

Freedom of Speech and Academic Freedom Policy

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Amendments this version

Paragraph	Amendment summary
Policy statement	Unchanged
1	Update in law (Duty from 1 August 2025)
2	Major changes to impacts of the Act following new government changes to Higher Education (Freedom of Speech) Act 2023 / Framework for assessment

Policy Statement

What is 'freedom of speech' and 'academic freedom'?

While they are often used interchangeably, freedom of speech and academic freedom are different terms that relate to each other.

There are several different definitions for each concept, but broadly speaking:

Freedom of speech means everyone has the right to express lawful views and opinions freely, in speech or in writing, without interference. Under ECHR Article 10 and the Education Act s.43 duty, AUP must protect the freedom of expression of academics and staff. Student complaints and protests should not result in AUP imposing limits on course content or speaker events organised by lecturers. AUP should also take steps, such as providing support to staff, where necessary, to make sure that the pressure of student complaints does not lead to self-censorship of academic work.

Academic freedom means protecting the intellectual independence of academics to question and test received views and wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in danger of losing their jobs or privileges.

Internal policies (for example, policies to comply with the Prevent duty) must not unduly inhibit academic freedom.

Academic freedom and freedom of expression are vital components of an open and democratic society, and are fundamental to our core purpose as a University.

In today's climate of increasingly passionate and polarised debate, it is especially important that we support our community to be able to exercise their rights of lawful academic freedom and free expression.

Arts University Plymouth is committed to upholding freedom of expression and academic freedom, and facilitating an environment where all are able to inquire, study, and debate. It is inevitable – and often desirable – that in such an environment, different ideas within our community will contradict or conflict with others, sometimes creating tension between those with differing opinions and beliefs. Engaging with different perspectives is a key part of the university experience, allowing students to develop critical thinking skills and a shared understanding of each other's perspectives and experiences. However, a challenging environment does not need to be a hostile one.

The most effective way to foster free and frank exchange of views – thus ensuring that ideas and knowledge are not suppressed – is on the basis of mutual respect.

This must apply even where some may find those ideas offensive or immoral, and a commitment to freedom of expression includes facilitating debate that others wish to restrict or obstruct.

The rights that freedom of expression brings are underpinned by the law and in limited circumstances, they can also be restricted by it. Freedom of expression does not extend to freedom to break the law, harass or defame individuals, or breach others' rights to privacy. Further information on limitations is detailed in Appendix 3.

In exceptional circumstances, the University may need to apply these restrictions – but it will always do so in a manner consistent with, and mindful of, its commitment to freedom of expression. It is only through a community that engages freely in study, debate and open inquiry, supported by a culture of mutual respect and kindness, that the University can achieve its vision of being a new kind of arts university for the 21st century, preparing graduates who are uniquely placed to provide creative solutions to the complex global challenges of our times.

This policy outlines AUP's approach in the protection of academic freedom and freedom of expression within the law and in the management of external speakers on campus and at external branded events. This policy is informed by UK legislation and **Regulation 24** set by the regulator, the Office for Students. This policy augments our [Freedom of Speech Code](#).

1. The Law

1.1 [The Higher Education \(Freedom of Speech\) Act 2023](#) (long title - A Bill to make provision in relation to freedom of speech and academic freedom in higher education institutions and in students' unions; and for connected purposes) became law on 16th May 2023.

The Act defines freedom of speech as: 'the freedom to impart ideas, opinions or information (referred to in Article 10(1) of the European Convention on Human Rights (ECHR) as it has effect for the purposes of the Human Rights Act 1998) by means of speech, writing or images (including in electronic form).' Article 10 pertains to the right to freedom of expression and is set out below.

Article 10 of the Convention

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

1.2 All speech is lawful, that is 'within the law', unless restricted by law. Any restriction of what is 'within the law' must be set out in law made by, or authorised by, the state, or made by the courts. This includes (for instance) provisions of the Equality Act 2010 prohibiting discrimination. It also includes common law on confidentiality and privacy.

1.3 Freedom of speech within the law is protected. Unlawful speech is not protected. However, there is no need to point to a specific legal basis for speech. Instead, the starting point is that speech is permitted unless restricted by law.

1.4 Free speech includes lawful speech that may offend or shock some people. Speech that amounts to unlawful harassment or unlawful incitement to hatred or violence (for instance) does not constitute free speech within the law and is not protected ([OfS Regulatory Advice 24](#)).

