

Middlesex University

Code of Practice on Freedom of Speech

Summary

To ensure its compliance with the statutory Prevent Duty, the University must be delivering in the following areas:

- Policies and procedures for approving external speakers and events on campus;
- Code of practice for ensuring freedom of speech within the law;
- Arrangements to protect the importance of academic freedom;
- Policies and procedures for approving branded events taking place off campus;

Following an initial consideration of the legal context, 'The Code of Practice on Freedom of Speech' describes how the university is meeting its statutory obligation by following a proportionate and risk-based approach. The code of practice makes a clear distinction between events that are deemed to be of low or very low risk and events that are deemed to be of higher risk. This code of practice describes how the University trusts its staff to carry out an initial risk assessment and choose a course of action to mitigate the risk.

Legal Considerations

The University is required by Section 43 of the Education (No. 2) Act 1986 to take '*such steps as are reasonably practical to ensure that freedom of speech within the law is secured on university premises for members, students and employees of the university and for visiting speakers*'. Furthermore, the use of university premises, so far as reasonably practicable, is not to be 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*'.

In terms of the freedom of individual academics, s.202(2) (a) of the Education Reform Act 1988 acknowledges that in England and Wales: '*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 in jeopardy of losing their jobs or privileges they may have at their institutions*'.

The Counter-Terrorism and Security Act 2015 also imposes a duty on the University to have due regard to the need to prevent people from being drawn into terrorism. This Code of Practice fulfils the requirement in the Prevent Duty for Universities to have policies and procedures in place for the management of events on Campus and use of the University's premises.

To comply with the Prevent Duty for Higher Education Institutions, the University needs to balance its legal duties in terms of both ensuring freedom of speech and academic freedom, and also protecting student and staff welfare.

Preamble

The University seeks to conduct its affairs in an open and responsible manner. The University endorses the principles of freedom of speech. The University holds that all staff and students have the right to speak freely, without fear of disciplinary action or any other sanction provided they do so lawfully, without malice, acting not against any public interest and so as not to cause public disorder or a breach of the peace.

The University has both the right and the power to regulate and if necessary impose conditions or restrictions upon the conduct of meetings or other activities on its premises. The University has a responsibility to ensure the safety of its students, its staff and employees, that students' study is not disrupted nor property damaged and that good order and proper academic discipline is maintained throughout. The University has a right to protect its good name and reputation.

The University has no obligation to hold meetings or events on its premises that are open to the public, but in its discretion may allow such meetings or events to take place and in doing so may impose such conditions as the University sees fit.

Principles

The following principles apply to the use of University premises in connection with meetings or other activities:

Freedom of speech and lawful expression is and remains a cardinal policy of the University.

The articulation of particular viewpoints shall not be prevented solely on the basis that they are deemed "unacceptable" by some or some part of the University community.

Peaceful demonstration is a legitimate means of drawing attention to an issue or to a viewpoint.

Any act of demonstration which diminishes the rights or liberties of others or endangers the safety of individuals, disrupts students' studies or is likely to lead to the damage of property or seeks to deny a fair hearing, is condemned and steps will be taken to prevent such act or activities.

Action will be taken to prevent any speech which constitutes, or in the view of the University is likely to constitute, a criminal offence, or incitement to commit a criminal offence.

If the University has reason to believe that a meeting or event will contravene the above principles, then the University will prohibit such meeting or activity.

The University will impose such conditions on the holding of all meetings and events on University premises as it considers, in its absolute discretion, are necessary to secure the principles stated above and in particular to fulfil its statutory responsibilities, the maintenance of law and order, the safety of its students, its staff and employees and the protection of the freedom of speech.

Scope and purpose

The Code of Practice applies to all staff and students of Middlesex University London (hereinafter called "members") and to any other person in attendance at any meeting or other function which has been duly authorised to take place on Middlesex University premises or branded events off-campus.

The object of the procedures outlined below is:

- a) To specify arrangements for the management of meetings and other functions on University premises, branded events off-campus or branded events on line where external speakers are involved which are not an integral part of normal academic and/or administrative business of the University.
- b) To identify reasonably practicable steps that must be taken to ensure that freedom of speech within the law is secured for members of the University and for visiting speakers.

Accommodation on University premises may be booked by members of the University for meetings that form an integral part of the University's normal academic and administrative business, subject to availability and to compliance, where appropriate, with the normal rules and conditions of hiring and to the provisions of this Code of Practice. So far as is

reasonably practicable, the use of the premises will not be 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.

