



**CODE OF PRACTICE
FREEDOM OF SPEECH AND EXPRESSION**

Approved by the Corporation Board on 8 February 2019

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VERSION: 1

CODE OF PRACTICE FREEDOM OF SPEECH AND EXPRESSION

1 PURPOSE

- 1.1 Calderdale College (The College) recognises that freedom of speech and expression within the law has fundamental importance for colleges as places of education, learning and the disinterested pursuit of truth. In particular, colleges are obliged under Section 43 of the Education (No.2) Act 1986 to take measures to protect freedom of lawful speech and expression. This principle is also enshrined in Article 10 of the Human Rights Act 1998. The College is required under Article 15 of its 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 the College.
- 1.2 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.

2 SCOPE

- 2.1 The Code's right and obligations apply to:
- The College, including members of the Corporation Board;
 - All persons (whether academic staff or otherwise) working for the College or undertaking duties on behalf of the College;
 - All duly enrolled students of the College;
 - The student representatives and any societies, clubs or associations which normally operate on College premises; and
 - All persons invited to speak or otherwise take part in events to be held on College premises in accordance with the provisions of this Code.
- 2.2 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 and through the use of social media.

3 DETAILS OF CODE OF PRACTICE

3.1 Freedom of Speech and Expression

- 3.1.1 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 Code's rights and obligations apply.
- 3.1.2 Every person to whom this Code's obligations apply shall assist the College in upholding this Code of Practice.

3.1.3 The College will not suppress freedom of thought and expression, however abhorrent certain thoughts and expressions may be to the majority of the members of the College, provided that:

such thoughts and expressions do not go beyond the articulation of personal points of view and /or do not constitute incitement to riot, insurrection, racial hatred, religious hatred, sexual harassment or other activities (beyond the right of peaceful protest) which are likely to cause a breach of the peace or public disorder or otherwise to be unlawful;

and provided that:

by allowing such views to be expressed, the College would not be failing in its wider legal duties – in particular in relation to:

- eliminating discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010;
- advancing equality of opportunity between persons who share a protected characteristic and persons who do not share it;
- fostering good relations between persons who share a relevant protected characteristics and persons who do not share it; and
- preventing people being drawn into terrorism (Prevent duty under Counter Terrorism & Security Act 2015).

3.1.4 The College will ensure, so far as is reasonably practicable, that the use of its premises and facilities is not denied to any individual or body of persons on any ground connected with:

- the beliefs or views of such individual or any member of such body; or
- the policy or objectives of such body.

3.1.5 Every person to whom this Code's obligations apply must 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 enjoyment of rights under this Code of Practice.

3.1.6 The College will 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.

3.2. Responsibilities under this Code in relation to External Speakers

3.2.1 The protection of freedom of speech does not extend to allowing a speaker to break the law or breach the lawful rights of others e.g. using threatening, abusive or insulting words or behaviour, with a view to incite hatred or draw others into extremism or terrorism.

3.2.2 The College expects external speakers to act in accordance with the law and not to breach the lawful rights of others. The College reserves the right to not permit an external speaker to speak at or attend an event or activity, to refuse to permit an event and/or to halt an event or activity at any time if it reasonably considers there may be a breach of this Code of Practice or of any legal obligation.

3.2.3 During the course of the event or activity at which he or she participates, no speaker shall:

- Act in breach of the criminal law;
- Incite hatred or violence or promote extremism or any breach of the criminal law;

- Encourage or promote any acts of terrorism or promote individuals, groups or organisations that support terrorism;
- Spread hatred and intolerance;
- Discriminate against or harass any person or group on the grounds of their sex, race, nationality, ethnicity, disability, religious or other similar belief, sexual orientation, gender reassignment, marriage or civil partnership, pregnancy or maternity or age;
- Defame any person or organisation.

3.2.4 It is the responsibility of anyone organising an event or activity at the College to ensure that all external speakers are made aware of this Code of Practice and in particular the contents of this clause 3.

3.2.5 It is the responsibility of anyone organising an event or activity at the College to ensure that the External Speaker Form is completed and that all external speakers *are given a copy of the College's 'golden rules' for visitors to the College, which include key safeguarding and health and safety requirements* (including the requirement to sign in, wear a visitor's badge and be accompanied by an appropriate member of staff whilst on campus).

3.3 Responsibilities under this Code for the holding of events and activities

3.3.1 Events and 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 ICT systems.

3.3.2 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 events and activities which take place or are planned or proposed or due to take place on its premises or through its ICT systems. The organisation, arrangements for and holding of any such events and activities, must comply with this Code of Practice.

3.3.3 The College has duties under the Equality Act 2010 as an education provider. It must not unlawfully discriminate against students, employees and other individuals to whom services are provided. Segregation by sex is not permitted in any academic meetings or at events, lectures or meetings provided for students, or at events attended by members of the public or employees of the university or the students' association. Segregation is therefore not permissible for any event covered by this Code of Practice. The only exception to this is events that are for the purpose of collective religious worship as these are not subject to equality law.

3.3.4 Events or activities involving external speakers (whether organised by the governing body, executive team, staff or the student association) must, as soon as possible and at least 20 working days before the event or activity, include an assessment of the proposed speaker(s) against the following questions:

Question 1: Has the speaker previously been prevented from speaking at the College or at another college, university or similar establishment?

