

# Free Speech Policy & Procedure

## Context and introduction

1. Birkbeck College has a longstanding commitment to free, robust, and uninhibited debate and deliberation among all members of the College's community. Since its foundation in 1823 its mission has been to ensure 'the universal benefits of the blessings of knowledge', and throughout its history this has involved critical interrogation of accepted orthodoxies and the power relations in which they are implicated. The rights to freedom of speech implicit in these values involve responsibilities and obligations to others within College and wider communities, so as to ensure broad and open discussion in which all parties can participate. As the College approaches its 200<sup>th</sup> anniversary, this Policy outlines how, in practical terms and in the context of London in the early 21<sup>st</sup> century, the College will ensure that it is able to fulfil these values.
2. The Free Speech Policy & Procedure is relevant to all staff, students, and visitors who are part of the College community<sup>1</sup>. This document also outlines College procedures for managing external speakers and events and should be read in conjunction with the College Safeguarding Policy and Procedures and the Room Booking Terms and Conditions.
3. The principles of the College's approach to Dignity at Work and Study help contextualise the approach to Freedom of Speech:
  - a. **Equality** - The College will act swiftly to challenge discrimination, harassment and bullying in all its manifestations.
  - b. **Respect** - The College supports the right to self-expression within the context of respect for others; encouraging dialogue about the issues that connect and divide individuals and communities, discussing prejudice; challenging preconceptions and assumptions.
  - c. **Security** - The College aims to deliver a safe environment for staff, students and visitors free from intimidation, harassment and fear. Members will challenge views that promote violence or otherwise deny human rights.
  - d. **Understanding** - The mission of the College offers opportunities to learn about difference and identify common ground; it promotes the benefits of developing knowledge and skills that improve personal and community relationships.
  - e. **Cooperation** – all staff, students, and visitors will be expected to work together to support the mission and objectives of the College.

4. The College recognises:

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<sup>1</sup> For the purpose of this Policy, applicants and alumni are considered 'students' and Governors are considered 'staff', Contractors are defined as 'visitors'. The Policy is also relevant to members of Birkbeck College Students' Union (BCSU).

- a. its duty under the Education (No.2) Act 1986, requiring it to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for staff, students, and visiting speakers to the College (including honorary and visiting staff)
  - b. its duty under the Education Reform Act 1988, 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 at the College.
5. Every member of the College community is entitled to freedom of thought, conscience and religion as far as reasonably practicable, to hold opinions without interference, disability or disadvantage, and to freedom of expression within the law, including the right to seek, receive and impart information and ideas.
  6. Staff, students and visitors also have the right to work and study unhindered by harassment, threat or intimidation. Rights to freedom from harassment, threat, and intimidation are set out in the College's *Regulations, Policies and Procedures* and which should be read in conjunction with this Code. The College's Principles of *Dignity at Work and Study, Safeguarding Policy and the Student Discipline Policy* includes procedures for staff, students and visitors to report alleged harassment, threat or intimidation and to have their concerns investigated, including, where necessary, with reference to the Police or other statutory authorities.
  7. The College's *Student Discipline Policy* and the *Staff Discipline Procedure* may be invoked where staff and students breach this Free Speech Policy and Procedure. The *Fitness to Study Policy and Procedure* may also be used where there are substantive concerns about a student's fitness to study.
  8. The College recognises that freedom of speech and academic freedom are qualified rights. The College will give effect to those rights to the extent permitted by the law. It will therefore balance its duty to ensure those rights with its other legal duties including having due regard to the need to eliminate discrimination, harassment and victimisation; having due regard to the need to prevent people from being drawn in to terrorism; and taking steps to ensure the health, safety and well-being of employees, students, external speakers and visitors.

### **Range and application**

9. The Free Speech Policy and Procedure applies to all meetings, room bookings, hired space and events (including lectures, conferences, seminars, committee meetings, external speakers, and performances) on any premises

wherever situated, of which the College rents, has title or possession, by freehold, leasehold, licence or otherwise.

