexatious or frivolous;
 - b) if it does not meet the requirements for a Complaint as set out at section 3 above; and/or
 - c) if the person bringing the Complaint does not meet the definition of a Complainant under this procedure as set out at section 2 above.
- 7.15 The Decision Maker will usually decline to consider the Complaint:
 - a) if it is received within the Time Limit set out in clause 7.7, after the conduct complained of in the Complaint;
 - b) where the matters in dispute are currently being considered or have been decided by an external body (such as the OIA or a court or tribunal);
 - c) where the substantive issues have already been considered under another procedure (including, for example, the staff grievance procedure, a staff disciplinary procedure, the student complaint procedure, a student disciplinary procedure or the academic integrity in research procedure).
- 7.16 If a Complainant withdraws their Complaint at any time the Decision Maker may decide to continue the investigation if it is in their sole determination appropriate and fair to do so.
- 7.17 For all other Complaints, the Decision Maker may take any steps the Decision Maker considers necessary to investigate, including calling on any person to provide assistance.

Decision

- 7.18 The Decision Maker shall record their decision, including any directions and/or recommendations they are making, and the reasons for it in writing and shall send a copy of the reasoned decision to the Complainant within **30 days** of receipt of the Complaint (the "Decision").

- 7.19 The Decision will explain that the Complainant has the right to complain to the Office for Students, for example using the following wording or similar:
The Office for Students (OfS) operates a free speech complaints scheme. Under that scheme, the OfS can review complaints about free speech from members, students, staff, applicants for academic posts and (actual or invited) visiting speakers. Information about the complaints that the OfS can review is available on its website.
[LINK]
- 7.20 Where the Complainant is a student, the Decision will also confirm that this is Completion of College Procedures and explain that the student has the right either (i) to complain to the Office of Students (using the language at 7.19 above) or, in the alternative (ii) to seek a review by the Office for the Independent Adjudicator.
- 7.21 The Decision will also set out sources of support and advice where relevant (ie for students and staff).

8. Monitoring and review

8.1 Brasenose College will periodically review the contents and operation of this Code of Practice and report on its operation and recommend amendments to it for consideration by Governing Body as appropriate or necessary.