In January 2025, the Secretary of State made a statement in Parliament following the government's review of the Act, that had been paused on change of government in July 2024. The January statement set out the future direction for the legislation and

confirmed the main duties on universities and constituent institutions of the Higher Education (Freedom of Speech) Act 2023 that will be brought into force and commence on 1 August 2025.

1.5 Other legal requirements in addition to the [Education Act \(No2\)](#) and [Higher Education \(Freedom of Speech\) Act](#) are also relevant:

- The [Counter-Terrorism and Security Act 2015](#) and the Prevent Duty Monitoring Framework from the OfS (2018), contains a duty on specified authorities 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”
- [Section 43 of the Education \(No. 2\) Act 1986](#) places a legal duty on HE providers to take ‘reasonably practicable’ steps to ensure freedom of speech within the law for their members, students, employees and visiting speakers.
- The [Education Reform Act 1988](#) requires HE providers 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
- The [European Convention on Human Rights](#), requires HE providers (as public authorities) 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
- The [Higher Education and Research Act 2017](#), requires providers to uphold existing laws around freedom of speech, and requires this as part of institutional registration with the [Office for Students](#) (OfS).
- The [Equality Act 2010](#), 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.

2. Impact of the Higher Education (Freedom of Speech) Act

- Office for Students (OfS) (the higher education regulator)

2.1 The Act introduced the appointment of a Director for Freedom of Speech and Academic Freedom to oversee all the OfS free speech functions, including a new complaints scheme that will be implemented with significant changes from what was originally planned.

2.2 The OfS Director role is to champion free speech on campuses.

2.3 As a result of the Act, for universities and colleges there will be:

- a duty to take reasonably practicable steps to secure freedom of speech within the law
- a ban on the use of non-disclosure agreements to silence victims of bullying, harassment or sexual misconduct on campus
- a requirement for all universities to have codes of practice to ensure the protection of free speech
- a duty to promote the importance of freedom of speech in higher education.

2.4 The OfS's obligation to operate a free speech complaints scheme and ability to impose a free speech condition of registration will also come into force in the near future, after new legislation with some amendments. The complaints scheme will now:

- be open to staff and visiting speakers (visiting artists, presenters and educators) **not students**.
 - students will continue to have access to the Office of the Independent Adjudicator (OIA) complaints scheme for their unresolved complaints
- cover complaints about providers or their 'constituent institutions' (e.g. colleges within a collegiate university), but **not students' unions**; and
- give the OfS the power to consider complaints at their discretion, rather than an obligation to consider every complaint.

2.5 Other provisions of the Act **will be repealed** including the duties on students' unions. The OfS stated that

"Students' unions remain central to students' experience of higher education and to exposing students to a range of views. They should continue to work with higher education providers to preserve their crucial role in ensuring and encouraging free speech."

2.6 Decisions about the monitoring of overseas funding remain under review.

2.7 At present universities and colleges continue to be subject to existing free speech duties and regulatory requirements.

2.8 The free speech duty **does not** constitute a condition of registration, however, will

become a condition in the near future.

3. Purpose

3.1 The purpose of this policy is to ensure that we ensure compliance with the ‘**secure**’ duty in relation to any speech or expression.

4. Scope

4.1 This policy applies at any time to the Board of Governors, all AUP staff and Student Union members (sabbatical officers, elected officers, club/society leads or members), all registered students and any visiting lecturers, visiting artists / specialists and any guest/external speakers present by invitation.

4.2 This policy also applies to any event with visiting speakers (visiting artists, presenters and educators) that requires a sponsor who is a member of staff or registered student. Where students are organising external speakers’ events they will be supported by either a member of University staff or the Students’ Union President or Manager who will then act as co-sponsor and be responsible for adhering to this policy.

4.3 The Policy also applies to any event with external speakers held on campus (all AUP buildings and campus areas) and at venues off-campus that are sanctioned by and held under the auspices of the University. Where events with external speakers are held on campus by an external party, the University sponsor is responsible for compliance with this policy.

4.4 This policy while ensuring the secure duty of freedom of speech and academic freedom is upheld provided any of the above:

- do not incite hatred, violence or call for the breaking of the law
- do not encourage, glorify or promote any acts of terrorism including individuals, groups or organisations that support such acts
- do not spread hatred and intolerance in the community and thus aid in disrupting social and community harmony
- do not raise or gather funds for any external organisation or cause without express permission.

