

# Interim Freedom of Speech Code of Practice

Date: October 2024



## Introduction

Open SU is committed to upholding the principles of free speech. We consider that freedom of speech is essential to the effective pursuit of knowledge and the free exchange of ideas in higher education. Open SU is proud of its commitment to being open, inclusive and to upholding freedom of speech, and intends that these values align with those of the OU in accordance with the joint [Student Charter](#). (For reference, the OU's published values can be found in Annex 1).

This Interim Code of Practice is intended to set out and explain Open SU's values, policy and procedures, specifically in relation to freedom of speech. It sets out Open SU's approach to promoting freedom of speech and ensuring that this occurs within the law. We aim to promote excellence in education through the pursuit of knowledge and the free exchange of ideas within a respectful and inclusive environment, which is open to all, consistently with the OU's approach.

This Code of Practice is aimed at Open SU's members (and all students of the OU), Open SU and OU staff (and any constituent institutions) and visiting speakers.

## Review and publication

This Code of Practice is titled as "interim" because it will be reviewed and updated when the Office for Students (OfS) update their guidance for Students Unions/Associations. It is a working document, and we expect it to change, adapting to the changing regulations. It will be regularly reviewed by our Board of Trustees to ensure it is fit for purpose.

## Scope

This Code of Practice applies to all events held and activities occurring on any premises occupied by Open SU. It encompasses the conduct of all individuals participating in Open SU-related events and activities, including but not limited to students, staff, and invited guests.

Open SU is committed to promoting freedom of speech, wherever reasonably practicable, and in accordance with this Code in the spaces or events held by its affiliated Societies, Clubs and Groups, where they are hosted or moderated by Open SU – for example in Virtual Learning Environment (VLE) Forums.

The Code applies to the use of any premises occupied by Open SU (and any analogous facility provided or occupied by Open SU, including VLE forums). It requires that access to any premises or facility is not denied to any individual or body on the grounds specified below. Also, that the terms on which such premises or facilities are provided are not to any extent based on such grounds, and that affiliation to Open SU is not denied to any student Society, Club or Group on such grounds.

**These grounds are:**

- a. An individual's ideas or opinions;
- b. Society's or other body's policy or objectives or the ideas or opinions of any of its members.

Nevertheless, such access, or the terms of permitted access may reflect the requirements of law, including the requirement that some of the following areas of criminal (and civil and other law) may require that freedom of speech is restricted in some circumstances, including:

- racially or religiously aggravated offences;
- threats to kill;
- endeavours to break up a public meeting;
- fear or provocation of violence;
- intentional harassment, alarm or distress;
- acts intended or likely to stir up hatred on the grounds of race, religion or sexual orientation;
- encouraging or assisting the commission of an offence;
- incitement to commit acts of terrorism overseas;
- inviting or encouraging support for proscribed organisation;
- encouragement of terrorism including the glorification of the commission or preparation of terrorism;
- dissemination of terrorist publications;
- encouragement of terrorism and dissemination of terrorist publications through the internet; and
- the expression of views and opinions in a manner which amounts to harassment, discrimination or defamation.

## Values and the principles of Freedom of Speech

Freedom of speech is a fundamental right that will be upheld and protected within the Open SU community, within the law. Open SU recognises that freedom of speech is an essential part of education and that it supports the values of an open, inclusive and tolerant society. The values of a society that promotes and upholds freedom of speech are consistent with Open SU's and the OU's values, which include inclusivity, innovation and responsiveness (see Annex 1).

**Readers of this Code should be aware that the right to freedom of speech is not absolute; it is qualified, requiring that one person's right to freedom of speech is balanced against the rights of others – for example, not to suffer fear of violence (see section 3).**

### **Open SU's position is that:**

- Freedom of speech supports critical thought and the creative exploration and development of ideas which contributes to the educational process. It is an essential condition for the effective, high-quality education to which Open SU is committed.
- All members of the Open SU community have the right to express their views, ideas, and opinions, even if those viewpoints are controversial or unpopular.
- Freedom of speech does not extend to harassment, discrimination, hate speech or other matters which are restricted in law (see section 3).
- Freedom of speech is most effectively promoted and upheld when speakers engage in open and respectful dialogue in circumstances which all feel able to contribute, free of fear or harassment.
- Discourse which is respectful of the views of others is an effective means of advancing education and assists Open SU in promoting the right of free speech; accordingly, members of the Open SU community are expected to engage in respectful discourse in accordance with our [Values and Behaviour Policy](#).
- Open SU is committed to promoting an inclusive and diverse environment that encourages the exchange of ideas from different perspectives.

- Open SU is committed to implementing this Code in a responsive and flexible manner, with particular regard to the importance of promoting free speech and ensuring that students, staff and others are able to work, study and interact with each other in a safe environment.
- Open SU will consider all questions and enquiries and any complaints concerning this Code or matters with which it is concerned in a prompt and fair manner (see section 8).

## Responsibilities

**The Open SU leadership, namely the Board of Trustees, Student Leadership Team and Chief Executive Officer, shall:**

- Ensure that all members of the Open SU community are aware of their rights and responsibilities regarding freedom of speech and this Code of Practice.
- Promote a culture of free expression that fosters open dialogue and debate, in accordance with this Code and other applicable policies.
- Provide training and guidance to moderators, staff, societies, clubs and groups and event organisers to enable them to comply with this Code.

### Event Organisers

- Organisers of Open SU-affiliated events shall be responsible for creating an atmosphere where free expression can thrive while promoting a culture of respect and civility.
- Event organisers shall not discriminate against any individual or group based on their views, beliefs, or identity.

