



**Freedom of Speech Code of Practice  
V3**

**July 2018**

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Owner: Marion Wilks

# UNIVERSITY FOR THE CREATIVE ARTS<sup>1</sup>

## CODE OF PRACTICE ON FREEDOM OF SPEECH AND EXPRESSION

### 1. Introduction

- 1.1 The University for the Creative Arts (UCA) 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 UCA is also required under clause 11.16 of the 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 UCA. Institutions have a responsibility, so far as is reasonably practicable, to protect and advance the principle of academic freedom. In addition, as a creative arts institution, UCA is a place where the exploration of challenging ideas is expected.
- 1.4 This Code of Practice sets out the rights and obligations inherent within the principles of freedom of speech and expression and academic freedom and the Code shall be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law.
- 1.5 The Code of Practice covers freedom of speech and expression in whatever form that may take (including but not limited to) speeches, debates, meetings, demonstrations, written publications, exhibitions and through the use of social media. It also covers UCA branded events and activities which are held off site.
- 1.6 The Code's rights and obligations shall apply to:
  - 1.6.1 UCA including members of the Governing Body;
  - 1.6.2 all persons working for UCA, whether for payment or otherwise;

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<sup>1</sup> For the purposes of this Code of Practice, all references to UCA shall also be construed as including its subsidiary OCA.

- 1.6.3 all duly enrolled students of UCA;
- 1.6.4 the students' union and any societies, clubs or associations which normally operate on UCA's premises<sup>2</sup>; and
- 1.6.5 all persons invited to speak and/or express views (whether in person or otherwise including through the use of social media) and/or otherwise take part in activities which take place on or are planned or proposed or due to take place on UCA's premises or through its ICT systems in accordance with the provisions of section 3 of this Code. Please see the [University's External Speaker Policy](#).

1.7 References in the Code to "UCA's premises" and/or "UCA's facilities" include premises and/or facilities which are owned by UCA, premises and/or facilities which UCA does not own but over which it exercises some degree of control (such as leased premises), and premises and/or facilities occupied or controlled by UCA's students' union whether or not UCA owns or has control of such premises and/or facilities.

1.8 References in the Code to any institutional employee (e.g. University Secretary and the Vice Chancellor) includes reference to their nominee.

## 2. **Freedom of Speech and Expression**

2.1 UCA shall 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 Code's rights apply.

2.2 Every person to whom this Code's obligations apply shall assist UCA in upholding this Code of Practice.

2.3 UCA will not suppress freedom of speech and expression, however abhorrent certain expressions may be to the majority of the members of UCA, 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, terrorism or other activities which are likely to cause a breach of the peace or public disorder or otherwise be unlawful, and
- by allowing such views to be expressed, and by allowing the activity to take place in the format proposed<sup>3</sup> UCA would not be failing in its wider legal duties, in particular to have due regard in carrying out its functions to the need to:

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<sup>2</sup> The students' union should formally adopt this Code e.g. by reference to it in its constitution or in the Code of Practice agreed between the institution and the union under the Education Act 1994.

<sup>3</sup> For example, allowing a non-religious event to be held with men and women in segregated seating would generally be unlawful.

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it; and
- (d) have due regard to the need to prevent people being drawn into terrorism.

2.4 The duty to ensure that freedom of speech within the law is secured for governors, students, employees and visiting speakers includes an explicit responsibility to ensure, so far as is reasonably practicable, that the use of University premises and facilities is not denied to any individual or body of persons on any ground connected with:

2.4.1 the beliefs or views of such individual or any member of such body; or

2.4.2 the policy or objectives of such body.

2.5 Every person to whom this Code's obligations apply shall refrain from organising or engaging in or otherwise being associated with any conduct (other than by lawful, reasonable and peaceful persuasion) intended to prevent the expression of lawful views under this Code of Practice.

2.6 UCA shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the obligations under this Code of Practice are complied with.

### 3. **The Holding of Activities**

3.1 References in the Code to "activities" include (but are not limited to) meetings, demonstrations, events, exhibitions and publications through whatever media (including social media) which take place or are proposed or planned or due to take place on UCA's premises or through its ICT systems.

3.2 UCA 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 ICT systems. The organisation and holding of any such activities, and the arrangements therefore, must comply with this Code of Practice.

