

Arden University Freedom of Speech Code of Practice

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Introduction

Higher education providers have a duty to take steps to securing freedom of speech within the law for staff, members, students and visiting speakers. This is enshrined in the Higher Education and Research Act 2017, as amended by the Higher Education (Freedom of Speech) Act 2023. Freedom of speech is also protected under Article 10 of the European Convention on Human Rights, which has effect in the UK through the Human Rights Act 1998.

This places a duty on Arden University to ensure, so far as is reasonably practicable, that the use of Arden University premises and facilities, including its online platforms, is not denied to any individual or organisation on any ground connected with the beliefs or views of individuals or the policy or objectives of that organisation.

Arden University upholds the values of intellectual openness, mutual respect, and the pursuit of knowledge through reasoned debate. We believe that the ability to freely express, question, and critically examine ideas is fundamental to the role of a university in a democratic society. These values support a learning environment in which diverse perspectives can be heard, challenged, and better understood, and where freedom of speech within the law is both protected and actively promoted. They are central to our commitment to fostering a culture of respectful academic and civic engagement across our community.

Under the Higher Education (Freedom of Speech) Act 2023, Arden University has three statutory duties:

- To take reasonably practicable steps to secure freedom of speech and academic freedom
- To maintain a freedom of speech code of practice
- To promote the importance of freedom of speech and academic freedom throughout the institution

This code of practice sets out how Arden University will fulfil its obligations in this respect. It should be read in conjunction with Arden University's Academic Freedom Policy and its Safeguarding and Prevent Policy.

Definition of freedom of speech

Freedom of speech means the freedom, within the law, to receive and impart ideas, opinions or information by means of speech, writing or images (including in electronic form). It is not limited to the spoken word.

The Office for Students stands for the widest possible definition of freedom of speech. Freedom of speech 'within the law' is protected. Unlawful speech is not protected.

Unlawful speech under the Equality Act (2010) includes:

- Harassment, i.e. where a person engages in unwanted conduct related to a relevant protected characteristic, and the conduct has the purpose or effect of violating dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment.

- Discrimination regarding treatment of students by universities, in employment, and in provision of services/exercise of public function.

Unlawful speech under criminal law includes:

- Harassment (i.e. on at least two occasions)
- Threat to kill
- Threatening, abusive or insulting words, with intent to cause a person to believe immediate unlawful violence will be used or to provoke immediate use of unlawful violence by that person or another
- Incitement to hatred on the grounds of a protected characteristic
- Terrorism related offences

Additionally, PREVENT (the Counter-Terrorism and Security Act 2015) require us, when exercising functions, to have due regard to the need to prevent people from being drawn into terrorism (having particular regard to the duty to secure free speech.) Arden University may need to exercise its authority under this code of practice to ensure that events and speakers do not misuse Arden University's premises, facilities or brand to promote extremist views where these are deemed likely to draw people into terrorism.

Definition of Academic Freedom

Both freedom of speech and academic freedom reside within the broader concept of freedom of expression, which broadly encompasses a wider range of communicative acts beyond just speech. Academic freedom is defined as the freedom (in an academic capacity) to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without risk of punishment or loss of privileges. Arden University is committed to securing academic freedom in accordance with the Higher Education (Freedom of Speech) Act 2023 and expects all policies and decisions to uphold this protection. Further details on Arden University's commitment to academic freedom can be found in our Academic Freedom policy.

Who is covered by the policy?

The code of practice applies to any individual (staff, student, contractor, member of the public) whilst they are:

- On Arden University premises
- Using any systems that Arden University operate and provide, where they have reasonable and practicable abilities to moderate or secure freedom of speech
- Attending any meeting, class, event or activity operated by Arden University on non-university premises, including a collaboration or partnership provider
- Representing Arden University in an official capacity in any meetings, conferences, events, or activities operated by other organisations, including a collaboration or partnership provider.

Visiting speakers or online contributors are expected to abide by this code of

practice and must be approved under the Procurement for the Approval of External Speakers.

Promoting and securing lawful freedom of speech

Arden University is committed to freedom of speech, and will take reasonably practicable steps to promote and secure it. We will actively promote freedom of speech to students through

Promoting freedom of speech

Arden University is committed to giving students opportunities to engage with a wide range of views, including those that challenge commonly accepted ideas and conventional wisdom. We recognise that students may find these shocking, and we support students' rights to peaceful protest (which is itself a legitimate expression of freedom of speech.) However, everyone has the right to free speech within the law, and protest must not shut down debate.

Arranging a guest speaker

Guest speakers are an important part of the Arden University experience, offering valuable perspectives, inspiring innovation, and fostering meaningful discussions.

All guest speakers will need to be approved by Arden's Legal team as part of our due diligence processes. Staff members wishing to engage a guest speaker need to complete an 'Engaging with Arden' form in [LawVu](#), where point of contact will be allocated. Staff members will need to specify timescales in which approval is needed, and Arden University will make every effort to ensure the process does not take longer than necessary.

Once the speaker is approved, a contract will need to be signed by the guest speaker and an Arden University representative. Please note, only Senior Management Team members can sign a guest speaker contract on behalf of Arden.

Arden University's position is that every effort should be made for guest speaker events to go ahead, and that cancellation is exceptional and undesirable. Any decision to cancel an event, or to delay indefinitely, should only be taken by a member of the Executive team who has delegated authority to take it.

Office for Students' three-step framework

When assessing whether an event or piece of speech complies with the Higher Education (Freedom of Speech) Act 2023, Arden University staff and students are encouraged to use Office for Students' three-step framework to assess compliance.