### Participants

- All participants in Open SU-related activities and events shall be free to exercise the freedom of speech in accordance with this Code, responsibly and respectfully.
- Hate speech, discrimination and other matters which are harmful and not permitted by law will not be tolerated within the Open SU community.
- Disruptive conduct that harasses, impedes the free expression of others or disrupts the event (such that the free speech of others may be compromised) may be subject to appropriate action, including removal of a participant from an event by hosts, or from a forum by moderators, pending further investigation.

## **Criteria for permitting use of Open SU premises and facilities**

When making decisions about Open SU's support and funding for events and activities to which this Code applies, and whether to allow the use of Open SU's premises (and facilities) and on what terms (including, in exceptional circumstances, when users may be asked to pay or contribute to the costs of security for such events), Open SU shall consider the following criteria:

1. the event or activity's fit with Open SU's charitable educational purposes;
2. the event or activity's fit with the values and principles set out in this Code generally and the organisers' capacity to adhere to them;
3. the need to maintain safety, any risk of harm associated with the event and the organisers' understanding and capacity to manage any such risk (with reasonable assistance where appropriate from Open SU);
4. the need to promote the freedom of speech;
5. the importance Open SU attaches to maintaining an open, inclusive, respectful environment; and
6. the capacity Open SU has to ensure compliance with this Code at relevant events and activities (including compliance with the law and ensuring appropriate standards of safety are met).

## Related policies and procedures

This Code of Practice works alongside and in conjunction with other policies and procedures of Open SU. Namely, the:

[Online Events Code of Conduct](#)

[Values and Behaviours Policy](#)

[Resolving and Settling Differences Procedure \(complaints\)](#)

[Societies Guidelines](#)

[Clubs Guidelines](#)

[Forum Guidelines](#)

## Complaints

Any complaints related to freedom of speech within the Open SU community shall be resolved through open and constructive dialogue whenever possible, within our [Resolving and Settling Differences Procedure](#).

Violations of this Freedom of Speech Statement may result in sanctions, as per the Resolving and Settling Differences Procedure.

## Review and Revision

This Code of Practice shall be reviewed in March 2025 and then at least every two years after that, and will be revised as necessary to ensure its continued relevance and effectiveness.

Any revisions to this code shall be made in consultation with the Open SU Board of Trustees and/or Student Leadership team in accordance with the established Open SU governance processes.

## Approved by:

Natalie Baker: President, 01/10/2024

Mark Price: Chair of Trustees, 01/10/2024

Beth Metcalf: Chief Executive, 01/10/2024

## **Annex 1 – Open University Values Statement**

Living our values, being inclusive, innovative and responsive in all we do. As a university community we are united by our shared commitment to the University's mission, which remains inspirational and as relevant as ever to the challenges of today's society.

Everything in this strategy is intended to ensure our success in progressing the mission we all share by being inclusive, innovative and responsive. None of it can be achieved by a single individual or team. Different perspectives, views, skills, experiences and responsibilities are necessary to take our mission forward but are not sufficient. Recognising that a fair process is as important as a fair outcome, and working on a normal assumption of positive intent, when a decision is made we all need to work together to achieve its benefits.

Our shared mission is underpinned by our values and our Student Charter. These provide a strong framework which requires each of us to be true to ourselves, respectful of others and collaborate in a spirit of openness which builds trust and common purpose.

Our University is a place of open enquiry and discussion. We aspire to be an exemplar of how to discuss important and controversial matters, bringing the standards of inquiry we have as an academic institution not just into our own conversations but taking them out into wider society. These obligations are not just about following rules but about the care and regard we have for one another.

We value and respect each other for who we are and what we contribute, welcoming differences and building an inclusive community which enhances the wellbeing of students, learners and colleagues, and challenges us to do even better for our students and each other.



## Annex 2 – A5 Duty to take steps to secure freedom of speech

1. A students' union for students at a registered higher education provider that is eligible for financial support must take the steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take in order to achieve the objective in subsection (2).
2. That objective is securing freedom of speech within the law for:
  - a. members of the students' union,
  - b. students of the provider,
  - c. staff of the students' union,
  - d. staff and members of the provider and of its constituent institutions, and
  - e. visiting speakers.
3. The objective in subsection (2) includes securing that—
  - a. the use of any premises occupied by the students' union is not denied to any individual or body on grounds specified in subsection (4),
  - b. the terms on which such premises are provided are not to any extent based on such grounds, and
  - c. affiliation to the students' union is not denied to any student society on grounds specified in subsection (4)(b).
4. The grounds referred to in subsection (3) are—
  - a. in relation to an individual, their ideas or opinions;
  - b. in relation to a society or other body, its policy or objectives or the ideas or opinions of any of its members.
5. In order to achieve the objective in subsection (2), a students' union for students at a registered higher education provider that is eligible for financial support must secure that, apart from in exceptional circumstances, use by any individual or body of premises occupied by the students' union is not on terms that require the individual or body to bear some or all of the costs of security relating to their use of the premises.
6. In this Part, "member", in relation to a students' union which is a representative body and not an association (see section 20(1)(b) of the Education Act 1994), means those whom it is the purpose of the union to represent, excluding any student who has signified that they do not wish to be represented by it;

“registered higher education provider that is eligible for financial support” means a registered higher education provider that is an eligible higher education provider for the purposes of section 39;

“students’ union”, in relation to any institution, has the same meaning as it has in Part 2 of the Education Act 1994 in relation to establishments to which that Part applies (see section 20 of that Act).

(7) In this Part, references to a students’ union for students at a registered higher education provider that is eligible for financial support do not include a students’ union for students at a constituent institution of such a provider.