10. While there is no requirement for the College to make available its premises for events, in accordance with its mission and objectives and its duty to promote free speech, it will make all reasonable efforts to do so.
11. Free speech is a qualified privilege subject to the limits imposed by law, including but not limited to law governing the protection of human rights; equality and diversity; health and safety; the prevention of crime; and the protection of the rights and freedoms of others. The College may, therefore, through its Freedom of Speech Panel chaired by the Vice-Master, refuse the holding of an event where it reasonably believes it is likely to infringe limits and duties imposed by law.
12. Controversial, offensive or distasteful views which are not unlawful in themselves would not normally constitute reasonable grounds for refusing an event.
13. The College, through the Freedom of Speech Panel, retains the right to conduct a risk assessment for all meetings, room bookings, hired space and events to ensure the opinion or belief of a group or an individual does not infringe the limits and duties imposed by law. The risk assessment will analyse risks linked to health and safety; human rights; equality and diversity; prevention of crime; charity law and the rights and freedoms of others, amongst other things.
14. Every event must have a designated Event Organiser. The Event Organiser is a staff member, student, or visitor who organises, sponsors, advertises, hosts or coordinates an 'event' including the booking or provisional booking of facilities.
15. The Event Organiser is responsible for ensuring that due notice is given to the College as set out in the procedure.
16. The Event Organiser is responsible for ensuring the event is conducted in accordance with this Free Speech Policy and Procedure and other relevant College regulations, policies and procedures.
17. The Event Organiser has overall responsibility for providing the College with sufficient information regarding an event and ensuring speakers, staff, students and visitors at events are aware of and agree to abide by this Policy and Procedure and other College regulations, policies and procedures.

18. Event Organisers may delegate tasks such as the booking of rooms to members of staff, but should retain oversight of the overall event. Should this Policy be breached, the College reserves the right to censure the Event Organiser.
19. The Academic Registrar is appointed by the Master and on behalf of the Governors to be the Responsible Officer for the day-to-day monitoring and implementation of the Free Speech Policy & Procedure. The Freedom of Speech Panel, chaired by the Vice-Master, is responsible for considering and if appropriate refusing proposed events where it reasonably believes the event is likely to infringe limits and duties imposed by law.

### **Right of appeal**

20. If any member of staff, student or visitor believes that this Policy has not been implemented correctly, s/he may make representation in writing to the College Secretary (or nominee) up to 5 days after the event. The Master will be responsible for determining whether the Policy and/or Procedure has been followed correctly.

Governors  
30 June 2016

## **Appendix A - Procedures for Supporting Freedom of Speech**

1. In this Procedure, Events means all events that are not scheduled teaching and learning events or research seminars booked through the Teaching Resource Manager system, including externally and internally booked events and events involving visiting speakers
2. All Events must be booked using the Room Bookings Procedure using the Room Bookings Form and are subject to the [Room Bookings Terms and Conditions](#).
3. As part of the Room Bookings Procedure, the Event Organiser must give the Room Bookings Office at least 10 working days written notice of the date on which the Event will take place, full details of the Event including details of all speakers, topics, and an assessment of any risks to health and safety; prevention of crime; human rights; equality and discrimination and the rights and freedoms of others. Where this is not done, the room booking application will be refused.
4. In the event of a booking being accepted the Event Organiser must ensure compliance with the [Room Bookings Terms and Conditions](#). These can be found at: [www.bbk.ac.uk/roombookings/](http://www.bbk.ac.uk/roombookings/)
5. The Event Organiser must not promote the Event prior to the receipt of written confirmation of the booking.
6. The College will provide facilities to staff, students and visitors to host events according to the [Room Bookings Terms and Conditions](#).

### **Event Booking Procedure**

7. The Room Bookings Office will review the arrangements and management of any requested Event and make an initial assessment risk. In making its assessment, the Room Booking Office will review the information in the Room Bookings Form and may request further information from the Event Organiser.
8. Where the Room Bookings Office considers that there is minimal risk surrounding a proposed Event, the Room Bookings Office may authorise the Event and manage the practical arrangements to be put in place, such as ensuring the room is of an appropriate size with appropriate facilities.
9. Where the Room Bookings Office considers that there is a risk that an Event may infringe limits and duties imposed by law as set out in Paragraph 12 of the Free Speech Policy, the proposed Event will be referred to the Academic Registrar or Director of Facilities and Estates Services<sup>2</sup> who will convene an

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<sup>2</sup> Normally the Academic Registrar will convene the Events Panel if the Event Organiser is a student or member of staff; and the Director of Facilities and Estates Services will convene the panel if the Event Organiser is external to the College.