5. Freedom of Thought or a Hate Crime?

5.1 Whilst it is important to note that freedom of speech has never been – and can never be – absolute, the basic freedoms of expression and speech are safeguarded under British law. Freedom of expression is protected under the [Human Rights Act 1998](#) which states,

“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.”

Causing offence

5.2 Causing offence in itself is very subjective, and therefore can be difficult (if not impossible) to legislate against. Therefore, **being offensive or causing offence, even if related to a protected characteristic, is not necessarily hate speech / incident.**

Hate crime

5.3 Hate crime can be the exacerbated version of something that is already a criminal offence; that is to say, a crime that is ‘perceived’ to be ‘motivated by hostility or prejudice based on a person’s race or perceived race; religion or perceived religion; sexual orientation or perceived sexual orientation; disability or perceived disability and any crime motivated by hostility or prejudice against a person who is transgender or perceived to be transgender’. An example of an offence in law would be racially aggravated assault.

5.4 To clarify, a ‘hate crime’ is only a crime if it would already qualify as a criminal offence without the aggravating factor. As abhorrent as some views may be such as the coarseness of public debate on social media (in particular X (formerly Twitter) for example, outlawing insults and offence would be an infringement on basic freedoms. However, in some cases where a case has not necessarily been judged a hate crime, offenders have been prosecuted as ‘sending malicious communications’ under the Communications Act 2003.

Protected beliefs

5.5 Of note is that a landmark case (*Forstater*¹) established that holding gender-critical views is a “protected characteristic”. Views which challenged aspects of critical race theory were subsequently ruled to be protected, as were anti-Zionist ones².

5.6 The law in this area is still evolving and to avoid finding themselves in breach of the law, providers need to work on the basis that advocacy for free speech and human rights, and opinions (whether religiously or philosophically based) in respect of other currently contested areas, must logically also be treated as protected beliefs in appropriate circumstances.

¹ [Forstater v. CGD Europe et al.](#), 2021 (Appeal No. UKEAT/0105/20/JOJ):

² [Corby v ACAS](#), September 2023 and [D. Miller v University of Bristol](#), February 2024 [ET no: 1400780/2022]. It is worth noting that the Tribunal was alert to the distinction between opposing Zionism and antisemitism: in that case it ruled that the Mr Miller made “manifestations” of this which were antisemitic and thus not protected.

5.7 These would include, for example, in relation to other aspects of critical race theory and moves to “decolonise the curriculum”, and lawful views in relation to religions and their effects and including the Palestinian cause.

Harassment

5.8 Importantly, while causing offence may not be a criminal offence, the University, with its own codes of conduct for staff and students, may still investigate any complaints of this nature. For example, continuing to deliberately cause offence to an individual or group could constitute harassment and be a breach of the Harassment & Sexual Misconduct Policy and thus the Student or Staff Codes of Conduct (or even the law). In such cases, an investigation could be ordered under the relevant disciplinary procedures.

6. Academic Freedom

6.1 The duty to secure freedom of speech includes (as relating to academic staff) securing academic freedom. The Act defines academic freedom, in relation to academic staff at a registered higher education provider (or constituent institution), as their freedom within the law:

- to question and test received wisdom, and
- to put forward new ideas and controversial or unpopular opinions without placing themselves at risk of being adversely affected in any of the following ways:
 - loss of their jobs or privileges at the provider;
 - the likelihood of their securing promotion or different jobs at the provider being reduced.

6.2 We understand the importance of securing freedom of expression or speech within the law. So far as is reasonably practicable, no premises of the University shall be denied to any individual or body of persons on any grounds connected with:

- (a) the beliefs or views of that individual or of that body; or
- (b) the policy or objectives of that body.

6.3 We must also take account of our other legal obligations which may require us to have regard to what is said on our premises.

- a speaker, for example, who incites an audience to violence or to racial hatred transgresses the bounds of lawful speech.
- equally, assemblies of persons, even if directed to lawful purposes, cease to be lawful if they cause serious public disorder or breaches of the peace.

6.4 In these instances it may be necessary to report alleged breaches of the law by an external speaker to police. Transgressions by staff or students will also be subject to the law

and may also face University disciplinary action through our respective staff or student disciplinary procedures.

