

Freedom of Speech and Academic Freedom Policy

SUMMARY

Freedom of speech may be lawfully limited where necessary to protect national security, public order or safety, health or morals, the rights and reputations of others, or to prevent crime or uphold judicial impartiality.

PART ONE: Preliminary information

1. INTRODUCTION

At OELS, we are committed to upholding academic freedom of enquiry in our teaching and to ensuring that free and open discussion can take place in an atmosphere of tolerance. The key aim of our academic policies is the creation of an environment on and off campus that permits freedom of speech and expression within a framework of respect for the rights of others. This principle is also enshrined in Article 10 of the Human Rights Act 1998.

The Education Act (No 2) 1986 (Section 43) imposes specific obligations on universities to promote and protect freedom of speech and requires that universities “shall 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.”

The Education Act (No 2) 1986 (the “Act”) enshrines a positive and proactive legal duty on universities (Section 43) to promote and protect freedom of speech on campus, and states that the only constraints on the duty to secure freedom of speech are those imposed by the law. It is therefore for the law, not for institutions, to set limitations.

The Higher Education (Freedom of Speech) Act 2023 imposes comprehensive obligations on higher education institutions and students' unions in England to actively promote and protect freedom of speech on campuses. This legislation strengthens the legal duties of higher education providers to ensure that freedom of speech and academic freedom are upheld for students, staff, and visiting speakers

This duty includes a responsibility to ensure that the use of the campus premises is not denied to any individual or group on the grounds of the belief or views of that individual or any member of that group, or on the grounds of the policy or objectives of the group.

However, the right to freedom of expression is not absolute. It may be lawfully restricted in certain circumstances, such as to protect the rights and reputations of others, to safeguard

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national security or public safety, to prevent disorder or crime, or to avoid the disclosure of confidential information

Debates, conflicts and disputes, for example involving ethnicity, gender or religious faith, may sometimes find expression on campus amongst the student body or other constituencies. Our mission is to identify when the pursuit of freedom of ideas and expression crosses into conduct that is unlawful or poses unacceptable risks to the health, safety or welfare of employees, students or visitors.

2. SCOPE AND PURPOSE

This Policy on Freedom of Speech affirms the institution's commitment to upholding the rights and obligations associated with freedom of expression and academic freedom, as protected by law. It shall be interpreted and applied with the presumption in favour of lawful free speech, subject only to the restrictions permitted under relevant legislation, including where necessary to protect the rights, safety, and wellbeing of others.

The provisions of the Policy apply to all staff, lecturers, students, and visitors to OELS and to any other person in attendance at any meeting or other function, which has been duly authorised to take place on OELS premises. The Policy also applies as appropriate to outside organisations hiring OELS premises.

This Policy applies to all meetings and events (including lectures, guest lecturers, seminars, committees, meetings, conferences, and musical and theatrical performances whether live streamed or recorded) and any other activities proposed, planned, or due to take place on any campus of OELS.

This policy has been enacted to ensure that as far as reasonably practicable, freedom of speech within the law is secured for members, students, and employees of OELS as well as for visiting speakers.

At OELS, we follow the regulatory advice 24 of the Office for Student (OfS), *Guidance related to freedom of speech*: <https://www.officeforstudents.org.uk/publications/regulatory-advice-24-guidance-related-to-freedom-of-speech/>

The relevant policies and guidance that support our Freedom of Speech and Academic Freedom Policy are as follows:

- Appeals and Complaints Policy
- Student Behaviour Policy
- Equality, Diversity and Inclusion Policy
- IT Charter
- Academic Integrity Policy

In addition to safeguarding the right to freedom of speech, OELS is committed to actively promoting a culture in which freedom of speech and academic freedom are valued and understood by all members of our community. We will take positive steps to foster this culture, including providing training for staff, lecturers and students on the importance of freedom of

speech and its limits; ensuring that all policies and procedures make clear our institutional commitment to open debate; and encouraging discussion of a wide range of views, including those that may be challenging or controversial.

PART TWO: Policy

1. AUTHORITY

We authorise the Dean to act on OELS' behalf to ensure as far as is reasonably practicable that all members of OELS (staff, lecturers and students) and all visiting speakers comply with the provisions of this Policy. OfS guidance emphasising a three-part test will apply:

1. Is the speech lawful?
2. What are the reasonably practicable steps to enable it?
3. Are restrictions lawful and proportionate?

2. ACADEMIC FREEDOM

The academic freedom policy provides freedom to the academic faculty member to engage in research, scholarship and creative work and is also entitled to publish or produce the results, subject to responsible performance of these and other academic duties. The policy also enables both faculty members and students to make comparisons and contrasts between subjects taught in a course and any field of human knowledge or period of history by observing the commitment to accuracy and integrity. The faculty members are advised to comprehend that the freedom to teach must be joined by a constant effort to distinguish between knowledge and belief.

3. GENERAL PRINCIPLES

The right to freedom of expression and freedom of assembly are safeguarded in Articles 9, 10, and 11 of the European Convention on Human Rights and given further effect by Schedule 1 of the Human Rights Act 1998. The articles also outline the duties and responsibilities required to exercise these freedoms as follows:

“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.”

4. ROLES AND RESPONSIBILITIES

The ultimate accountable authority for the interpretation of the day-to-day operations of this policy is the Director of OELS.

If a breach of this Policy is noticed by an individual (whether staff, a lecturer or a visitor), the procedure to follow is set in the Appeals and Complaints Policy.

5. SANCTIONS

If any actions involve breaches of the law, we will assist the prosecuting authorities to implement the process of law and may suspend any internal disciplinary proceedings pending the outcome of any such processes.

6. LIMITATIONS

In the following cases, freedom of speech is limited by law.

- The Equality Act 2010 places a duty on OMNES Education London School to eliminate discrimination, harassment, and victimisation and further to foster good relations between all members of the university community.
- The Public Order Act 1986 contains a range of criminal offences relating to violent conduct, speech or actions that threaten violence or cause fear, harm or distress. The Act also makes it an offence to use threatening, abusive or insulting words or behaviour either with the intention of stirring up racial and religious hatred, or in circumstances where it is likely racial or religious hatred will be stirred up as well as stirring up hatred on grounds of sexual orientation.
- The Terrorism Acts of 2000 and 2006 define certain criminal activities relating to terrorism in terms of inciting acts of terrorism, disseminating terrorist publications or belonging to or supporting proscribed organisations. Terrorism is defined as including the use or threat of serious violence against a person or serious damage to a property for the purpose of advancing a political, religious or ideological objective.
- The Counter Terrorism and Security Act 2015 places an obligation on the Higher Education provider to have due regard to its duty to prevent people from being drawn into terrorism (as interpreted in the relevant case law).