Academic activities including use by clubs and societies will take priority over other usage but, at the discretion of the Director of Estates and Facilities Management Service, permission may also be given for accommodation to be hired by outside persons or organisations and permission may be given for meetings to be attended by members of the public subject to availability and purposes in accord with the University's Charter.

It is essential to the purposes of the University that opportunities for free and open discussion within the law should be safeguarded. Members of the University and all other persons attending meetings held on the premises must behave in a lawful manner.

In the case of meetings or functions that come within the provisions of this Code of Practice and are organised by members of staff, the names of visiting speakers must be approved by the University prior to invitation. This includes self-approval by the sponsor if deemed low or no risk following self-assessment.

Visiting speakers at meetings or functions organised by students must come at the invitation of a club or society recognised by Middlesex University Students' Union or the Trustee Board and Committees of Middlesex University Students' Union. Speakers may not be invited by a student or students individually.

Arrangements and procedures

The arrangements and procedures below apply to staff and, when stated, to students of the University and are for events on-campus, branded events off-campus and branded events on line where external speakers are involved. The procedure follows a risk based approach and adheres to Universities UK guidance on effective external speaker processes. When requirement arises for an external speaker, the procedure as outlined in flowchart 1 (attachment 1) should be followed.

Initial review of speaker request – events deemed to be low or very low risk

When a member of staff of the University wishes to organise a meeting or function that is not integral¹ to the University's academic or administrative business on the University's premises they must carry out a local risk assessment using flowchart 2 (attachment 2) to assess the speaker, subject matter, audience and risk factors. Local risk assessments can only be carried out by permanent employees of 0.6FTE or above². Should the organiser of the event not be a permanent employee of 0.6FTE or above the risk assessment must be completed by a line manager who is a permanent employee of 0.6FTE or above.

If the answer to all of the speaker, subject matter, audience and risk factors, questions is "yes" the event can go ahead. The local risk assessment should be held within the school/service. Normal Estates, Facilities, Management Service protocols should be followed for room bookings and events.

Referred for further consideration – events deemed to be of higher risk

If the answer to one of the speaker, subject matter, audience and risk factors, questions is 'no' then a written request must be made to Director of Estates and Facilities Management Service by the organiser of the event for on-campus or Middlesex University branded events off-campus, and to the Director of Student Affairs for branded events on line where external speakers are involved. Such requests must be made as far as possible in advance of the projected meeting date, and in any case no less than four weeks in advance, and must specify the information set out in the paragraph below.

Booking requests made by members of the University staff must be in writing and specify the following information:

- a) Date, time and exact place of meeting or function.
- b) Name of any speaker(s) or likely alternative speaker(s).
- c) Precise timing of expected arrival and departure of any speaker(s).
- d) Subject of the meeting or nature of the function.
- e) Draft copy of any proposed notice, leaflet or other material announcing or advertising the meeting or function, if requested by the Timetabling team.

¹ Integral to the day to day business of the University, for example an academic from a recognised RHEB speaking at another recognised RHEB.

² The decision to restrict this to 0.6FTE and above is a practical one and arises from the requirement to contact organisers should the need arise.

- f) Name, address, email address and telephone number of a staff member of the University or other person responsible for organising the meeting or function; and their status within the organising group.
- g) Whether the audience may include persons who are not members of the University.
- h) Whether it is intended that the meeting should be open to the public.
- i) Details of any circumstances that give rise to concern about possible disturbance which could be caused at the meeting or which might give rise to difficulty in a speaker entering or leaving the premises or being able properly to deliver his or her speech.
- j) Arrangements for the chairing of the meeting or function.

If the Director of Estates and Facilities Management Service's team receive a request from a member of the University to book a room for an event which appears might not be in connection with official University business, the requestor shall be asked for such information as is reasonably required to establish that the purpose of the booking is to accommodate a *bona fide* University meeting or function. Bookings will not be confirmed until such information has been obtained.

In the case of meetings booked or arranged by a club or society of the Students' Union the Students' Union shall conduct any investigations and checks in accordance with its own regulations and procedures³ and shall consult the Director of Student Affairs where the risk level is moderate or greater. The Students' Union shall make known to the Director of Student Affairs or his/her designated officer the outcomes of those checks and any evidence gathered. For on-campus events, normal Estates, Facilities, Management Service protocols should be followed for room bookings and events on University premises.

