



MORLEY COLLEGE LONDON

Freedom of Speech and Freedom of Expression Policy

POLICY OWNER:	Vice Principal (Higher Education)
FINAL APPROVAL BY:	Governing Body
Policy Category:	Corporate
Approved by Policy Committee:	29 November 2021
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1. Introduction, Purpose and Scope of Policy:

Morley College London recognises that freedom of speech and freedom of expression within the law has fundamental importance for further and higher education institutions as places of education, learning and the unbiased pursuit of truth. In particular, such institutions are obliged under section 43 of the Education (No 2) Act 1986 to take reasonable measures to protect freedom of lawful speech.

In addition, the Governing Body is required by Article 15.3 of the College's Articles of Association to have regard to the need to ensure that academic staff at the College have freedom within the law and subject to any statutory obligations placed on the College 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 any privileges which they may enjoy at the College. Further and higher education institutions have a responsibility, so far as is reasonably practicable, to protect and advance the principle of academic freedom.

A principle of freedom of lawful expression is also enshrined in Article 10 of the European Convention on Human Rights.

Whilst free speech is a human right, it is not an absolute and is subject to free speech ***within the law***, i.e. speech that is lawful amongst the other duties in place on the College such as the Prevent Duty 2015 which requires us to prevent people from being drawn into terrorism and the Equality Act 2010 Duty which prohibits discrimination or harassment based on protected characteristics.

Through the statutory guidance on the Government's Prevent strategy issued under the Counter-Terrorism and Security Act 2015, the College has a legal requirement to promote the values of 'democracy, the rule of law, individual liberty and mutual respect and tolerance for those with different faiths and beliefs' as being a key aspect in safeguarding people from being drawn into terrorist activity. As Prevent acknowledges, and as the College's Safeguarding and Prevent Policy states 'the threat from terrorism in the United Kingdom is underpinned by the exploitation of vulnerable people in order to involve them in terrorism or in activity in support of extremism and terrorism. The College therefore considers it essential that students and staff see Morley as a safe place where students can discuss and explore controversial issues safely and in an unbiased way and where staff encourage and facilitate this, but where failure to challenge extreme views or behaviour and to treat them as normal is not accepted'.

The values that Prevent requires us to promote have been embedded in the culture of the College since its establishment and underlie our teaching approach, which emphasises the importance of collegiate dialogue between tutor and student to facilitate the meeting of learning goals. The College values freedom of speech and freedom to express beliefs and ideology, and sees them as fundamental rights underpinning our society's values. Both students and teachers have the right to speak freely and voice their opinions. With that freedom, however, comes responsibility and free speech that is designed to manipulate the vulnerable or that leads to violence and harm of others or that transgresses the laws and policies that govern equality, human rights, community safety and community cohesion will not be tolerated by the College.

2. Equality and Diversity Analysis Screening:

In accordance with the College's Equality and Diversity Policy, the development of this policy complies with the Equality Act 2010 in ensuring due regard to eliminating discrimination, advancing equality of opportunity and fostering good relations (see section 4 of the Equality and Diversity Policy). An equality analysis will be completed if there is a risk the policy may affect different groups protected from discrimination. Consultation will be carried out with staff. If an equality analysis is required, the Equality and Diversity Co-ordinator (Head of Quality and Standards) will advise on completion and the analysis is to be included as an appendix to the policy.

3. Applicability:

This policy document covers freedom of speech and freedom of expression whatever form that may take including (but not limited to) speeches, debates, meetings, demonstrations, written publications and through the use of social media. The Policy's rights and obligations apply to:

- the College, including members of the Governing Body;
- all persons (whether academic staff or otherwise) working for the College (whether for payment or otherwise);
- all duly enrolled students of the College (whether full- or part-time);
- all students studying with the College (whether full- or part-time) under an agreement with a partner organisation of the College (even if not enrolled as students of the College);
- any societies, clubs or associations that normally operate on the College's premises;
- any other organisations that hire facilities at the College; and
- 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 that take place on or are planned or proposed or due to take place on the College's premises or through its IT systems.

4. Definitions:

References in the Policy to the College's premises and/or the College's facilities include premises and/or facilities that are owned by the College, premises and/or facilities that the College does not own but over which it exercises some degree of control and premises and/or facilities occupied or controlled by societies, clubs and associations that normally operate on the College's premises, whether or not the College has control of such premises and/or facilities.

References in the Policy to '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 IT systems.

5. Statutory and regulatory requirements:

The following represent specific legislative regulations the College adheres to, although it is not restricted to those named below:

Higher education: free speech and academic freedom February 2021¹

- The Office for Students (Higher Education) will establish a Champion to enforce the law around freedom of speech and academic freedom in higher education; as well as increase the rights of redress for those deemed wronged; and will establish a new registration condition on free speech and academic freedom
- All staff and students should feel safe to challenge conventional wisdom by discussing controversial, unpalatable even offensive ideas, without the fear of repercussion
- Without action to counter attempts to discourage or silence unpopular views, intellectual life on campus will be diminished for both staff and students
- Higher education providers must do more to defend free speech and have greater protections in place for those who seek to exercise free speech

Section 43 duty of the Education Act (No. 2) 1986²

- Places a duty on those in governance to take reasonably practical steps to ensure freedom of speech within the law is secured for the institution's members, students, employees and visiting speakers

Employment Law

- In line with the College's employment policies and procedures which all staff are expected to comply with

Human Rights Act 1998³

- Article 9 – freedom of thought, conscience and religion
- Article 10 – freedom of expression
- Article 11 – freedom of assembly and association

The College will respond as required should there be any legislative changes in the future.

