

Review of Freedom of Speech Policy

In February, the Human Rights and Equality Commission published guidance for Universities in England and Wales on their obligations to uphold the right to Freedom of Expression. The full report can be found at

https://www.equalityhumanrights.com/sites/default/files/20150318_foe_legal_framework_guidance_revised_final.pdf. In reviewing our PREVENT risk assessment and action plan for this year,

Governing Body agreed that we should review the College's policy on Freedom of Expression. Both considerations make it timely for the College to consider and articulate its position on Freedom of Expression. What follows draws heavily on the Commission report.

Section 43 of the Education (No. 2) Act 1986 places a legal duty on Higher Education Providers (HEPs) to take reasonably practicable steps to ensure freedom of speech within the law. More specifically, this duty requires Governing Bodies of HEPs to have a code of practice about securing freedom of speech and keep it up to date. Somerville has subscribed to the University's code of practice which is entitled a code of practice on meetings and events and can be found at http://www.ox.ac.uk/media/global/wwwoxacuk/localsites/gazette/documents/supplements2016-17/Code_of_Practice_on_Meetings_and_Events_-_2016_to_No_5142.pdf.

It is proposed that Somerville should continue to align with the University code. The University code makes references to members, students and employees of the University and to OUSU (now referred to as Oxford SU). The obvious analogues are members, students and employees of the College and the two student Common Rooms. There are more complex correspondences in that the University document refers to the Proctors making rulings. It is proposed that the College equivalent would be the Senior Tutor, for matters of academic freedom, freedom of expression, and PREVENT duty compliance, although this would not remove the responsibility of the Dean to approve the safe running of Events or the Treasurer, who reports to the Principal on matters of Health and Safety in College.

The differences are sufficiently substantial that it is proposed that we adopt our own code of practice, using the University code as the starting template. The proposed code forms the remainder of this document. Standing Committee are asked to review the content and suggest any amendments before it is considered by Governing Body.

Code of Practice on Meetings and Events

Preamble

1 Freedom of speech and academic freedom are central tenets of Somerville College life in Somerville.

2 Somerville College seeks to protect robustly civic and academic freedoms and to foster an academic 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 The legal duty of UK universities to protect free speech is enshrined in legislation, including the Education (No 2) Act 1986 and the Human Rights Act 1998 and academic freedom is protected by the Education Reform Act 1988. Section 43 of the Education (No 2) Act 1986 specifically requires universities to:

(a) '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';

(b) '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.'; and

(c) issue and keep up to date a code of practice for meetings and events.

4 The central importance of freedom of speech and academic freedom in a university underlies this Code.

Scope

5 This Code of Practice must be followed by all members, students and employees of the College and visiting speakers in respect of:

(a) all meetings and other events, to be held outdoors or indoors, on College premises, including those organised by third parties; and

(b) all meetings and other events, which are College funded, affiliated or branded regardless of location.

6 It is not anticipated that events and meetings which have been organised as part of the academic curriculum or co-curriculum would cause concern such as to require formal referral to the Senior Tutor under the provisions of this Code.

Key principles

7 Freedom of speech and academic freedom must be protected.

8 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. 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. The University 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 University community are respected. All activity must be risk assessed and planned in accordance with the College health and safety policy.

Procedure

9 Members, students and employees of the College who are organising meetings or events or are responsible for administering external bookings of College premises are responsible for assessing whether there are any major risks or issues in the context of this Code, in particular with reference to paras 7–8 and 10. (If they are in any doubt or have any questions or need for further information, they are encouraged to discuss the situation with colleagues locally in the first instance, and then seek advice, as appropriate, from the Senior Tutor.)

10 Events and meetings must be formally notified to the Bursary using the Event Booking Form available from the College intranet.

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 Senior Tutor and/or Treasurer (who has responsibility to the Principal for Health and Safety in College), as appropriate, will make a judgement as to whether changes in the proposed arrangements should be made to protect the safety or rights of College members or attendees.

As required by section 12 of the Terrorism Act 2000, the University 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.

Role of the Senior Tutor

11 In the context of this Code, the Senior Tutor 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:

- (a) the importance of academic freedom (as required eg by the Education Reform Act 1988);
- (b) the need to ensure that freedom of speech within the law is secured (as required eg by the Education (No 2) Act 1986);
- (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) to have due regard to the need to eliminate unlawful discrimination, promote equality of opportunity, and foster good relations between different groups in accordance with the Public Sector Equality Duty; and

(e) the Counter-Terrorism and Security Act 2015 which requires universities and other 'specified authorities' 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.'⁷

12 The Senior Tutor shall act in a risk-based and proportionate manner and with the desire, wherever possible, to enable events or meetings to proceed.

Referral

13 In order to book a space in College for an event, an Event Booking Form must be completed and submitted at least seven (7) working days in advance of the meeting or event. After an initial judgement by the Senior Tutor, if changes are not required to address PREVENT or equality-related concerns, the booking form will be passed to the Bursary and will undergo all the normal checks required by the Dean's regulations to ensure that appropriate arrangements are in place for the acceptable conduct of the Event.

Decisions

15 The Senior Tutor, the Dean and the Treasurer each have the power to postpone or relocate a meeting or event or to impose conditions. The Principal will not normally be involved in initial decisions since they may need to consider an appeal against the initial decision. The responsibility for fulfilling any conditions rests with the organisers.

16 In the exceptional event that one of the College Officers listed above considers that the risks cannot be mitigated by the imposition of conditions, or the organisers refuse to comply with the conditions set, the relevant College Officer has the right to cancel the meeting or event.

Appeal

18 If an organiser or any member of the University or member of University staff who has consulted the College Officers with concerns about a meeting or event is unhappy with the outcome of a decision of the relevant College Officer they may write to the Principal, setting out clear reasons for their unhappiness with the decision and requesting a reconsideration of the decision.

19 The Principal or the Principal's delegate (as appropriate) will communicate their decision on the appeal promptly and will set out the reasons for the decision.

Review of the operation of the Code

20 Governing Body shall review the operation of this Code every year as part of the annual review of the execution of the PREVENT duty, with a view to ensuring that Freedom of Expression is upheld and, in particular, is not compromised by the fulfilment of the PREVENT duty.

SRayner

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