Step 1: Considering whether the speech is lawful

Arden University will assess whether the speech in question is lawful. Free speech includes lawful speech that may be offensive or hurtful to some, however, speech is presumed to be lawful unless it is in breach of the law, as described in section 2 (e.g. incitement to violence, unlawful harassment, etc.). If the speech is unlawful, the duty to secure it does not apply.

Points 25-54 of the [OfS guidance relating to freedom of speech](#) provide further insight and clarification.

Step 2: Considering reasonably practicable steps to secure the speech

If the speech is lawful, Arden University will consider whether there are reasonably practicable steps that would allow the speech to take place. These include refraining from cancelling speakers due to controversy or reputational risk, and making venue changes, additional security or adjustments to timing that can enable events to take place safely. It also includes amending or avoiding policies that unlawfully limit freedom of expression. If such steps exist, Arden University is legally required to take them and must not restrict the speech.

Points 55-123 of the [OfS guidance relating to freedom of speech](#) provide further insight and clarification.

Step 3: Considering proportionate restrictions

If no reasonably practicable steps can secure the speech, any restriction imposed must be based on legal authority and be proportionate under the European Convention on Human Rights. Restrictions must be carefully justified, limited to what is necessary, and must not be based on the viewpoint of the speech.

If a decision is taken to remove online content or not to allow an event on its premises, Arden University will give careful consideration to available evidence and all the relevant issues, and act proportionally. It will balance the right to freedom of speech, and its duty to protect it, with any relevant legal limitations. It will also take into account relevant guidance and advice, for example from the police and from the Department for Education's Regional Prevent Coordinators.

Permission to hold an event may be withdrawn, or an event which is underway may be terminated, if any aspect of it is found subsequently to breach the above criteria. Where there are concerns about an event, Arden University will seek to facilitate an open and transparent dialogue with the event organisers to establish whether the event can take place whilst ensuring the University meets its legal obligations. Event organisers will be expected to take part in this dialogue in an open and transparent manner.

Points 124-131 of the [OfS guidance relating to freedom of speech](#) provide further insight and clarification.

Supporting vulnerable students

Arden University recognises its dual responsibility to secure freedom of speech within the law and to support the welfare of students, particularly those who may be vulnerable or adversely affected by contentious discussions or events. These responsibilities are not in conflict: lawful free expression and student support can and must co-exist in a healthy academic environment.

Arden University will take practical steps to support students. For example, when teaching potentially sensitive or controversial views, organising activities such as research seminars, or other academic activities, the speaker/organiser should consider not only the steps they take to ensure that freedom of speech and academic freedom is protected, but also how they can make this a healthy space

for learning and debate. This includes creating an inclusive environment that ensures that all students or participants are given the opportunity to present and argue in favour of alternative viewpoints, and teaching students principles that enable them to discuss, challenge and disagree in a respectful and civilised manner, for example ways to provide evidence and rational argument for their views. This may also include:

- Identifying in advance any topics that may cause upset to particular students or participants, making it difficult for them to participate in the activities in question, how this might manifest during the activity, and how this will be addressed if it does arise
- Speaking to participants at the start of a module that contains potentially sensitive or contentious topics and outlining how challenging issues will be discussed in a way that allows all points of view to be expressed and discussed rigorously and respectfully
- Providing information in advance about any sensitive or contentious content, to enable participants to prepare and to be able to articulate their point of view rigorously and respectfully during discussions
- Reminding all participants of their obligations under this code of practice and Arden University's expectations of behaviour.

Should a particularly challenging situation arise, it will be up to the member of staff responsible to determine the most appropriate response. This could include providing those who are distressed with an opportunity to articulate their point of view, and to explore this with the rest of the group. It may also be helpful to take a temporary break in the session to provide time for reflection and to discuss the issue with the staff or students concerned, or allowing distressed students to leave the session if they choose to. Arden University would not expect an activity to be cancelled in these circumstances as this would be depriving other students of the opportunity to express their freedom of speech and to explore challenging issues.

Dispute Resolution and Complaints

Any breach of this code of practice by staff or students may be treated as a disciplinary matter and Arden University may take action in accordance with staff or student disciplinary procedures.

The refusal of any event on Arden University premises and/or any staff or student disciplinary proceedings undertaken under the auspices of this code of practice will be reported to the next meeting of the Academic Board.

Students and visiting speakers who believe their freedom of speech rights have been infringed may submit a complaint through Arden University's complaint process. If a student is not satisfied with Arden University's response, they may also take the matter to the [Office of the Independent Adjudicator \(the OIA\)](#).

Staff members who believe their freedom of speech rights have been infringed may submit a complaint via [Arden University's Freedom of Speech incident report form](#). This will be triaged by People Services and considered by a panel, which will include:

- Deputy Provost (Chair)
- PVC Effectiveness, Quality and Compliance
- Director of EDI
- A representative from the Legal team
- One of the Faculty Deans
- A representative from the People Services team

Staff and visiting speakers may also contact the Office for Students under its Free Speech Complaints Scheme, which offers a new independent route for complaints.

Decision making, monitoring and review

Members of Arden University's Senior Management Team are authorised to make decisions on matters that may materially affect the exercise or restriction of free speech. All staff involved in such decision-making are required to act in accordance with this code of practice and Arden University's legal obligations under freedom of speech legislation. Responsibility for these decisions rests with the Provost and Deputy Provost, and decisions will be reported into Academic Board.

Arden University will ensure that relevant staff and students receive training and guidance on freedom of speech and academic freedom, including how these rights and duties apply in teaching, research, event planning and student life.

This code of practice will be reviewed every three years to ensure ongoing compliance with legal requirements and effectiveness in promoting free speech and academic freedom. Changes may also be made on an ad-hoc basis in response to changes in the legal and regulatory frameworks within which this code of practice operates.

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