
Worcester College, Oxford

**Freedom of Speech
College Policy**

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1 Introduction

- 1.1 Freedom of speech and expression are key principles of free, democratic societies. The exchange of ideas, the freedom to challenge and think critically is central to learning and an important part of College and University life. Everyone has the right to express and receive views and opinions, including where this might “offend, shock or disturb”.
- 1.2 The underpinning legal framework also recognises that freedom of speech and expression are subject to important limitations, for example to prevent unlawful discrimination, harassment or incitement to violence or hatred against other individuals or groups, particularly by reference to their race, ethnicity, gender, religious belief or sexual orientation. The College will not tolerate any form of harassment or victimisation and expects all members of the College, its visitors and contractors to treat each other with respect, courtesy and consideration.
- 1.3 Protest is also a valid part of freedom of expression, but it must be peaceful and not be allowed to shut down lawful debate or infringe the rights of others.
- 1.4 It is not always easy to draw a line between what is lawful speech which might be offensive, and speech which is unlawful, for example because it amounts to unlawful harassment. Much can depend on context, such as:
 - 1.4.1 Whether it concerns part of an academic course or external event;
 - 1.4.2 Whether the subject matter of a talk was made clear from promotional material;
 - 1.4.3 The particular form of words, the form of communication;
 - 1.4.4 The intended audience; and
 - 1.4.5 Whether it is presented in a context which includes challenge and the expression of opposing viewpoints.

The College’s aim is always to encourage respectful debate, including debate of difficult and controversial issues. Freedom of expression should not be abused for the purpose of hatred or bigotry.

- 1.5 There are other laws such as privacy, libel and defamation which may restrict freedom of speech in certain circumstances.
- 1.6 Following changes to legislation implemented under the Higher Education and Research Act 2017, the College no longer falls within scope of section 43 of the Education (No.2) Act 1986. That Act requires the governing body of educational establishments that are within scope, including the University, to take reasonably practicable steps to ensure that freedom of speech within the law is secured for members, including student members, and employees of the establishment as well as for visiting speakers. It also requires such establishments to set out a code of practice to facilitate the discharge of that duty.
- 1.7 Whilst the College is not currently subject to section 43 of the Education (No.2) Act 1986, it nonetheless intends to apply the same principles when considering matters of freedom of speech and freedom of expression and to set out an equivalent code of practice. Section 43 applies to freedom of speech “within the law”. This means that it does not apply to speech which would be unlawful, whether because it is a criminal offence, or in breach of civil law, including equality, health and safety, defamation and charity law. The duty may also include other forms of expression such as printed or electronic material.
- 1.8 The Counter-Terrorism and Security Act 2015 requires the College to ‘have due regard to the need to prevent people from being drawn into terrorism’ (section 26 (1)). The Act also provides that ‘when carrying out the duty imposed by section 26 (1)’, relevant educational establishments must have particular regard to the duty to ensure freedom of speech when they are subject to that duty; and to the importance of academic freedom” (s.31).
- 1.9 The terms of this Policy and code of practice are not contractual and may be updated by the College from time to time, for example when legislation changes or as part of periodic reviews by the College of its procedures to improve their operation.
- 1.10 College members (including student members) and College staff must comply with the terms of this Policy. A breach of this Policy may be a disciplinary matter under the relevant staff or student disciplinary policies; in the most serious cases that could lead to dismissal or expulsion from the College.
- 1.11 During the period of the coronavirus pandemic or during any similar emergency, any meetings, activities and assemblies at the College are also subject to any conditions

that the College or the relevant authorities may apply in the interests of public health or to ensure compliance with relevant guidance.

2 Who is responsible for this Policy?

- 2.1 The Governing Body of the College has overall responsibility for the effective operation of this Policy and for ensuring compliance with relevant legislation.
- 2.2 Day-to-day operational responsibility for this Policy, including regular review of this Policy, has been delegated to the Provost.

3 Teaching, study and research

- 3.1 It is not anticipated that events which form part of the College's academic functions of teaching, study or research will need to be formally referred under this Policy. However anyone engaged in delivering or organising activity as part of the College's academic functions of teaching, study or research ("relevant activity") shall notify the Senior Tutor immediately, in writing and with details, if they consider that:
 - 3.1.1 The relevant activity is likely to be the subject of protest; and/or
 - 3.1.2 The relevant activity and/or any protest might breach this Policy.
- 3.2 In such circumstances, the procedure set out in section 5 will be implemented.
- 3.3 A frivolous, vexatious and/or malicious referral may lead to disciplinary action being taken under the relevant College procedure.