6.5 Freedom of expression protects the right of everyone to express themselves freely, whatever the form of expression. This means that the freedom of artistic or visual expression is also protected both in individual artwork or in wider exhibitions.

6.6 Ultimately, as described by the OfS Director for Freedom of Speech and Academic Freedom

“The core mission of universities and colleges is the pursuit of knowledge, and the principles of free speech and academic freedom are fundamental to this purpose. They provide a necessary context for advancing new ideas, encouraging productive debate and challenging conventional wisdom.”

7. Complaints and concerns

7.1 For complaints regarding freedom of speech, in the first instance any complaints should be made as for any other matter of concern, using the Complaints Policy & Procedure for Students or for staff members the Grievance Policy. Any resolution of a complaint should initially be attempted at the lowest level (informally) before progressing to a formal stage.

7.2 The OfS, under a new government, is working with the DfE on how its new duties should be regulated. Implementation of the new complaints scheme (separate to ours and the OIA) was paused and will proceed with significant changes to the original scheme after changes to legislation.

7.3 For students if you have raised an issue with the University concerning freedom of speech and / or academic freedom and are not satisfied with the outcome after an internal review (Stage 3), you can raise the issue with the Office of the Independent Adjudicator for Higher Education, the students ombudsman’s complaints scheme. Full details will be provided to any complainant throughout the process and are available in the aforementioned complaints policy.

7.4 For staff members

Appendix 1

Framework for assessment

The OfS advises a three-step framework that may be helpful for assessing compliance with the 'secure' duty. These steps apply to any measure or decision that might affect speech or types of speech.

Providers and constituent institutions may sometimes take, or already have in place, measures that affect freedom of speech within the law. These may include policies (for instance, room-booking policies) or decisions under those policies (for instance, a decision to take disciplinary action against a member of staff).

A provider will therefore wish to ensure compliance with the 'secure' duty in relation to any speech or type of speech. In doing so, we would expect it to be helpful to consider the following steps:

Step 1: Is the speech 'within the law'? If yes, go to step 2. If no, the duty to 'secure' speech does not apply.

Step 2: Are there any 'reasonably practicable steps' to secure the speech? If yes, take those steps. Do not restrict the speech. If no, go to step 3.

Step 3: Are any restrictions 'prescribed by law' and proportionate under the European Convention on Human Rights?

The full guide and flowchart is provided by the OfS: [OfS Framework for Assessment](#)

Appendix 2

External speakers Procedures

- **Responsibilities**

1. All staff who engage / sponsor external speakers will:

- be required to comply with this policy
- be required to make a room booking via Smarthub / Timetabling or the Student Union, depending on the space to be used
- ensure Head of Facilities is aware of any health/safety or security implications
- if the speaker is of a high public profile (for example a serving member of Parliament or a prominent campaigner, someone known for unorthodox or extreme views, or of 'celebrity' status) the Deputy Vice-Chancellor should be notified at least 2 weeks prior to the event
- have a working understanding of lawful freedom of speech, academic freedom and the due regard to the need to prevent people from being drawn into terrorism (Prevent Duty) and how they relate to their role and practice
- complete their own research / risk assessment to ensure suitability for each speaker ahead of the event/activity
- be responsible for escalating concerns of the topic, the nature of delivery and background of the speaker in relation to the Prevent duty, informing the Deputy Vice-Chancellor or Head of Compliance & Quality if necessary
- be required to work with their line manager on mitigating risk, appropriate chairing of controversial discussions and offering a counter narrative where relevant.
- ensure that the external speaker / visitor is escorted and accompanied by a member of staff at all times

2. Line Managers will:

- support staff in identifying potential risks related to external speakers ahead of any event/activity
- support staff in mitigating risk in relation to external speaker events
- liaise with the Deputy Vice-Chancellor when risks are identified for an event

3. The Deputy Vice-Chancellor as the Designated Safeguarding Lead will:

- take the decision to seek legal advice where appropriate, and advice from an appropriate external agency such as [Community Connections](#) (previously Social

Inclusion Unit) at Plymouth City Council.

- make the final decision on giving permission for an escalated external speaker event to take place
- keep the Vice-Chancellor and colleagues in VCE informed and advised accordingly
- Utilise the Head of Compliance & Quality Systems (Prevent Lead) if there may be a potential Prevent referral.

