

BCC Freedom of Speech

Principles and Code of Practice

1.0 Fundamental Principles

Birmingham Christian College (BCC) believes that freedom of speech is fundamental to the role of an academic institution as a centre of enquiry and that open, robust and uninhibited debate is central to the development of ideas and understanding and the advancement of learning.

The role of the College in ensuring freedom of speech within the law is reinforced by legislation:

1.1 The Education (No.2) Act 1986

The Education (No 2) Act 1986 places a legal duty on the College to 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. This covers academic freedom as well as freedom of speech more broadly, noting that free speech only applies to speech that is lawful.

The duty imposed includes (in particular) the duty to ensure, so far as is reasonably practicable, that the use of any premises of the College is not denied to any individual or body of persons on any ground connected with the beliefs or views of that individual or of any member of that body; or the policy or objectives of that body.

1.2 The Human Rights Act 1998

The Human Rights Act 1998 provides that all public bodies have to comply with the rights set out in the European Convention on Human Rights (ECHR). Article 10 of the ECHR states that 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.

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.

This offers protection to students, staff and visiting lecturers and external speakers alike.

1.2.1 Education Reform Act 1988

The College has a duty 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, to provide education, promote learning and engage in research efficiently and economically and to apply the principles of justice and fairness.

1.2.2 Higher Education (Freedom of Speech) Act 2023

The Higher Education (Freedom of Speech) Act 2023 places a duty of the governing body of the College to take the steps that, having regard to the importance of freedom of speech, are

reasonably practicable for it to take in order to secure freedom of speech within the law for staff, members, students and visitors and the OfS will oversee and regulate this obligation, introducing a new complaints scheme.

2.0 Code of Practice

2.1 General Principles

2.1.0 Executive responsibility: In accordance with the Articles of Government, the Principal is responsible inter alia for the organisation, direction and management of the College and for exercising effective supervision and discipline over staff and students within the framework set by the Trustees Board. The Principal is authorised to exercise responsibility for implementing this code within the guidelines set down, delegating responsibility as necessary.

2.1.1 The College acknowledges freedom of speech as an individual right, which is fundamental to the debate and challenge within the College's academic and research agendas and will seek to give effect to that right to the extent permitted by the law.

2.1.2 The College recognises that it has to balance its duty to ensure freedom of speech with its other legal duties and other legal limitations 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 into terrorism; and taking steps to ensure the health, safety and wellbeing of staff, students, external speakers and visitors.

2.1.3 The College recognises the need to ensure that freedom of speech must be limited where it would result in criminal, civil or charity law breaches.

2.1.4 Academic Freedom of Speech: The Trustees Board regards the following as being contrary to Section 43 of the Education (No. 2) Act 1986 and in breach of this code of practice:

- i. any action by members of staff or students individually or collectively to prevent or intimidate a member of staff or a guest lecturer from carrying out their teaching, research or other function in accordance with their contract of employment, or from having access to facilities which they may use as a member of staff;
- ii. any action by members of staff or students individually or collectively to prevent an enrolled student from pursuing his or her studies, attending classes and other academic activities connected with his or her course, participating in curricular activities and the social and other activities provided by the College or from having access to facilities which they may use as an enrolled student;
- iii. any act designed to prevent the holding or continuance of any course lecture, tutorial or other academic activity or any meeting duly authorised within the provision of this code where disruption, intimidation or threats are uttered or implied;

excepting that the rights of individuals or groups of staff and employees in pursuance of industrial action which itself is not unlawful shall not be construed as being in any way inhibited by the foregoing paragraphs.

2.1.5 Non-employees (such as visitors, contractors, visiting speakers and visiting lecturers) are bound by the provisions of this code of practice and the College's External Speakers Standard while on College premises.

2.1.6 Disciplinary Proceedings: Any action by a member of staff or student whether individually or in a group which may be thought by the Principal to infringe or be contrary to this code of practice:

- i. may be liable to such investigation as the Principal may require;
- ii. and subsequently may lead to an informal or formal disciplinary process, in accordance with the established disciplinary procedures for staff and students, depending upon the seriousness of the alleged offence.