Event Panel to consider the operational risk(s) and how these can be mitigated.

### **The Event Panel**

10. The Event Panel shall be comprised of the Academic Registrar or Director of Facilities and Estates Services and two other members of staff, from among the Deputy College Secretaries, Director of Human Resources, Director of Commercial Services and Estates Development and Head of Communications.
11. The Event Panel may co-opt representatives from other areas of the College depending on the risk(s) being evaluated, including academic colleagues and officers of Birkbeck College Students' Union (BCSU).
12. The Event Panel members will make all reasonable attempts to ensure equality and diversity is promoted in its membership.
13. Once convened, the Event Panel will consider all relevant information available to it.
14. The Event Panel may ask the Event Organiser for more information and to carry out and submit a written, detailed operational risk assessment for the Event.
15. The Event Panel will assess the potential risks of the proposed Event and identify what operational mitigations and arrangements can be put in place to manage and reduce the risk(s) whilst still securing free speech. The Panel will take into account advice from third parties, which may include other HE institutions, academic staff or experts in a subject discipline if the event is discipline specific, and the police, among others, if it considers it appropriate to do so.
16. To enable the Event to take place, whilst ensuring compliance with the College's other legal duties and obligations, the Event Panel may attach conditions to the authorisation of an Event request, including but not limited to:-
  - a. Reviewing the methods of promoting the Event and the content of promotional material (and potentially restricting what material is available at the Event)
  - b. Requesting a copy of the guest list for review prior to the Event
  - c. Admittance or non-admittance of members of the public
  - d. Making the Event ticketed or specifying that attendees must show a valid student or staff card
  - e. Provision of a specified number of stewards
  - f. Varying the time and location of the Event
  - g. Ensuring there is no discriminatory segregation on the grounds of a protected characteristic



- h. The College to be responsible for security arrangements (a controlling officer may be appointed for this purpose). The College reserves the right to pursue individuals or organisations for the additional costs involved in hosting an Event.
  - i. Presence of specified senior members of College staff
  - j. The refusal of admission of media representatives to the Event
  - k. Restricting the broadcasting of the Event (by whatever means)
  - l. The mode of appointment and role of a Chair at the Event
  - m. A translator at the Event
  - n. Restricting the provision of alcohol
  - o. Arranging a panel of speakers rather than single speaker
  - p. Increasing the number of speakers or topics at the Event
17. If the Event Panel considers that the potential risks of the proposed Event infringing the limits and duties imposed by law can be sufficiently mitigated by attaching conditions to the Event, the Event Panel may authorise the Event to go ahead with those conditions in place. A record of the meeting of the Event Panel will be kept by Registry Services and an annual report of decisions will be made to Academic Board and the College Equalities Committee.
18. The cost of additional arrangements deemed necessary by the Event Panel will be discussed with the Event Organiser who may be required to make a financial guarantee in advance of the Event. If the Event Organiser is unable to meet the additional costs of hosting and meet the Terms and Conditions of the Booking, the Event may not be authorised.
19. The role of the Event Panel is to identify and agree with the Event Organiser measures that will enable an Event to go ahead without infringing the rights and duties imposed by law. If the Event Panel cannot do this, it will refer the Event proposal to the Vice Master who will convene a Freedom of Speech Panel to consider the proposed Event and the conditions and arrangements to manage it.

### **The Freedom of Speech Panel**

20. The Freedom of Speech Panel shall be comprised of at least three members of senior staff including the Vice Master, who will be the Chair, and the College Secretary, plus other members of staff identified by the Vice Master, for example, a Pro Vice Master and/or an Executive Dean of the School involved if the Event is linked to a specific academic area. At the discretion of the Vice Master, the Freedom of Speech Panel will co-opt other members of staff and will take into account advice from third parties, which may include other HE institutions, academic staff or experts in a subject discipline if the event is discipline specific, and the police, among others. The Academic Registrar is Secretary of the Freedom of Speech Panel.