Any person making an accommodation booking request who has grounds for believing that a breach of the peace or a criminal offence might occur at a meeting must give notification to the Head of Security of such likelihood at the time of making the booking request or as soon as possible after such likelihood becomes apparent.

Under these circumstances, accommodation bookings may be confirmed only by the Director of Estates and Facilities Management Service or an officer authorised to act on his/her behalf. Where such a booking has been made on behalf of a club or society of the Students' Union, the appropriate regulations and procedures in relation to external guests

³ Middlesex University Students' Union No Platform Policy

and speakers must have been followed for that booking and the Head of Security or the Director of Student Affairs reserve the right to refuse the booking if it has not been followed.

Any member of staff who receives a request for a booking for a meeting which, in his or her opinion, could give rise to difficulties in ensuring freedom of speech or the safety of a speaker must make a prompt notification to the Director of Estates and Facilities Management Service or other designated officer. The notification should give as far as possible the information specified above. To the extent that information is not available, details must be sought urgently from the organiser of the proposed meeting or the person submitting the request. It is the responsibility both of those making the booking requests and those receiving booking requests to make appropriate notification as specified above. If there is any doubt about whether a meeting is likely to give rise to difficulties, the Director of Estates and Facilities Management Service or other designated officer must be consulted.

On receipt at any time of notification that difficulties might arise at a meeting or other function, no further arrangements may be made by the organiser without the express permission in writing of the Director of Estates and Facilities Management Service or other designated officer. In particular in such cases if the meeting has not by that time been advertised, no advertisement of, or promotion of, the meeting or function shall be made without appropriate authorisation from the University.

Outcome of Referred for Further Consideration Stage

When an event is referred for further consideration there are three possible outcomes:

- Request Approved – no conditions
- Request Approved with conditions
- Request Refused (Appeal allowable)

If the event goes ahead the organiser shall conduct a post-event review.

Request Approved – no conditions

Normal Estates, Facilities, Management Service protocols should be followed for room bookings and events.

Request Approved with conditions

For on-campus and Middlesex branded events off-campus

The Director of Estates and Facilities Management Service or other designated officer may require the organisers to amend or withdraw any advertisements or notices and to comply with specified instructions about the conduct of the meeting. A meeting, after due consultation, may be ordered to be cancelled, but this order will be given only in exceptional circumstances.

In reaching decisions under this Code of Practice, the Director of Estates and Facilities Management Service must consult with other senior managers (as deemed appropriate) and may consult as necessary elsewhere within the University, with the Students' Union, and with external parties as appropriate on a case by case basis.

The organisers may be required, after due consultation, to comply with any or any combination of the following conditions if the Director of Estates and Facilities Management Service or other designated officer considers that difficulties may be encountered. The following list is exemplar rather than exhaustive. This provision extends to events organised by clubs and societies of the Students' Union, which are covered by its regulations on external guests and speakers.

- a) Only members of staff of the University and/or registered students of the University may attend.
- b) The public either may, or may not, be invited or admitted.
- c) If guests are to be allowed to attend, only those whose identity is known to the organisers shall be admitted.
- d) Admission shall be restricted and controlled by ticket, identity card or both.
- e) Special arrangements for the checking of admission shall be instituted.
- f) Where appropriate a specified number of stewards shall be provided by the organisers and required to be present throughout the meeting and also whilst the audience is assembling or dispersing.
- g) Where appropriate the names and addresses of stewards (including a chief steward) shall be supplied in advance by the organisers for approval by the Head of Security or other designated officer of the University.
- h) The cost of these stewards or other services shall be met by the organisers.
- i) Identified members of the University shall be present in order to assist in the maintenance of good order.
- j) Any speaker shall enter and leave by specified routes and shall be escorted under specified arrangements.

