

# **BCNO Code of Practice on Freedom of Speech Policy**

**2023**

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## **Code of Practice**

### **1.0 Introduction**

- 1.1. BCNO supports the principle of freedom of speech and expression within the law as one of the fundamental principles upon which HE Institutions are founded. It also has regard to the need to ensure that staff and students have the freedom to question, test and put forward new ideas and controversial opinions, without placing themselves at risk.
- 1.2. This Code of Practice embodies the statement of principles introduced in Section 43 of the Education (No. 2) Act 1986 and sets out the rights and obligations inherent within those principles. The Code shall be both interpreted and applied in a spirit of upholding the principle of freedom of speech wherever reasonably practicable.
- 1.3. Everyone employed by BCNO, and every student enrolling should be aware that joining the BCNO community involves obligations and responsibilities which are consistent with the above principle and the law.
- 1.4. BCNO has adopted this Code of Practice to ensure freedom of speech within the law is secured for students, employees and other members of the BCNO community. The Code's obligations and rights apply to:
  - 1.4.1. The Board of Governors
  - 1.4.2. All staff (academic or support) whose normal place of work is upon premises of BCNO. This will include any visiting lecturers and guest speakers present on BCNO premises or using the BCNO VLE/ MS teams by invitation of the Principal, a Head of Department or a member of staff so authorised by any of the above.
  - 1.4.3. All duly enrolled students of BCNO (full or part-time)
  - 1.4.4. The BCNO Student's Union/Association, its constituent societies, clubs and associations
  - 1.4.5. Any alumnus invited to BCNO
  - 1.4.6. Any person or organisation not associated with BCNO who wish to hire or otherwise use BCNO facilities.

### **2.0 Legal Background**

- 2.1. Section 43 of the Education (No 2) Act 1986 states that every individual and body of persons concerned in the governance of HE Institutions shall take such steps as are reasonably practical to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and visiting speakers.

- 2.2. The Education Reform Act 1998, which requires universities to protect freedom of speech, publish a code of practice and outline the procedures for members, students and employees to follow to uphold free speech
- 2.3. The European Convention on Human Rights, which requires higher education to comply with the right to freedom of expression and the right to freedom of assembly and association, as incorporated into UK law by the Human Rights Act 1998
- 2.4. The Higher Education and Research Act 2017, which requires higher education to uphold existing laws around freedom of speech, and requires this as part of institutional registration with the Office for Students (OfS)
- 2.5. The Counter Terrorism and Security Act 2015 and the Prevent Duty Monitoring Framework from the OfS (2018), which requires universities to “have due regard to the need to prevent people from being drawn into terrorism” and also “have particular regard to the duty to ensure freedom of speech... and to the importance of academic freedom”
- 2.6. The Equality Act 2010, which places an obligation on public sector bodies to have due regard to: the need to eliminate discrimination, harassment, and victimisation; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not.

### **3.0 Scope of the Code of Practice**

- 3.1 This Code of Practice applies to the following people:
  - The Board of Governors
  - All persons (whether academic staff or otherwise) whose normal place of work is BCNO
  - Visiting lecturers, visiting specialists and guest speakers present by invitation by a member of staff
  - All registered students (whether full or part-time)
  - BCNO Students Union/Association, its constituent societies, and
  - All external speakers, as defined by the External Speakers Policy
  - All bodies or persons who hire or otherwise use BCNO facilities
- 3.2 The Code of Practice applies to the following situations:
  - Both in-person and online/virtual/remote engagements such as over videoconference, online lectures/tutorials or webinars
  - All academic activities
  - Exhibitions organised or hosted by BCNO
  - Meetings and events arranged by BCNO staff, outside normal teaching programmes

- Meetings and events arranged by the Students' Union/Association, a society, or club
- Meetings and events held by the University but outside the normal teaching programmes, arranged by any person or group or persons

#### **4.0 Freedom of Speech Code of Practice**

4.1 Universities in the UK play an important role in promoting academic freedom and freedom of speech, which is underpinned by legislation. BCNO:

- Ensures 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 at their institutions (Education Reform Act 1988);
- Takes steps as reasonably practicable to ensure that freedom of speech within the law is secured for students and staff of BCNO and for external speakers (Education No. 2 Act 1986);
- Ensures, as reasonably practicable, that the use of any premises of BCNO is not denied to any individual or body of persons on any ground connected with their beliefs or views or policy objectives; and
- Issues and keeps this Code of Practice setting out the procedures to be followed by students, employees, and external speakers of BCNO and the conduct of such persons.