6. Policy Objectives:

This Policy sets out the rights and obligations inherent within the principles of freedom of speech and expression and academic freedom. It is to be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law.

- 6.1 To uphold and defend the right to freedom of speech and freedom of expression within the confines of the law*
- 6.2 To promote freedom of speech and freedom of expression with College staff and students alike through the inclusion in induction events and staff training*
- 6.3 To monitor and review the College's approach to freedom of speech and freedom of expression to ensure the institution is making a pro-active stance*

¹ [Higher education: free speech and academic freedom - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

² [Education \(No. 2\) Act 1986 \(legislation.gov.uk\)](http://legislation.gov.uk)

³ [Human Rights Act 1998 \(legislation.gov.uk\)](http://legislation.gov.uk)

7. Policy statement:

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 Policy's rights apply.

Every person to whom this Policy's rights apply shall assist the College in upholding this freedom.

The College will not suppress freedom of speech and expression, however abhorrent certain expressions may be to the majority of the members of the College, 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 or other activities that are likely to cause a breach of the peace or public disorder, significantly increase the risk of an individual being drawn into terrorism or otherwise be unlawful; and
- by allowing such views to be expressed, and by allowing the activity to take place in the format proposed (for example, a non-religious event being held with men and women in segregated seating) the College would not be failing in its wider legal duties, in particular to have regard in carrying out its functions to the need to:
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by 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) prevent people being drawn into terrorism and extremism, including non-violent extremism.

8. Implementation of Policy:

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 activities which take place or are planned or proposed or due to take place on its premises or through its IT systems. The organisation and holding of any such activities, and the arrangements therefore, must comply with this Policy.

Accordingly, the College will permit the use of its premises and IT systems only by organisers and other individuals otherwise involved in an activity or proposed activity who undertake in writing 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.

Any person to whom this Policy's rights apply must submit a request, in writing, to the relevant Centre Principal for permission for an activity to take place where it is reasonably foreseeable that the activity may raise issues that may be controversial in some way. Any such request should be submitted to the Centre Principal not less than ten working days 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 authors and the proposed timing and location of the activity.

Where the activity involves an external speaker, the organiser must follow the College's External Speaker Booking Process and ensure that the speaker follows the College's External Speaker Code of Conduct.

Where the activity requires use of the College's IT systems, all users of the systems must first confirm their agreement to abiding by the [College's Information Technology Systems Acceptable Use Policy](#).

Save in exceptional circumstances where more time is required before a decision can be made, within five working days of receiving a written request providing all of the information required the Centre Principal will issue a written decision in reply which will either grant or withhold permission for the activity to take place on the College's premises or through its IT systems. Where the required information is not provided, the Centre Principal will issue a decision (which is likely to be refusal to allow the activity to go ahead) before the date of the planned activity. Until permission is received no activity subject to this Policy may take place. Permission granted under this Policy 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 Centre Principal reasonably sees fit.

The College will not unreasonably refuse to allow activities to take place on its premises or through its IT systems. The expression of controversial views that 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) a risk that, if the activity were to take place on College premises or within the scope of its IT systems, it might involve:

- incitement to commit a criminal act;
- the unlawful expression of views;
- support of an organisation whose aims and objectives are illegal;
- the prospect of an individual being drawn in to terrorism or extremism; or
- a breach of the peace

In determining whether permission for an activity to take place on the College's premises or through its IT systems might reasonably be refused, consideration may be given to:

- the safety of the persons attending the activity or otherwise foreseeably affected by the activity or on the College's premises who might foreseeably be put at risk;
- the security of the College's premises; and
- the good name and reputation of the College.

An appeal against a decision of the Centre Principal may be made, in writing, to the Principal and Chief Executive within five working days of the decision. The decision of the Principal shall be final and binding.

In making a decision, the Centre Principal (or, in the case of an appeal, the Principal) may impose such conditions or restrictions on the activity taking place as he or she reasonably sees fit and where circumstances warrant may consult with the police.

In the event of a breach of this Policy, sanctions and penalties will apply as follows:

- Any member of the Governing Body who breaches this Policy may be removed from office under Article 13.2 of the College's Articles of Association.

- Where those responsible for the breach are students or staff of the College action may be taken against them under the relevant disciplinary procedure.
- Where those responsible for the breach are students or staff of a partner organisation of the College the Principal will consider whether to inform the partner organisation with a view to that partner organisation taking action (whether as well as or instead of any action taken by the College) under its relevant disciplinary procedure.
- Where a breach of the Policy takes place at an activity or as a result of an activity taking place, 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.

9. Communication and training:

The policy will be communicated to staff and students alongside and in conjunction with a range of policies that support their work through members of the College Management Team and via the College's intranet and website.

10. Monitoring and Reporting:

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 Policy on freedom of speech. With this end in view, the Principal will report to the Governing Body at intervals not exceeding four years on the operation of the Policy. Changes to the Policy will be considered by the Policy Committee which will, in addition, undertake a full review of the Policy every four years. The Policy Committee will make recommendations to the Governing Body.

11. Related References, Policies, Procedures, Forms and other Appendices:

- [Safeguarding and Prevent Policy](#)
- Disciplinary Policy and Procedure (staff)
- [Student Disciplinary Policy](#)
- [Equality, Diversity and Inclusion Statement](#)
- [Information Technology Systems Acceptable Use Policy](#)