4 External speakers, Assemblies and Meetings of College Clubs, Societies and other organisations

- 4.1 Any College member (including student members) or employee involved in arranging external speakers, meetings, parties or other assemblies ("relevant activity") on College premises must notify the Senior Tutor immediately in writing and with details if they become aware:
 - 4.1.1 Of any reason suggesting the relevant activity risks being the subject of protest; and/or
 - 4.1.2 The relevant activity and/or any protest risks breaching this Policy.
- 4.2 In such circumstances, the procedure set out in section 5 will be implemented.

- 4.3 A frivolous, vexatious and/or malicious referral may lead to disciplinary action being taken under the relevant College procedure.

5 Procedure

- 5.1 The Senior Tutor shall act in a proportionate manner and with the desire, wherever possible, to enable events or meetings to proceed.

- 5.2 The Senior Tutor will upon receipt of notification as above, or on receipt of similar information from any other source regarding a relevant activity on College premises, consider the details and context within the relevant legal framework, which may include, amongst other matters:

5.2.1 Principles of institutional autonomy and academic freedom under, for example, the Higher Education and Research Act 2017;

5.2.2 Freedom of speech and freedom of expression under the common law and the Human Rights Act 1998, along with any other relevant rights such as those relating to freedom of religion and belief and freedom of assembly;

5.2.3 Provisions prohibiting discrimination and harassment and promoting equality under the Equality Act 2010 and, where relevant, the Public Sector Equality Duty;

5.2.4 The “prevent duty” under the Counter-Terrorism and Security Act 2015;

5.2.5 The College’s obligations for the health and safety of students, staff and visitors under the Health and Safety at Work etc. Act 1974 and at common law;

5.2.6 The College’s obligations under charity law;

5.2.7 Other potential obligations under criminal or civil law; and

5.2.8 What reasonably practicable steps can be taken to mitigate any risks identified.

- 5.3 In considering the above matter the Senior Tutor may consult other College Members or employees (other than any individual who may be asked to review the decision under the terms of this Policy), may seek further information from relevant parties and/or may obtain independent legal advice if considered appropriate.

- 5.4 Based on the above analysis and an assessment of any risks, the Senior Tutor will decide whether the relevant activity should be subject to any reasonably practicable conditions to mitigate any risks identified, including whether the risks are to individual health and safety, to freedom of speech, or to academic freedom. Examples of such conditions might include:
- 5.4.1 Putting in place appropriate stewarding, security and/or arrangements for access to the activity;
 - 5.4.2 Ensuring that different viewpoints are appropriately represented or challenged;
 - 5.4.3 Appointment of a meeting chair;
 - 5.4.4 Designation of organisers;
 - 5.4.5 Agreeing arrangements with the University Proctors and/or the police; and
 - 5.4.6 Ensuring that promotional material for an event or a precis of a speech is submitted in advance.
- 5.5 If the Senior Tutor is not satisfied that the risks identified can be mitigated sufficiently, the Senior Tutor will decide either that the relevant activity will be postponed until appropriate arrangements can be made to the Senior Tutor's satisfaction, or, as a last resort, that it will be cancelled.
- 5.6 Where any expenses are incurred in connection with mitigation measures, where these concern a relevant activity which is part of the College's academic functions of teaching, study or research, such expenses will be borne by the College. In the case of other relevant activities such expenses will be borne by those responsible for organising the relevant activity, unless otherwise agreed in writing with the Governing Body.
- 5.7 College members (including student members) and employees responsible for delivering or organising the relevant activity will cooperate in implementing any such conditions.
- 5.8 In the event that any College member (including student members), invited speaker or organiser of a relevant event is dissatisfied with any decisions of the Senior Tutor

under this Policy, they may within 7 days of the decision ask the Provost to review that decision.

6 Delegation

- 6.1 Where any relevant individual specified in this Policy is unavailable for any reason, their function under this Policy may be delegated as specified below:

Relevant individual	Delegate if relevant individual unavailable
Senior Tutor	Dean
Provost	Vice Provost

Policy first adopted: adopted by Governing Body TT 2021 to take effect 01 October 2021

Policy next due for review: TT 2022