4. The Head of Compliance & Quality Systems will:

- liaise with the Deputy Vice-Chancellor and Head of Student Support (if appropriate) when appropriate over any concern with risks identified for an event
- keep a record of escalated external speaker cases and risk assessments
- share information on escalated cases through the Plymouth Prevent Partnership Board where appropriate
- seek advice from the Department for Education Southwest Prevent Coordinator and/or CTP contacts if there is concern.

5. All speakers are expected to:

- read, understand and comply with this policy
- present ideas and opinions, in particular those that may be contentious or potentially offensive, in the spirit of academic debate, being open to challenge and question
- follow AUP's policies relating to health and safety, safeguarding, equality, diversity and inclusion etc.

6. A speaker must not:

- incite hatred or violence or any breach of criminal law
- encourage or promote any acts of terrorism or promote individuals, groups or organisations that support terrorism within the UK or abroad
- spread hatred and intolerance
- discriminate against or harass any person or group on the grounds of their sex, gender identity, race, nationality or state of origin, ethnicity, disability, religion and belief (including non-belief), sexual orientation or age
- enforce segregation such as separate areas for males and females
- defame any person or organisation
- raise or gather funds for any external organisation or cause without express permission of the University
- commit any other act that could be in breach of criminal law.

7. Students and staff attending any event are expected to adhere to all University policies and procedures and behave in an appropriate manner.

- **Risk assessment**

8. In all cases, the roles and responsibilities in the paragraphs above must be used.

Speakers will be classed as low risk (therefore requiring no intervention) if all of the following criteria are met:

- the event will not be open to the general public
- the speaker will be primarily speaking in English
- the event will not be broadcast, streamed or offered for download by the organisers (this does not apply to external speakers 'events' that are part of an approved programme such as those organised by Plymouth City Council)
- the proposed title or theme of the event does not present a potential risk that views/opinions expressed by speakers may be in breach of this policy and go against AUP values, ethos and vision
- the speaker has not previously been prevented from speaking at the University or, to our knowledge, other similar establishments
- the speaker has not been known to express views that may be in breach of this Policy
- the subject matter or speaker is unlikely to attract protest, negative media coverage or is not otherwise a potential threat to the reputation of the University
- it is unlikely that people might experience harassment, intimidation, verbal abuse or violence or that those in attendance are unlikely to be incited to engage in harassment, intimidation, verbal abuse or violence directed at others, as defined within law and within the University's policies governing Bullying and Harassment.

If any of the above criteria are not met, the event/speaker is classed as 'medium risk' and the Prevent Lead will support the organiser to put mitigations in place such as:

- support from the Estates team for security (in accordance with Martyn's Law)
- advice from Brand / Communications regarding reputational risks
- if the primary language is a language other than English, the organiser should ensure that a University representative who is fluent in the language being spoken is present during the event
- if the event is to be broadcast, streamed or downloadable, advice should be sought from the Head of Communications & Marketing and Pro Vice-Chancellor (Academic) to ensure any reputational risks and those associated with intellectual property are taken into consideration
- Referral must be made to the Deputy Vice-Chancellor if any risks cannot be treated /

resolved

If any of the above criteria are not met, the event/speaker is classed as 'high risk' and the Prevent Lead will discuss the event with the organiser and refer to the Deputy Vice-Chancellor for consideration and approval.