3.3 Any person organising an activity on UCA's premises or using its ICT systems where it is reasonably foreseeable (in the reasonable opinion of the Head of School) that the activity will raise issues which may be controversial in some way, should consult the Head of School at the very earliest opportunity so that the correct procedures may be followed.

- 3.4 Where it is considered by the Head of School that the activity is controversial, the organiser must submit a request, in writing, to the Head of School for permission for the activity to take place. Any such request should be submitted to Head of School not less than three weeks 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 speakers or authors and the proposed timing and location of the activity.
- 3.5 Where appropriate, the Head of School may consult the University Secretary for advice on the legal implications of the request.
- 3.6 Normally within 10 working days of receiving a written request together with all information required pursuant to paragraph 3.4 above, the Head of School shall issue a written decision in reply which shall either grant or withhold permission for the activity to take place on UCA's premises or through its ICT systems. Permission granted under this Code 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 Head of School reasonably sees fit. No event may be held until a written decision has been given.
- 3.7 UCA will not unreasonably refuse to allow activities to take place on its premises or through its ICT systems. The expression of controversial views which 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) the fact that, if the activity were to take place, a risk would arise that, within the premises of UCA and/or the scope of its ICT systems there would be:
- 3.7.1 incitement to commit a criminal act;
  - 3.7.2 the unlawful expression of views; for example, following risk assessment, whether the views being expressed, or likely to be expressed, constitute 'extremist'<sup>4</sup> views as defined by the Government, that risk drawing people into terrorism;
  - 3.7.3 direct support of an organisation whose aims and objectives are illegal; and/or
  - 3.7.4 a breach of the peace.
- 3.8 In determining whether permission for an activity to take place on UCA's premises and/or through its ICT system might reasonably be refused, consideration may be given by the Head of School (as is appropriate in the circumstances) to:

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<sup>4</sup> According to the Prevent Duty Guidance, the government definition of extremism is 'vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. We also include in our definition of extremism calls for the death of members of our armed forces'.

- 3.8.1 the safety of persons attending the activity or otherwise foreseeably affected by the activity and/or on UCA's premises who might foreseeably be put at risk;
- 3.8.2 the security of UCA's premises;
- 3.8.3 In respect of clause 3.7 2, whether reasonable steps can be taken to fully mitigate any risk that people might be drawn into terrorism; for example by ensuring that expressions of extremism are challenged with opposing views at the same event; and
- 3.8.4 the good name and reputation of UCA.

3.9 A request for an appeal against a decision of the Head of School may be made, in writing, to the Vice-Chancellor within 3 days of the issue of the Head of School's decision. The decision of the Vice-Chancellor shall be final and binding. The Governing Body may also impose such conditions or restrictions on the activity taking place as it reasonably sees fit.

#### 4. **Practical Measures**

4.1 UCA shall permit the use of its premises and ICT systems only by organisers or other individuals otherwise involved in an activity or proposed activity who undertake in writing to comply with all lawful instructions and conditions issued by UCA 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.

4.2 In cases in which it is reasonable to assume that there is a possibility of disruption arising from the taking place of an activity, UCA may consult with the police. If the activity is a public one the police may be prepared to be present throughout the event to minimise any disruption.

4.3 Any organisers or other individuals otherwise involved with an activity to take place on UCA's premises or through its ICT systems shall be responsible for ensuring that budget is available to cover the costs involved in organising and holding such activities and for ensuring, as far as reasonably possible, that nothing in the organisation and holding or arrangements of such activities infringes the law or any University rule, regulation or procedure in any way.

#### 5. **Sanctions and Penalties**

5.1 Action may be taken under the relevant disciplinary procedure against any member of UCA staff or UCA student who breaches this Code.

5.2 Where a breach of this Code of Practice takes place at an activity or as a result of an activity taking place, UCA 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. **Review and Amendment of Code**

UCA acknowledges its duty under subsection 3 of section 43 of the Education (No. 2) Act 1986 to issue and keep up to date a Code of Practice on freedom of speech. With this end in view the Governing Body will receive a report on the operation of the Code by the University Secretary together with any recommendations for revision of it, at intervals not exceeding 3 years.