21. Once convened, the Freedom of Speech Panel will consider all relevant information available to it at that time. The Panel can also ask the Event Organiser for more information if required.
22. The Panel will assess the potential risks of the proposed Event infringing limits and duties imposed by law. The Panel may also consider the mitigations and arrangements that reasonably could be put in place to manage and reduce the risk whilst still securing Freedom of Speech.
23. To enable the Event to take place, whilst ensuring compliance with the College's other legal duties and obligations, the Freedom of Speech Panel may attach conditions to the authorisation of an Event such as those set out in paragraph 16 above. Freedom of Speech Panels will give written reasons for their decisions and the decisions will be recorded by the Academic Registrar. The decisions of the Freedom of Speech Panel will be reported annually to the College Equalities Committee and the Academic Board.
24. The Freedom of Speech Panel may decide that a proposed Event can go ahead, cannot go ahead, or set conditions under which it is permitted to go ahead.
25. The cost of additional arrangements deemed necessary by the Freedom of Speech Panel will be discussed with the Event Organiser who may be required to make a financial guarantee in advance of the Event. The Event Organiser may also be required to accept a limit on the number of Events organised if the costs incurred are significant.

### **The Event and the Responsibilities of Event Organisers**

26. The Event Organiser (or nominee specified in advance) must attend the Event.
27. The Event Organiser (or nominee specified in advance) must take all reasonable steps to ensure that:-
  - a. Nothing in the preparation for, or conduct of, the Event is likely to breach the law, this Policy or Procedure, or other relevant College regulations, policies and procedures;
  - b. The Chair of the Event (if appointed), is sufficiently competent and aware of freedom of speech and safeguarding issues to act as a presiding officer and manage the Event safely and sensitively; and
  - c. The Event does not unduly inhibit the access of others to the College's facilities.
28. The Event Organiser and the Chair (if appointed) have a duty, so far as is reasonably practicable, to ensure that both the audience and the speaker act in accordance with the law and the relevant College regulations, policies and procedures during the Event.
29. In case of conduct in breach of the law or College's regulations, policies and procedures, the Event Organiser or the Chair (if appointed) will give



- appropriate warnings and if the misconduct continues, the individual(s) will be excluded from the Event and/or curtail the Event.
30. Within the law, the College will share information on Event related risks and issues, including proposed visiting speakers, with other relevant parties.
  31. Event Organisers must provide additional information on risk assessment and management if asked by an Event Panel or Freedom of Speech Panel.
  32. Event Organisers must pay any reasonable fee that the College may charge for the use of a room, facility and/or services.
  33. The Director of Facilities and Estates Services will normally be present at any Event or meeting at which there is considered to be a risk of disruption. S/he will normally act as the College's main point of contact for the Police where necessary.
  34. Where facilities are allocated at School or Departmental level or equivalent, Event Organisers must ensure that all activities in these locations follow a room booking process and offer Terms and Conditions to mirror those in this Policy.

## Glossary

- a. **BCSU/Birkbeck College Students Union** - (including its societies, clubs, associations and any other organisation over which it exercises control) its employees, agents and representatives.
- b. **Chair/Presiding Officer** – individual tasked with leading a discussion in an Event and has the responsibility to give warnings, curtail or exclude individuals (s) at an Event.
- c. **College Premises** - all College property (howsoever held), including that designated for student use, or reasonably associated with Birkbeck, University of London.
- d. **Event** – all events that are not scheduled teaching and learning events or research seminars booked through the Teaching Resource Manager system, including externally and internally booked Events and Events involving visiting speakers
- e. **Event Organiser** - the person nominated by the organisers of an Event or meeting. They are accountable for the organisation of the Event. Event Organisers can delegate administrative tasks to other colleagues but they cannot delegate their accountability for ensuring all policies and processes have been correctly adopted.
- f. **Responsible Officer** - the person responsible to the Master for compliance with this Policy. This is normally the Academic Registrar.
- g. **Staff** - employee, agent, officer, or otherwise on behalf of any person, firm or corporation directly or indirectly engaged by the University
- h. **Visiting Speaker** - any speaker from outside the University who is not a member of staff or a student