

Freedom of Speech and Freedom of Expression Policy

1. Introduction

- 1.1 Bishop Burton and Riesholme College (the College) recognises and endorses that freedom of speech and expression within the law has fundamental importance for institutions as places of education, learning and the disinterested pursuit of truth. In particular, institutions are obliged under section 43 of the Education (No.2) Act 1986 to take reasonable measures to protect freedom of lawful speech.
- 1.2 In addition, a principle of freedom of lawful expression is enshrined in Article 10 of the European Convention on Human Rights.
- 1.3 The College is also required under Article 15 of the College's Instrument and Articles of Government to have regard to the need 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 at risk of losing their jobs or any privileges they may have at Bishop Burton College. Institutions have a responsibility, so far as is reasonably practicable, to protect and advance the principle of academic freedom.
- 1.4 A principle of freedom of lawful expression is also enshrined in Article 10 of the European Convention on Human Rights.
- 1.5 Whilst free speech is a human right, it is not an absolute and is subject to free speech within the law, i.e. speech that is lawful amongst the other duties in place on the College such as the Prevent Duty 2015 which requires us to prevent people from being drawn into terrorism and the Equality Act 2010 Duty which prohibits discrimination or harassment based on protected characteristics.
- 1.6 Through the statutory guidance on the Government's Prevent strategy issued under the Counter-Terrorism and Security Act 2015, the College has a legal requirement to promote the values of 'democracy, the rule of law, individual liberty and mutual respect and tolerance for those with different faiths and beliefs' as being a key aspect in safeguarding people from being drawn into terrorist activity. As Prevent acknowledges, and as the College's Safeguarding and Prevent Policy states 'the threat from terrorism in the United Kingdom is underpinned by the exploitation of vulnerable people in order to involve them in terrorism or in activity in support of extremism and terrorism. The College therefore considers it essential that students and staff see Morley as a safe place where students can discuss and explore controversial issues safely and in an unbiased way and where staff encourage and facilitate this, but where failure to challenge extreme views or behaviour and to treat them as normal is not accepted'.

1.7 The values that Prevent requires us to promote have been embedded in the culture of the College since its establishment and underlie our teaching approach, which emphasises the importance of collegiate dialogue between tutor and student to facilitate the meeting of learning goals. The College values freedom of speech and freedom to express beliefs and ideology, and sees them as fundamental rights underpinning our society's values. Both students and teachers have the right to speak freely and voice their opinions. With that freedom, however, comes responsibility and free speech that is designed to manipulate the vulnerable or that leads to violence and harm of others or that transgresses the laws and policies that govern equality, human rights, community safety and community cohesion will not be tolerated by the College.

2. Definition and Links

- 2.1 References in the Policy to the College's premises and/or the College's facilities include premises and/or facilities that are owned by the College, premises and/or facilities that the College does not own but over which it exercises some degree of control and premises and/or facilities occupied or controlled by societies, clubs and associations that normally operate on the College's premises, whether or not the College has control of such premises and/or facilities.
- 2.2 References in the Policy to 'activities' include (but are not limited to) meetings, demonstrations, events and publications through whatever media (including social media) which take place or are proposed or planned or due to take place on the College's premises or through its IT systems.
- 2.3 This Policy sets out the rights and obligations inherent within the principles of freedom of speech and expression and academic freedom. It is to be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law.
- To uphold and defend the right to freedom of speech and freedom of expression within the confines of the law
 - To promote freedom of speech and freedom of expression with College staff and students alike through the inclusion in induction events and staff training
 - To monitor and review the College's approach to freedom of speech and freedom of expression to ensure the institution is making a pro-active stance

Section 43 duty of the Education Act (No. 2) 1986¹

- Places a duty on those in governance to take reasonably practical steps to ensure freedom of speech within the law is secured for the institution's members, students, employees and visiting speakers

¹ [Education \(No. 2\) Act 1986 \(legislation.gov.uk\)](https://legislation.gov.uk)

Employment Law

- In line with the College's employment policies and procedures which all staff are expected to comply with

Human Rights Act 1998²

- Article 9 – freedom of thought, conscience and religion
- Article 10 – freedom of expression
- Article 11 – freedom of assembly and association

The College will respond as required should there be any legislative changes in the future.

3. Policy Statement

- 3.1 The College will take such steps as are reasonably practicable to ensure that freedom of speech and expression within the law is secured for every person to whom this Policy's rights apply.
- 3.2 Every person to whom this Policy's rights apply shall assist the College in upholding this freedom.
- 3.3 The College will not suppress freedom of speech and expression, however abhorrent certain expressions may be to the majority of the members of the College, provided that:
- such speech and expressions do not go beyond the articulation of points of view and are within the law and do not constitute incitement to riot, insurrection, racial hatred, religious hatred, sexual harassment or other activities that are likely to cause a breach of the peace or public disorder, significantly increase the risk of an individual being drawn into terrorism or otherwise be unlawful; and
 - by allowing such views to be expressed, and by allowing the activity to take place in the format proposed (for example, a non-religious event being held with men and women in segregated seating) the College would not be failing in its wider legal duties, in particular to have regard in carrying out its functions to the need to:
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act 2010;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it; and
 - prevent people being drawn into terrorism and extremism, including non-violent extremism.