2.1.7 Use/letting/hire of College premises: rules and procedures

a) All functions, events or meetings outside the normal teaching and research programmes of the College whether arranged by:

- iii. members of staff or persons with the status of members of staff though not directly employed by the College;
- iv. individual or groups of students whose activities are not formally sponsored by the Students' Union;
- v. student societies which are formally sponsored by the Students' Union;
- vi. persons (or organisation), not being staff or students who apply to hire or have use of the premises;

shall be subject to the College's standard procedures for the use, letting or hire of premises as amended from time to time. Where an external speaker is invited onto College premises or to events held in the name of the College, the External Speakers policy and Standard must be followed.

b) The letting, hiring or provision for use shall continue to be made through the Registrar or the College Administrator; the attention of applicants will be drawn to the principles, the requirements of this code of practice and to their responsibilities via the conditions printed on the letting forms.

c) Any application for use of the College premises may be reviewed and/or refused for one or more of the following reasons:

- i. reasonable grounds exist for believing that the speakers or persons involved in the meeting, event or function will incite those attending to commit a criminal act(s) or to breach civil law;
- ii. reasonable grounds exist for believing that views may be expressed in a way which is contrary to English law;
- iii. the meeting, event or function appears to be in direct support of an organisation which itself is unlawful;
- iv. reasonable grounds exist for believing that the meeting, event or function may be conducted in such way as to render the College liable for civil action or criminal prosecution or other sanction for failure to carry out its legal duties including those relating to the protection of human rights, health and safety, equality and diversity and having due regard to the need to prevent people from being drawn in to terrorism;
- v. the meeting, event or function is expected to attract individuals from outside the College and there are reasonable grounds for believing that the risk to the health and safety of persons or of damage or injury to property cannot be mitigated and is such that it is not reasonably practicable to allow the event to proceed;
- vi. reasonable grounds exist for believing that the meeting, event or function is likely to lead to breach of the peace;
- vii. the scale or nature of the meeting, event or function is such that College premises cannot provide an adequate venue or the meeting, event or function is likely to interfere substantially with the College's core activities and the interferences cannot be mitigated;

- viii. those seeking the letting, hiring or use of premises, have deliberately misled or sought to deceive the College as to the nature of the meeting, event or function or those persons involved in it by giving false information or concealing material information which is requested;

and will be referred to the Principal, acting under their delegated powers, or to their nominee. The Principal (or nominee) will decide whether or not the meeting, event or function should be permitted and, if it is permitted, may require conditions to be met in advance and/or safeguards to be put in place at the cost of the applicant (for example, the appointment of an independent Chair or the provision of additional security officers). The College will seek to minimise such costs to the applicant as far as is reasonably practicable.

d) Before refusing letting or hiring or the use of premises, the Principal (or nominee) will consider whether in the particular circumstances the Chair of the Board of Trustees (or the Board itself) should be consulted. In the event of the booking being refused for any of the above reasons, the applicants or sponsors will be told the reasons in writing and the Chair of the Board will be informed.

e) An applicant or sponsor who is refused a booking by the Principal (or nominee) may submit an appeal in writing against the decision to the Secretary to the Board via info@bccoll.ac.uk for consideration by the Chair or by the Board itself (if the case justifies it and there is sufficient time for the matter to be dealt with at a scheduled meeting).

f) The College's right to refuse a letting or hiring or use of its premises because it believes that the organisation or persons making the application are unable to comply with the letting conditions and/or to meet the hiring costs, or because the facilities have already been firmly booked by or contracted to another person or organisation, or because reasonable notice has not been given, remain unaffected by this code of practice.

g) The College may refuse a letting or hiring or use of its premises to those who are intolerant of the free speech of others generally where others would be denied the right to hold or express an opposing opinion. This includes those who engage in the active prevention of permitting others to speak, such as the interruption - violent or otherwise - of meetings.

2.1.8 Students' Union constitution and use of its facilities

The Students' Union constitution includes:

- i. the obligation to take such steps as are reasonably practicable to ensure that the requirements of this code of practice are complied with;
- ii. the requirement that the decision-making processes of the Students' Union, particularly those relating to general meetings and the Executive, have standing orders which comply with the provisions of Section 43 of the Education (No.2) Act 1986;
- iii. full acknowledgment of the academic freedom of staff and students, both collectively and individually and the Union's responsibility in upholding academic freedom is affirmed;
- iv. the principle that access to the Union's facilities will not be denied to formally recognised Students' Union societies, other student groups or individual students in a manner which contravenes Section 43 of the Education (No.2) Act 1986;
- v. the requirement that, in submitting to the College requests for letting or hiring or use of College controlled facilities and premises on behalf of students' societies which it

formally sponsors, the Union Officers do not refuse to forward a booking request for reasons which constitute a breach of Section 43 of the Education (No.2) Act 1986; when they refuse to forward such a booking for good reasons the Union's standing orders provide for the relevant students reps and the College Registrar to be informed of the grounds in writing.

2.1.9 The Board requires that the Secretary and the President of the Students' Union shall maintain close liaison on the implementation of the letting arrangements as they apply to Students' Union sponsored societies.