

FREEDOM OF SPEECH

"For to be free is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others."

— Nelson Mandela

Preamble

1. As a College, we believe:
 - that freedom to express opinion, views, ideas and beliefs is vital to social change and thriving democracy; and
 - that the recognition of the inherent dignity and equal rights of all members is the foundation of a successful academic community.
2. Therefore, as a common standard for all our work we must ensure that staff, students and the rest of society are not hindered in using their rights to contribute to social change by expressing their opinion on matters of public interest.
3. We recognise this may touch on sensitive and controversial issues, and as an academic community we will strive by teaching, education, scholarship and research to promote respect for all opinion and debate that positively contributes to building a civilised democracy.

Definitions

4. 'Speaker' means an event organiser or other person invited to address the meeting but not members of the audience.

Principles

5. The College supports the principle of freedom of speech and expression within the law. The College also has regard to the need to ensure that students and staff have freedom to question and test 'received wisdom' and put forward new ideas and controversial or unpopular opinions without putting themselves at risk of harm.
6. This code sets out the obligations and rights of College members regarding freedom of speech and applies to:
 - (a) all members of the College, which includes all groups or people having authority to decide upon matters relevant to this code;
 - (b) directors and staff of the College;
 - (c) students and former students of the College;
 - (d) the Students' Union and its societies, clubs and associations, and employees and sabbatical officers of the Students' Union;
 - (e) honorary doctors and fellows; and
 - (f) people or organisations wishing to hire premises controlled by the College for an event.
7. Every member of the College (students, staff, Students' Union employees) should be aware that joining the College community involves rights and duties (written in this code) that support the principle of freedom of speech and expression within the law. These rights and duties must be observed at all times, regardless of whether or not they are on property owned or controlled by the College.

8. For events on property controlled by the College, the code also applies to:
 - (a) people invited or otherwise lawfully on the premises for the event; and
 - (b) people who, if it were not for the code, would have been invited to the event.
9. The Students' Union must ensure that the conditions of employment of its employees and sabbatical officers include a statement that employees and sabbatical officers have a duty and responsibility to comply with section 43 of the Education (No.2) Act 1986.

Academic freedom

10. The principle of freedom of speech extends to the performance by all staff of their duties and responsibilities and to any visiting or guest lecturer we invite. It also extends to students presenting or exhibiting work produced as part of their studies with the College.
11. Except as allowed by paragraph 16, a person or group may not take any action – except by reasonable and peaceful persuasion – to stop or prevent attendance at any lecture, tutorial, exhibition or other academic activity because of:
 - (a) views, ideas or beliefs that a lecturer, tutor or student holds, expresses or is reasonably likely to express within or away from the College;
 - (b) views, ideas or beliefs that are controversial or unpopular; or
 - (c) the expression or likely expression of views, ideas or beliefs that may result in disruption or disorder.
12. In line with the Code on Academic Freedom, no lawful expression of controversial or unpopular opinion will jeopardise a person's membership of the College or their privileges within the College.

Events on College premises

13. If a person or group wishes to hold an event on premises the College controls which includes the expression of views or beliefs by a speaker, they must request permission of the College in writing and the College will not unreasonably refuse permission unless the activity is unlawful.
14. The expression of opinions that are annoying, offensive, in bad taste or ill-mannered is not automatically unlawful. The College will not regard such expression as the sole ground for refusal unless it would result in the College failing in its wider legal duties – for example, to promote equality of opportunity and good relations between people of different racial groups.
15. The fact that disorder may result at an event is not itself a reason for the College to refuse permission or facilities unless the organisers or speakers intend to create such disorder, or public safety and order may be jeopardised.

16. It will be reasonable for the College to refuse consent or withhold facilities for an event (including for the Students' Union to do so) if it reasonably believes (from the type of speaker or from similar events in the past held at or away from the College) that:
- (a) the views likely to be expressed by a speaker are contrary to the law;
 - (b) a speaker may or intends to incite breaches of the law or breaches of the peace;
 - (c) a speaker, or members of the invited audience are members or associated with groups or organisations listed on the UK Government's list of terrorist groups or organisations banned under UK law;
 - (d) the views likely to be expressed by a speaker will promote an illegal organisation or purpose;
 - (e) the views likely to be expressed by a speaker will promote an organisation contrary to the College's No Platform policy; or
 - (f) it is in the interests of public safety; the prevention of serious disorder or crime; or the protection of those people lawfully on premises under College control, that the event does not take place.