- k) No food or drink, alcoholic or otherwise, or any other items which could be used as/or contain missiles shall be taken into a meeting and University security staff and/or stewards will be instructed to remove any such items prior to entry to the meeting or function.
- l) No banners, flags, placards or similar items shall be brought into the building or used anywhere on the premises in circumstances likely to lead to injury or damage or cause a breach of the peace.
- m) The admission of representatives of the press, radio or television shall be subject to prior approval by the Director of External Relations or be subject to any restrictions which may be specified.
- n) The Chair and/or organiser shall be made aware of a personal duty to ensure that no speaker or other person present at a meeting or function should infringe the law and, if in the opinion of the chair, such conduct continues after a warning, the chair has a duty to close the meeting.
- o) The Chair shall be instructed in advance by the organisers about his or her duty to decide whether a meeting or function should be terminated, and about procedures for requesting the police to be summoned in case of breach of the peace or a criminal act, or threat of either occurrence.
- p) Stewards provided by the organisers shall be briefed by the organisers about their duties and responsibilities including being made familiar with local fire and emergency procedures.
- q) Such other instructions as may be given about the conduct of a meeting or function or the conditions in which it may be held.
- r) The text of the speech should be provided in advance.
- s) Provision for a video or audio recording of the event should be made, the cost of which should be borne by the organisers.

The Director of Estates and Facilities Management Service or other designated officer will monitor compliance with conditions. Organisers may be required to pay any costs necessarily incurred by the University to ensure compliance with this Code of Practice or to make good any loss or damage caused as the direct result of a meeting or function being held.

For branded events on line where external speakers are involved – the organiser should liaise with the Director of Student Affairs and ensure conditions are met before the event goes ahead.

Request Refused – Appeals Process

A person or body which has made a request to book accommodation on the premises, if aggrieved by a decision made in respect of the booking, may make an appeal to the Vice-Chancellor. Such an appeal will be heard by the Vice-Chancellor or his nominee as soon as is reasonably practicable. The Vice-Chancellor's ruling shall be final.

In considering appeals the Vice-Chancellor may, with absolute discretion, seek the advice of a freedom of speech panel which will normally comprise:

- A member of University Executive, who will chair the panel;
- One member of academic staff;
- One representative nominated by the Students' Union, normally to be the Chief Executive, President or other officer, or trustee;
- A Director of Professional Services, or nominee,

and may conduct its business through a face-to-face meeting; through teleconference or video-conference; or by correspondence. The freedom of speech panel is not a statutory panel but a panel convened as and when required.

Members of the freedom of speech panel for each case should not include individuals who have been involved in determining whether or not an event may proceed before it reaches the appeal stage.

When an event is appealed there are two possible outcomes:

- Refusal upheld
- Appeal successful with conditions (follow 'Request Approved with Conditions') or without conditions (follow 'Request Approved – No Conditions')

The arrangements above apply equally to events organised in non-bookable University premises. In such cases the information set out above must be given in writing to the Director of Estates and Facilities Management Service or other designated officer with, in addition, details of the space which is to be used for the event.

In the case of events organised under the Students' Unions regulations and procedures for guest speakers, the Students' Union shall have responsibility for ensuring that the information set out above is obtained, and that necessary judgements are made about any additional arrangements. The Students' Union shall consult as necessary with the Head of

Security and in any event the Director of Estates and Facilities Management Service or other designated officer may determine the conditions under which such a meeting may proceed. The Students' Union shall where necessary refer any matters to the Freedom of Speech Panel.

Infringements of or departures from this Code of Practice in whatever respect by members of the University will render those responsible subject to disciplinary proceedings as laid down by the University. Additionally, if any such actions involve breaches of the law, the University will be ready to assist the prosecuting authorities to implement the processes of law.

Failure by a registered student of the University to comply with Section 43 of the Education (No 2) Act 1986 (see paragraphs 2 and 3 above) and with the provisions of this Code will constitute a disciplinary offence.

General Conditions

Nothing in this Code of Practice shall detract from the responsibility and duty of a chair or organiser to ensure as far as reasonably practicable that the provisions of Section 43 of the Education (No 2) Act 1986 are complied with.

Nothing in this Code of Practice shall prevent the Director of Estates and Facilities Management Service or other designated officer from taking such steps as may be necessary at any time to ensure the safety of members of the University or other persons, or to safeguard the premises and property of the University.

Definitions

The term "premises" is deemed to mean not only all Middlesex University property including buildings, grounds, gardens, courtyards and other open spaces including any designated for student use, but also anywhere in the UK being used for a meeting under Middlesex University's name, ie branded events off-campus.

The term "meeting" is deemed to include any event, activity or gathering of people, formally convened including in an on-line setting.

The term "chair" is deemed to mean the person in the chair at a meeting, or the presiding officer or convenor.

Date of review – October 2021 or earlier subject to legislative changes and/or an external speaker event not going to plan.

David Malpas,
Director of Student Affairs
1 July 2020