4.2 BCNO's commitment to freedom of speech is not absolute. In addition to affirming BCNO's commitment to academic freedom and freedom of speech, this Code of Practice specifies circumstances in which special measures may be imposed. This ensures BCNO complies with its obligations under legislation (see Section 2) including exercising a duty of care for students, staff and other persons engaged in BCNO activities.

4.3 In general, a meeting, activity, event or topic of discussion which creates an environment of fear, harassment, intimidation, verbal abuse or violence (or which encourages support for or participation in violent acts), particularly as a result of age, disability, sex, gender, gender reassignment, sexual orientation, marriage and civil partnership, pregnancy and maternity, race, religion or belief, if unlawful, will not be permitted to go ahead.

## **5.0 Implementation of the Code of Practice and Procedure for meetings/activities**

- 5.1 Every individual engaged in meetings/activities with the University (see Section 3.1) shall take such steps as are reasonably practicable to ensure that freedom of speech is maintained for members, students, employees and visitors. BCNO Freedom of Speech Code of Practice,
- 5.2. Provided the legal obligations outlined in Section 2 are upheld, use of BCNO's premises will not normally be denied to any individual or body of persons on any ground connected with:
  - 5.2.1 The beliefs or views of that individual or of any member of that body; or,
  - 5.2.2 The policy or objectives of that body
- 5.3 In cases where a proposed meeting or activity is of such a kind that the maintenance of freedom of speech or of related general good order cannot be assumed, the individual or body intending to arrange the activity must inform the Programme lead/s (PL) before any arrangements are made.
- 5.4 Any member, student and/or employee of BCNO, or member of the public, proposed attendee/visitor may inform the Programme Lead/s of a proposed meeting or activity if they believe the circumstances warrant it.
- 5.5 The Programme Lead may decide on any special measures to be applied and in rare circumstances the activity may not be permitted to take place. Examples of special measures are included in Appendix 1.
- 5.6 Any member, student or employee who wishes to organise a meeting or activity and who believes that this is being prevented or adversely affected on grounds connected with the beliefs, views, policies or objectives of any individual or body may refer the case to the Programme Lead.
- 5.7 Any member of the public, proposed attendee/visitor who believes a meeting or activity is being prevented or adversely affected on grounds connected with the beliefs, views, policies or objectives of any individual or body may also refer the case to the Programme Lead.
- 5.8 A request for a review of any decision made by the Programme Lead about either special measures or refusing may be made in writing to a member of the Senior Management Team (SMT).
- 5.9 Any alleged breaches of this Code of Practice shall be investigated in accordance with the relevant disciplinary procedure (see 1.2)
- 5.10 Any external speakers engaged as part of such events should be notified to the central Safeguarding Team in accordance with the External Speakers Policy and BCNO Freedom of Speech Code of Practice.

## **6.0 Review of the Code of Practice**

BCNO notes that the provisions of subsection 3 of Section 43 of the Education (No. 2) Act 1986 require it to issue and keep up to date a Code of Practice on Freedom of Speech and as a result, will review this Code of Practice at intervals not exceeding 2 years (this may be brought forward as a result of regulatory or statutory changes in the intervening period).

## **Appendix 1: Examples of Special Measures**

Please note this is not an exhaustive list:

- a) How, where, and to who the meeting/activity is advertised and/or any related publicity
- b) Change to a venue
- c) Revision to the date/time/duration of the meeting/activity
- d) Admission requirements including for guests
- e) Stewarding and security
- f) Payments for special services such as stewarding, security and cleaning
- g) Safeguards against the availability of potentially offensive weapons
- h) Arrangements for food and drink
- i) Liaison with the police
- j) Admission of media and press
- k) Change to the Chair of the meeting/activity
- l) Consideration of managing opportunities for discussion and questions
- m) Procedures for terminating the meeting or activity

## Auditing

Policy Name:	BCNO Code of Practice on Freedom of Speech		
Policy Owner:	Principal		
Policy Approver:	Academic Planning and Quality Committee		
Audience:	Patients; Students; Faculty; Staff; External Visitors		
Storage Location:	Website, VLE		
Effective Date:	November 2023		
Review Date: <small>(Unless other revisions are required prior to this date)</small>	July 2024, intervals not exceeding 2 years (para 6.0)		
Version:	V4		
Equality Impact Assessment:	Are there any implications for a protected characteristic group as defined by the Equality Act 2010 in this policy?		
	<input type="checkbox"/> Positive Impact	<input type="checkbox"/> Negative Impact	<input checked="" type="checkbox"/> Neutral
Details:			

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