Question 2: Is the proposed title or theme of the event likely to be considered controversial, likely to incite extremism, discrimination, spread hatred or intolerance or be in contravention of the College values?

Question 3: Is the proposed speaker/theme likely to attract attendance from individuals/groups that have previously been known to express views that may be in breach of this Code of Practice or the College values?

Question 4: Is the proposed speaker/theme likely to affect the safety of people attending, the security of the College premises or the good name and reputation of the College?

If the answer to all four questions is clearly NO the event organiser can continue to organise the event at a local (department) level, ensuring that any external speakers are aware of their responsibilities as set out in clause 3 above.

If the answer to any of the questions is unclear the event organiser must seek guidance from their line manager or head of student services (in the case of student events) at the earliest opportunity, whose responsibility it will be to further review the speaker(s) against the questions above. Ultimately, if the answer to any of the questions is YES it is the responsibility of the event organiser to submit a referral to their member of Executive for permission as soon as possible and at least 15 working days before the proposed date of the event or activity, providing 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.

- 3.3.5 Save in exceptional circumstances where more time is required before a decision can be made, within 5 working days of receiving a written request the member of Executive will issue a written decision in reply which shall either grant or withhold permission for the event or activity to take place on the College's premises or through its ICT systems. Where the required information is not provided the Principal or designated senior post holder will issue a decision before the date of the planned activity. Until permission is received no event or activity subject to this Code may take place. 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 member of Executive reasonably sees fit.
- 3.3.6 The College will not unreasonably refuse to allow external speakers to speak and events or 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. Reasonable grounds for refusal would include (but are not limited to) the fact that, if the speech, event or activity were to take place, a risk would arise that, within the premises of the College and/or the scope of its ICT systems there would be:
- incitement to commit a criminal act;
 - the unlawful expression of views;
 - support of an organisation whose aims and objectives are illegal;
 - the foreseeability that an individual might be drawn into terrorism (including extremism) and/or
 - a breach of the peace.
- 3.3.7 In determining whether permission for a speech, event or activity to take place on the College's premises and/or through its ICT system might reasonably be refused, consideration may be given by the member of Executive (as is appropriate in the circumstances) to:
- the safety of persons attending or otherwise affected by the event or activity on the College premises who might foreseeably be put at risk;
 - the security of the College's premises; and

- the good name and reputation of the College.

3.3.8 The decision of the member of Executive is final and binding.

3.4 Practical Measures

3.4.1 The College will permit the use of its premises and ICT systems only by organisers or other individuals otherwise involved in an event or activity who undertake 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.

3.4.2 In cases in which it is reasonable to assume that there is a possibility of disruption arising from the taking place of an event or activity, the College 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. Policing costs to be borne by the organisers.

3.4.3 Any organisers or other individuals otherwise involved with an event or activity to take place on the College's premises or through its ICT systems shall be responsible for any costs involved in organising and holding such activities (including any costs of cleaning and/or repairs needed as a result) and for ensuring, as far as possible, that nothing in the organisation and holding of such activities infringes the law or any College rule, regulation or procedure in any way.

3.4.4 No articles or objects may be taken inside the building where an event is taking place, or taken or used elsewhere on College premises, in circumstances where the presence or use of those articles or objects is likely to lead to injury or damage.

3.4.5 The responsibility for conducting an event or activity rests with the appointed chairperson. This calls for a close liaison and consultation beforehand between the chairperson and the organiser, especially if the member of Executive has attached any conditions to permission to use College premises.

3.4.6 The member of Executive may withdraw permission already given to hold the event or activity, or amend or impose any conditions, at any time up to or during the event or activity and the College reserves the right to halt an event or activity at any time if it reasonably considers there may be a breach of this Code of Practice or of any legal obligation.

3.5 Sanctions and Penalties

3.5.1 Any member of the Board of Governors who breaches this Code may be removed from office under clause 9(2) of the College's Instrument of Government.

3.5.2 Where those responsible for the breach are students or staff of the College action may be taken against them under the relevant disciplinary procedure.

3.5.3 Where those responsible for the breach are students or staff of a partner organisation of the College, the member of Executive will consider whether to inform the partner organisation with a view to that partner organisation taking action (whether as well as or instead of) under its relevant disciplinary procedure.

3.5.4 Where a breach of this Code takes place at an event, 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.

4 MONITORING & AMENDMENT OF THE CODE

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 Code of Practice on freedom of speech. With this end in view the Board of Governors will receive a report on the operation of the Code by the Principal, together with any recommendations for revision of it, at intervals not exceeding 3 years.

5 RELATED POLICIES/PROCEDURES/DOCUMENTS

Communications Policy
Safeguarding Policy
Staff Code of Conduct
Student Code of Conduct

6 REVIEW

Change(s) Made		Reason for Change			
Review Date	Reviewed by:	Initial Approval by:	Final Approval by:	Next Review Date:	Review Period
Feb 2019	Clerk to the Corporation	Corporation Board		Feb 2022	3 Years

7 EQUALITY IMPACT ASSESSMENT

First Assessment Conducted by:	Date:	Final/Approved Assessment Conducted by:	Date:
The author conducts the first review	31.1.19	Angela Harrison – Quality Administrator	07.08.2019

8 PUBLICATION

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Staff	Staff Internet