9. The Deputy Vice-Chancellor may, for medium- and high-risk events:

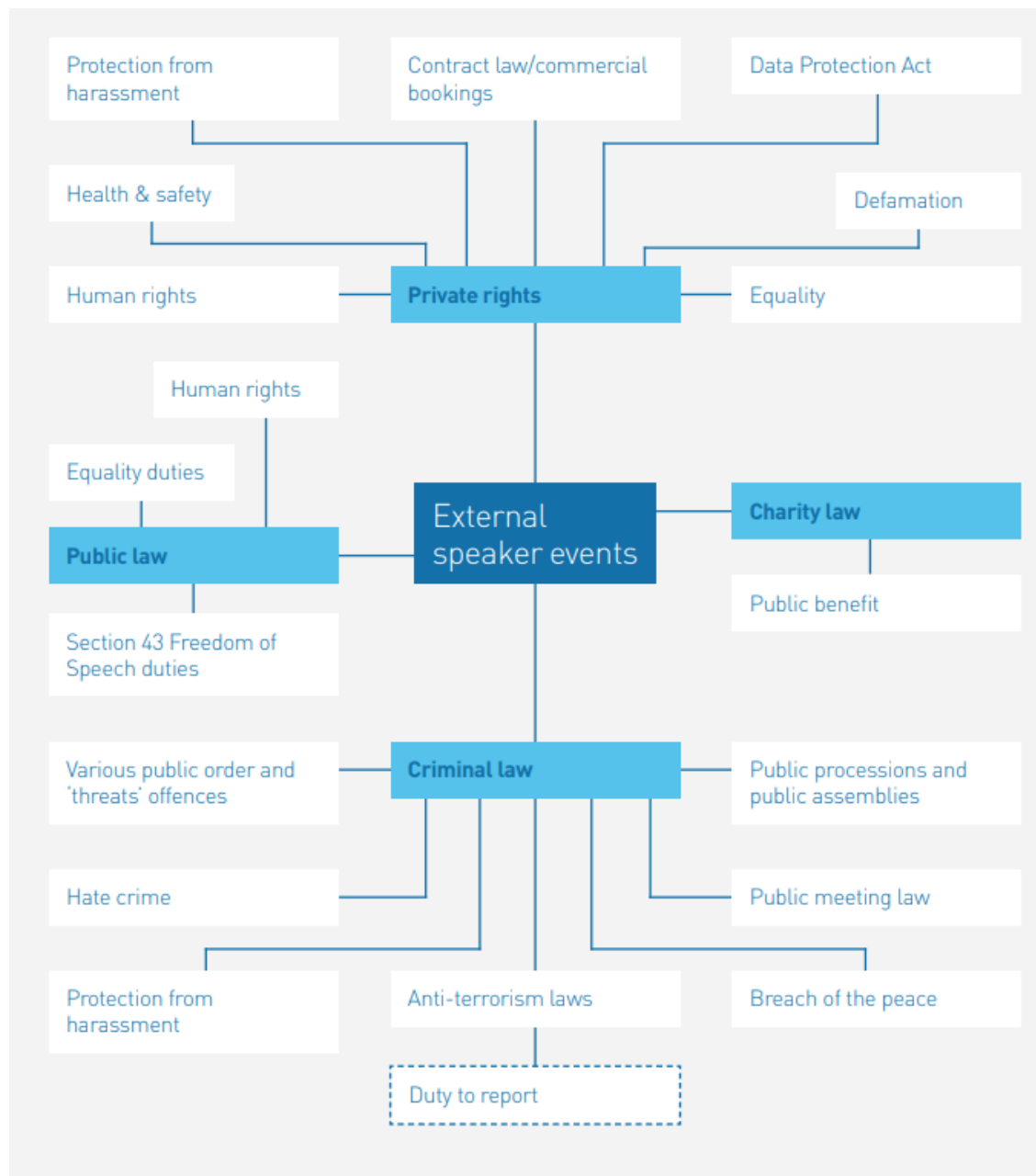
- approve the event
- request further information
- approve the event with conditions such as: restriction on hospitality provision, such as the consumption of alcohol, the appointment of an independent Chair to oversee the event, or specific arrangements governing health, safety and security
- refuse the event - this would occur in exceptional circumstances, including but not restricted to:
 - failure to submit the request within the normal time frame
 - a significant risk of public disorder such that the health and safety of staff, students and visitors is put at risk
 - a significant risk of substantial damage to AUP property
 - a serious concern that the law will be broken by those speaking at or attending the event
 - a significant risk of major disruption to the operation of the University's activities including adverse media attention
 - a significant risk that the costs associated with making the event safe (e.g. security provision, facilities management) were beyond the budget of those organising the event, such that the University would be likely to face a significant financial loss
 - views expressed or likely to be expressed constitute extremist views that risk drawing people into terrorism.

10. Any independent Chair of an event will as far as possible be responsible for ensuring the audience and speaker(s) act in accordance with this policy.

11. The audience and speaker(s) are obliged to comply with the Chair's rulings relating to the conduct of the event, to the agreed arrangements and to other policies. The Chair may request the removal of individuals acting in a disorderly manner or persistently disrupting the event. The Chair may also suspend or close the event if in their opinion it can no longer be conducted in an orderly manner, or if the safety and security of those in attendance is under threat.

