

# FREEDOM OF SPEECH CODE OF PRACTICE



**HARTPURY**

## **Introduction**

Hartpury is committed to creating an environment where everyone is treated with dignity and respect and where diversity is valued. Freedom of speech and expression are basic human rights that are protected by law. Freedom of speech and freedom of expression are not absolute freedoms but freedoms within the law. Universities and Colleges have a history of being open to debate and ideas with students at the forefront of pushing the limits of freedom of expression. 'Academic freedom' is a term used to describe the law that allows for open and honest debate in an academic context. We have a duty, however, to ensure the safety and wellbeing of our staff, students and wider community. The freedom to express views must be balanced with the need to secure freedom from harm for students and our wider community. We want our events, activities and initiatives to be safe, without risk to the reputation of Hartpury and within the law. In line with compliance, Hartpury's Governing Body takes such steps, as are reasonably practicable, to ensure that freedom of speech within the law is maintained.

Hartpury has a vital role to play as a place of debate and discussion where ideas can be evaluated without fear of control, where our students learn to challenge ideas, be challenged by ideas and think for themselves, and where the pursuit of knowledge is underpinned by rationality.

## **Office for Students (OfS) published Regulatory Advice 24 (June 2025): Guidance related to freedom of speech to support higher education providers to comply with the Higher Education (Freedom of Speech) Act 2023**

The main duties on higher education providers include:

- a duty to take reasonably practicable steps to secure freedom of speech within the law
- a ban on the use of non-disclosure agreements to silence victims of bullying, harassment or sexual misconduct on campus
- a requirement for all universities to have codes of practice to ensure the protection of free speech
- a duty to promote the importance of freedom of speech in higher education.

## **What is Meant by Freedom of Speech and Academic Freedom?**

The Higher Education (Freedom of Speech) Act defines freedom of speech as: 'the freedom to impart ideas, opinions or information (referred to in Article 10 (1) of the European Convention on Human Rights ("the Convention") as it has effect for the purposes of the Human Rights Act 1998) by means of speech, writing or images (including in electronic form).' This right includes freedom of artistic expression, such as a painting or the production of a play.

The Act defines academic freedom, in relation to academic staff at a registered higher education provider (or constituent institution), as their freedom within the law:

- a) to question and test received wisdom, and
- b) to put forward new ideas and controversial or unpopular opinions without placing themselves at risk of being adversely affected in any of the following ways
- c) loss of their jobs or privileges at the provider
- d) the likelihood of their securing promotion or different jobs at the provider being reduced.

## **Compliance and Framework**

### **Scope**

This code of practice applies to all staff, students and visitors, including internal/virtual meetings and external commercial bookings. This policy outlines the procedures that staff, students and visitors (internal/Virtual), including external commercial bookings, should follow. It also outlines our approach to ensure that we protect both staff, students, visitors (Internal/Virtual) and the reputation of Hartpury whilst following any relevant legislation.

The Higher Education (Freedom of Speech) Act 2023 ('the Act') amends the Higher Education and Research Act 2017 ('HERA') to strengthen the legal requirements placed on universities and colleges relating to freedom of speech and academic freedom.

### **The Legal Context**

Freedoms come with responsibilities and there is a range of legislation within which educational institutions must operate whilst embracing both freedom of speech and academic freedom.

The role of educational establishments in ensuring that free speech is reinforced in two pieces of legislation:

1. Section 43 of the 1986 Education Act states that: 'persons concerned in the government of any establishment...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.' Hartpury will not, therefore, as far as is reasonably practicable, deny access to its premises to individuals or bodies, on their beliefs, views or policies.
2. The Equality Act 2010 covers the following protected characteristics: age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation. The associated public sector equality duty requires educational establishments, in the exercise of their functions, to have due regard to the need to:
  - eliminate discrimination, harassment and victimisation and any other conduct that is prohibited under the Act
  - advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it
  - foster good relations between people who share a relevant protected characteristic and those who do not share it

This Code of Practice is written with reference to the Prevent Duty contained within Section 26 of the Counter Terrorism and Security Act 2015. The Duty states that specified authorities including Further and Higher Education providers, in the exercise of their functions, must have "due regard to the need to prevent people from being drawn into terrorism."