Refer to
<https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2>

No Platform policy

17. As a College, we believe those who would in any way deny free speech to others without any reasonable or justifiable basis should not benefit from freedom of speech at the College.
18. Therefore, the College does not offer a platform to anyone or any group who are:
- (a) intolerant of other people's free speech or the expression an opposing opinion by any individual or other group;
 - (b) actively stop or would seek to stop others from speaking, for example through violent or other interruptions of events;
 - (c) advocate or engage in violence to further their political, religious, philosophical or other beliefs; or
 - (d) hold and spread views that are repugnant to the maintenance of liberty under the rule of law in the UK or who advocate or engage in the violent overthrow of democracy in the UK or elsewhere.
19. Further, the College may bar speakers or organisations from the College if it reasonably believes their presence on College property:
- (a) is not conducive to the good governance of the College;
 - (b) would offend the principles of scholarly inquiry; or
 - (c) would put at risk the safety of students, staff or the public.

Requesting permission for event

20. If a person or group to whom the code applies is organising an event under this code, the organiser must normally give the Academic Registrar at least twenty-eight (28) days' written notice of the event.
21. After consulting relevant Senior Officers, the Academic Registrar must inform the person or group organising the event in writing within ten (10) working days of the date of the notice whether or not the event may go ahead.
22. The College may impose such conditions on the event organisers as are reasonably necessary. These may include requirements as to the number of stewards, change of location and time, and whether the event is open to the public generally.
23. Except as allowed by paragraph 16, the College will not refuse permission or facilities for an event at which the views likely to be expressed are controversial or contrary to a policy of the College, the Students' Union, government (central or local) provided the expression of such views is lawful.
24. Subject to paragraph 16, if the College is reasonably satisfied that the otherwise lawful expression of views at any event is likely to give rise to disorder, it must consider what steps it should take to ensure:
 - (a) the safety of people;
 - (b) the maintenance of order; and
 - (c) the security of premises it controls.
25. If the College concludes that imposing conditions will not be enough to prevent serious disorder on property it controls, it may refuse to allow an event to be held. Before doing so, however, the College will generally consult the police with a view to establishing whether the serious disorder can be prevented or otherwise suitably dealt with by the attendance of police officers or other conditions.
26. If a person or group believes that the Academic Registrar's actions in refusing permission or facilities for an event, or the College's actions in imposing conditions, are unreasonable, it has a right to put forward comments. These must reach the Provost within five (5) working days of the date of the letter giving the original decision.
27. The Provost must consider the comments and within five (5) working days confirm in writing to the relevant person or body whether or not the original decision is to be upheld or varied. If the event organisers have been unable, for legitimate reasons, to comply with the normal requirement of twenty-eight (28) days' notice to the Academic Registrar, the Provost at their absolute discretion has the right to vary this procedure to ensure that the organisers get a final decision before the event date.
28. A person or body wishing to hold an event on premises the College controls must complete the relevant room-booking form and give more details of the event if needed. This requirement applies to both internal and external bookings for any venue the College controls. When making a venue booking, event organisers must declare they accept the terms of the code.

29. Event organisers must ensure proper security and organisation (including stewarding and chairing) of their event to protect the right to freedom of speech. There is a right to heckle speakers. But it is contrary to the code to seek, by systematic or organised heckling or disruption, to prevent lawful expression of views.
30. As far as reasonably practicable, event organisers must ensure that the audience and the speaker act lawfully during the event. If unlawful conduct occurs, event organisers must give appropriate warnings. If the misconduct continues, event organisers must require the withdrawal or removal by stewards or police of the person(s) concerned.
31. Event organisers must ensure that no articles or objects are taken inside the venue in circumstances that are likely to lead to injury, damage or breach of the law.