Overview of the legal framework

12. The following overview of the legal framework was provided Universities UK.



Appendix 3

Freedom of Speech Examples (provided by the OfS)

Example A - Employment

A member of catering staff at University A writes to the local newspaper expressing pro-life views (within the law). Students at the University start a petition to have the member of staff fired. Following an investigation, University A fires the staff member on the grounds that there are students who claim to feel unsafe because of the staff member's continued employment.

Depending on the circumstances, this may have been a breach of the free speech duties.

This is because there was nothing to suggest that the staff member's speech was unlawful. For instance, claims that the staff member's employment makes others feel unsafe are not, by themselves, enough to make that member's speech unlawful. In these circumstances, retaining (and not disciplining) the staff member is likely to have been a reasonably practicable step that University A should have taken. Reinstating the staff member may now be a reasonably practicable step that University A should take.

Example B - Admissions

University A accepts international students every year through a programme of visiting scholarships funded by the government of country B. One condition of the scholarships is that recipients must accept the basic principles of the ruling party of country B. Another condition is that recipients must accept direction from country B's government via consular staff.

Depending on the circumstances, these arrangements may undermine free speech and academic freedom at University A.

For instance, they may restrict the lawful expression of views by students.

If so, amendment or termination of the scholarship agreement is likely to be a reasonably practicable step that University A should now take.

Example C - Student Conduct

University A's student handbook states: *'Misgendering is never acceptable. You must always address or refer to a person using their preferred pronouns.'*

Depending on the facts of the case, University A's rule is very likely to restrict freedom of speech within the law. (For instance, a student writing a dissertation in criminology might refer to trans women as 'he' because the student considers this necessary for clarity.) If so, removing this blanket rule is likely to be a reasonably practicable step that University A should now take.

Example D - Student Conduct

University A's IT Acceptable Use Policy says: '*Users must not transmit offensive material using University internet facilities.*'

Many legally expressible views may be offensive to some. This includes contributions to academic debate. Depending on the facts of the case, this policy may restrict free speech within the law. If so, removing or amending it is likely to be a reasonably practicable step that University A should now take.

Example E - Misrepresentation of legal duties

University A's Prevent guidance document states (without qualification): '*The University has a duty to prevent extremism.*' Its Public Sector Equality Duty guidance document states (without qualification): '*The University has a duty to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*'

These misstatements of the law may restrict free speech within the law. For instance, they may encourage staff to control or restrict reading lists. In a politics course, for instance, staff might be reluctant to set unorthodox or radical texts.

It would be a reasonably practicable step that University A should now take to amend the guidance document to state these duties accurately. For instance, the guidance should refer to the duty to have due regard to the need to prevent people from being drawn into terrorism. And it should make clear that in carrying out its Prevent duty, University A must have particular regard to the duty to ensure freedom of speech and to the importance of academic freedom. It should also refer to the duty to have due regard to (among other things) the need to foster good relations between the classes of people concerned.

Example F - Inconsistency with values

The students' union at University A bans the University Christian Society from its freshers' fair. This is because the students' union's freshers' fair policy bans all groups that take stances that are inconsistent with a stated set of values.

In this case, the Christian Society's stance on assisted dying is taken to be inconsistent with

those values. Depending on the particular facts, the ban may suppress a legally expressible viewpoint. If so, lifting the ban and changing its policy are likely to be reasonably practicable steps that the students' union should now take.

Example G - Onerous regulation

University A's policy on demonstrations requires that organisers complete a complex 25-page form at least six months before holding any demonstration or protest.

Example H - Onerous regulation

College B requires students to seek written permission a month in advance for the posting of flyers, which must be posted on a designated noticeboard. The noticeboard is small, and flyers may not be posted anywhere else. It also requires students to seek written permission a month in advance for the handing out of leaflets anywhere on college premises.

Depending on the particular facts of these examples, these regulations may be unnecessarily onerous. If so, rewriting the regulations to relax them is likely to be a reasonably practicable step that University A and College B should now take.

Example I - External Speaker

College A is due to hold a seminar series on political violence. One of the speakers, Dr B, is expected to discuss (within the law) some especially extreme and polarising examples that are likely to upset some students in the audience.

College A requires Dr B to omit those examples from the discussion.