² [Human Rights Act 1998 \(legislation.gov.uk\)](http://legislation.gov.uk)

4. Objectives

- 4.1 This Policy sets out the rights and obligations inherent within the principles of freedom of speech and expression and academic freedom. It is to be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law.
- To uphold and defend the right to freedom of speech and freedom of expression within the confines of the law
 - To promote freedom of speech and freedom of expression with College staff and students alike through the inclusion in induction events and staff training
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5. Implementation

- 4.2 The College has the responsibility to take reasonable steps to maintain good order on its premises. It has the right and the power to regulate and, if necessary, to impose conditions or restrictions upon activities which take place or are planned or proposed or due to take place on its premises or through its IT systems. The organisation and holding of any such activities, and the arrangements therefore, must comply with this Policy.
- 4.3 Accordingly, the College will permit the use of its premises and IT systems only by organisers and other individuals otherwise involved in an activity or proposed activity who undertake in writing to comply with all lawful instructions and conditions issued by the College in relation to (but not limited to) the location, arrangements, form and conduct of such activities, including adequate stewarding, chairing and provision of adequate control over entry.
- 4.4 Any person to whom this Policy's rights apply must submit a request, in writing, to the relevant Deputy Principal for permission for an activity to take place where it is reasonably foreseeable that the activity may raise issues that may be controversial in some way. Any such request should be submitted to the Deputy Principal not less than ten working days before the proposed date of the activity and must contain details of the proposed subject matter and the purpose and format of the activity (including seating arrangements), the name and identity of any authors and the proposed timing and location of the activity.
- 4.5 Where the activity involves an external speaker, the organiser must follow the College's External Speaker Booking Process and ensure that the speaker follows the College's External Speakers Policy (2.14).
- 4.6 Where the activity requires use of the College's IT systems, all users of the systems must first confirm their agreement to abiding by the College's Information Technology Systems Acceptable Use Policy.
- 4.7 Save in exceptional circumstances where more time is required before a decision can be made, within five working days of receiving a written request providing all of the information required the Deputy Principal will issue a written decision in reply which will either grant or withhold permission for the activity to take place on the College's premises or through its IT

systems. Where the required information is not provided, the Deputy Principal will issue a decision (which is likely to be refusal to allow the activity to go ahead) before the date of the planned activity. Until permission is received no activity subject to this Policy may take place. Permission granted under this Policy may be subject to such conditions or restrictions (for example, as to security precautions, payment of charges, limits on numbers of people to be admitted, seating arrangements or form of publication) as the Deputy Principal reasonably sees fit.

4.8 The College will not unreasonably refuse to allow activities to take place on its premises or through its IT systems. The expression of controversial views that do not breach the law or risk a breach of the law will not of itself constitute reasonable grounds for withholding permission for an activity. Reasonable grounds for refusal would include (but are not limited to) a risk that, if the activity were to take place on College premises or within the scope of its IT systems, it might involve:

- incitement to commit a criminal act;
- the unlawful expression of views;
- support of an organisation whose aims and objectives are illegal;
- the prospect of an individual being drawn in to terrorism or extremism; or
- a breach of the peace

4.9 In determining whether permission for an activity to take place on the College's premises or through its IT systems might reasonably be refused, consideration may be given to:

- the safety of the persons attending the activity or otherwise foreseeably affected
- by the activity or on the College's premises who might foreseeably be put at risk
- the security of the College's premises; and
- the good name and reputation of the College.

4.10 An appeal against a decision of the Deputy Principal may be made, in writing, to the Principal and Chief Executive within five working days of the decision. The decision of the Principal shall be final and binding.

4.11 In making a decision, the Deputy Principal (or, in the case of an appeal, the Principal) may impose such conditions or restrictions on the activity taking place as he or she reasonably sees fit and where circumstances warrant may consult with the police.

4.12 In the event of a breach of this Policy, sanctions and penalties will apply as follows:

- Any member of the Governing Body who breaches this Policy may be removed from office under paragraph 10(2) of the Instrument and Articles of Government.
- Where those responsible for the breach are students or staff of the College action may be taken against them under the relevant disciplinary procedure.
- Where those responsible for the breach are students or staff of a partner organisation of the College the Principal will consider whether to inform the partner

organisation with a view to that partner organisation taking action (whether as well as or instead of any action taken by the College) under its relevant disciplinary procedure.

- Where a breach of the Policy takes place at an activity or as a result of an activity taking place, the College may take steps to assist the police to secure identification of the persons suspected of committing offences with a view to appropriate action being taken against them.

6. Method of Monitoring

- 5.1 The College acknowledges its duty under subsection 3 of Section 43 of the Education (No 2) Act 1986 to issue and keep up to date a Policy on freedom of speech. With this end in view, the Principal will report to the Governing Body at intervals not exceeding four years on the operation of the Policy. Changes to the Policy will be considered by the Finance & General Purposes Committee which will, in addition, undertake a full review of the Policy every four years. The Finance & General Purposes Committee will make recommendations to the Governing Body.

Authorship: Deputy Principal

Date: September 2022.

Reviewing Officers: Corporation

Notes

Related documents

- Instrument & Articles of Government
- College's External Speakers Policy (2.14)
- Safeguarding (including Prevent) Policy (4.03)
- Disciplinary Policy and Procedure (OP 7.07)
- College Charters
- Equality & Diversity Policy (4.06)