Breach of the code

32. The College takes seriously any instances of students, staff, contractors or visitors not keeping to the code. We will investigate such instances and, if appropriate, consider them under the relevant disciplinary policy and procedures.
33. It is also a breach of the code for a person or group to organise, engage in or become associated with conduct that intends to prevent – except by reasonable and peaceful persuasion – a College event being held or continuing.
34. We strongly encourage informal and local resolution of issues or complaints. This is why we provide a mediation service to support staff and students.
35. If appropriate, all student and staff complaints about policy breaches should first be raised at a local level with a view to informal and timely resolution. If these attempts fail or are inappropriate because of the nature of the policy breach, then:
 - (a) students who believe there has been a breach regarding our provision of a service or facility may raise it through the Student Concerns and Complaints policy;
 - (b) students who believe there has been a breach in our academic processes may use the Academic and Regulatory Appeals;
 - (c) instances of breaches by students may be investigated under the Student Behaviour and Discipline policy;
 - (d) employees who believe there has been a breach may raise it through the Grievance policy and procedure; or
 - (e) contractors or other visitors who believes there has been a breach may raise it in writing to a Senior Officer.
36. Support is available for students and staff who invoke these procedures. For students, support is available from the Students' Union. For staff, advice and guidance is available from their Head of Department or the HR Team.
37. If a breach of the criminal law occurs, the College must, where appropriate, help the Police and the Crown Prosecution Service. Regarding any criminal charges, the College may not, unless a Senior Officer decides otherwise, proceed with any disciplinary proceedings on the same matters until any criminal proceedings finish.

Legal and regulatory context

Human Rights Act

38. The Human Rights Act (Art.10) states that everyone has the right to freedom of expression. This includes freedom to hold opinions – and to receive and put forward information and ideas – without interference by public authorities and regardless of frontiers.
39. Use of these freedoms brings duties and responsibilities. So it may be subject to the formalities, conditions, restrictions and penalties that are prescribed by law and are needed in a democratic society. These broadly relate to national security, territorial integrity, public safety, preventing disorder or crime, protecting health or morals, protecting the reputation or rights of others, and preventing the disclosure of information received in confidence.

Education (No. 2) Act 1986

40. The Education (No. 2) Act 1986 (s.43) broadly states that every individual and group of people who help govern the College must take reasonably practicable steps to ensure that freedom of speech within the law is secured for its members, students and employees, and for visiting speakers.
41. The Education (No.2) Act 1986 (s.43(3)) requires the governing body of all universities to issue, and keep up to date, a Code of Practice on Freedom of Speech.
42. Additionally, the Act broadly states that every individual and group of people concerned in governing the College must take reasonably practicable steps (including disciplinary measures) to ensure that all comply with the code.
43. Therefore, in preparation for a future application for University Title, the Board of Directors will issue and keep up to date a Code of Practice on freedom of speech which sets out:
 - (a) procedures that College's members including students and staff must follow when organising meetings that are to be held on its premises, events off-site in the College's name and that fall within any class of activity specified in the Education (No.2) Act 1986;
 - (b) the steps it will take to ensure that use of its premises is not denied to an individual or group of people for reasons connected with their beliefs, views, policies or objectives;
 - (c) the conduct required of members, students and employees connected with the meeting or activity; and
 - (d) review the code's operation annually.

The 'Prevent' duty¹

44. The Counter Terrorism and Security Act 2015 means the College must "have due regard to the need to prevent people from being drawn into terrorism" (s.26). The College must also "have particular regard to the duty to ensure freedom of speech" and "to the importance of academic freedom" (s.31). Under section 29, we must "have regard to any such guidance in carrying out that duty".
45. The College complies with this duty in all its aspects. In practice, this means balancing concerns about extremism against concerns about censorship.
46. Our work on promoting British values and the College's values – and our Code of Practice on Diversity, Dignity and Inclusion – all aim to tackle this question. Our duty covers many areas of activity, including pastoral support for students, staff training and information sharing.

Schedule (not part of the policies and regulations):

Responsible Officer: Provost

Approved by: Board of Directors, Academic Board and GSM London Students' Union

Version: 1.0

Date: 24 February 2016

Monitoring and Review Body: Academic Board and GSM London Students' Union

Effective From: 1 April 2016

Next Scheduled Review: April 2017

¹ The statutory Prevent Duty Guidance (PDG) has been issued to all 'specified authorities', with additional guidance for universities (HEG).