Depending on the circumstances, College A might instead have taken mitigations short of restricting the content of Dr B's academic speech. For instance, it might have approached its own welfare services to provide support for people affected by the issues raised, rather than preventing them from being raised at all. In many circumstances, these are likely to have been reasonably practicable steps that College A should have taken.

Example J - Teaching

University A requires that all teaching materials on British history will represent Britain, and British foreign policy, in a positive light.

In so far as this requirement suppresses a particular viewpoint, removing it is likely to be a reasonably practicable step that University A should now take.

Appendix 4

Limitations to Freedom of Expression

1. Freedom of expression has certain limitations. These limits exist to prevent harm. These limitations are 'reasonable' where they allow the broadest amount of freedom of expression without inhibiting the real safety of individuals or the legal and planned objective of an event. A non-exhaustive list of examples of legal limitations (unprotected expressions) on expression is included below.

The following examples of expressive activity exceed the limits of free expression *and are prohibited at Arts University Plymouth*:

- hate speech, including speech that vilifies the targeted group by:
 - blaming its members for the current problems in society
 - alleging that its members are a “powerful menace”
 - alleging that members of the group are carrying out secret conspiracies to gain global control or plotting to destroy western civilization
 - suggesting its members are engaged in illegal or unlawful activities
 - suggesting that its members are themselves illegal or unlawful, such as by labelling them as “pure evil”
 - describing its members as animals or as subhuman, or calling into question whether group members qualify as human beings
- violence or threats of violence, including intimidation designed to instill a sense of fear in its recipient
- harassment (engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome), including:
 - physical harassment
 - sexual harassment
 - harassment through digital means
 - stalking
 - hazing
- advocacy of genocide
- discrimination against or promoting hatred against an identifiable group
- expressive activity that is directly incompatible with the values and policies of AUP. This includes expressive activity that:
 - degrades, denigrates or vilifies persons or groups
 - harasses persons or groups
 - creates an intimidating or hostile environment for AUP members such as by bullying or engaging in a course of vexatious or bad faith comments or conduct
- conduct otherwise creating an intimidating or hostile environment to members of AUP

Such expressive activity is not protected regardless of the medium in which it is expressed, including whether that is in-person, through visual or audio media (such as signs, posters, and songs), on an internet platform or social media, or through telephone, broadcasting or other digital, audible or visible means.

In exercising their freedom of expression, AUP staff and students have the responsibility to behave in a way that does not harm or threaten to harm another person's physical or mental wellbeing and the responsibility to uphold an atmosphere of honesty, equity, kindness and respect for others, thereby valuing the inherent diversity in the University community.

The Creation of an Intimidating or Hostile Environment

Members of the AUP community are entitled to express points of view or opinions that are controversial and offensive, and which others may find uncomfortable and disturbing. Free and open inquiry and debate are essential to the advancement of learning.

However, if the expression moves from advocacy for a particular view to targeting persons or groups on the basis of that view, it creates an intimidating and hostile environment and **exceeds the limits of free expression**. The creation of an intimidating or hostile environment is prohibited at AUP.

Example:

Students who express a political position that other students find disagreeable, or distressing would still be protected by freedom of expression.

However, if the students advocating that position began to target those who disagreed by bullying, harassing, or otherwise repeatedly engaging in bad faith comments or conduct, that expression is not protected.

Appendix 5

Key legislation:

- Communications Act 2003
- Counter-Terrorism and Security Act 2015
- Education (No. 2) Act 1986
- Equality Act 2010
- Higher Education and Research Act 2017
- Higher Education (Freedom of Speech) Act 2023
- Human Rights Act 1998
- Malicious Communications Act 1988
- Online Safety Act 2023
- Protection from Harassment Act 1997
- Public Order Act 1986
- Public Order Act 2023
- Terrorism Act 2000
- Terrorism Act 2006

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Related policies:	• Safeguarding Policy • Dignity at Study (Preventing Bullying & Harassment) Policy • Equality, Diversity & Inclusion Policy • Complaints Policy & Procedure for Students
Related procedures	• Disciplinary Procedures for Students (non-academic) • Procedure for Engaging Visiting Lecturers
Related information:	• EHRC Guidance (2019) • The Prevent Duty in higher education (HE): training and guidance for practitioners • Free speech in universities - what are the issues? • WonkHE View • OfS Regulatory Advice 24
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