<https://www.gov.uk/government/publications/prevent-duty-guidance>. This guidance is incorporated into our procedure for external speakers/events, and we will continue to manage events and speakers with a robust and proportionate approach as upheld by our values.

Other relevant legislation includes:

- Communication Act 2003
- Higher Education and Research Act 2017
- Human Rights Act 1998
- Malicious Communications Act 1988
- Online Safety Act 2023
- Protection from Harassment Act 1997
- Public Order Act 1986 and 2023
- Terrorism Act 2000 and 2006
- European Convention on Human Rights

The OfS Guidance (June 2025) sets out a three-step framework for assessing compliance with the 'secure' duty ensuring an institution remains lawful. These steps apply to any measure or decision that might affect speech or types of speech. The steps are as follows (see Appendix 1, source OfS):

- Step 1: Is the speech 'within the law'?
- Step 2: Are there any 'reasonably practicable steps' to secure the speech? If yes, take those steps.

- Step 3: Are any restrictions 'prescribed by law' and proportionate under the European Convention on Human Rights?

## **Steps to Securing Freedom of Speech**

### **Ethos**

- Hartpury values the opportunities presented by external speakers for students to experience diverse opinions and to enter debate. This is seen as an essential part of both personal and academic development.
- Hartpury values the tradition of academic freedom and holds that no subject or belief should be excluded from reasonable, constructive discussion and debate.
- Hartpury values the freedom of expression and speech but recognises the need to ensure that our community is free from harm and that incitement to hatred is never acceptable.
- Hartpury recognises and supports the moral and legal frameworks of the society and community within which it works.
- Hartpury will provide clearly defined and effective procedures to ensure that the law is upheld.
- Hartpury will not accept the use of language by external speakers that offends and is intolerant. Attacks on any religions or beliefs are not permitted.
- Hartpury will not tolerate any person who intentionally demeans individuals and groups defined by their age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation. An event which creates an environment of fear, harassment, intimidation, verbal abuse or violence, particularly as due to age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation is likely to be unlawful.
- Hartpury will only, in limited circumstances, refuse permission for an event to be held. These may include:
  - Where there is a critical concern regarding the safety of the speaker and/or others which cannot be guaranteed.
  - Where there is evidence that a speaker is likely to incite violence, harass the audience by using hate speech, cause a breach of the peace or is likely to transgress the bounds of lawful free speech.

Providers must take reasonably practicable steps to achieve the objective of securing speech. Detailed below are some examples of steps that are likely to be reasonably practicable in a wide range of circumstances.

## **Admissions, Appointments, Employment and Promotion**

### **Admissions**

Hartpury will not discriminate against a student applying to a course, for instance by refusing them admission or marking them down in the admissions process, because of their viewpoint. We will not revoke or change the terms of the admission of an applicant with a binding offer because of the applicant's viewpoint. We will not admit students or visiting academics on the basis of funding arrangements or other criteria that have the effect of restricting their or others' academic freedom or freedom of speech within the law.

## **Appointments**

Where a person applies to become a member of academic staff, the person must not be adversely affected in relation to their application because they have exercised their freedom within the law to question and test received wisdom, or to put forward new ideas and controversial or unpopular opinions. As a reasonable step, we will not require applicants to any academic position to commit to a particular viewpoint.

## **Employment**

Hartpury will, as promptly as is reasonably practicable and consistent with due process, and if appropriate publicly:

- reject public campaigns to punish a student or member of staff for lawful expression of an idea or viewpoint that does not violate any lawful internal regulations
- affirm students' and staff members' rights to make such statements regardless of any institutional position on the matter.

Wherever reasonably practicable Hartpury will not terminate employment for, or deny reappointment to, any member of staff because they have exercised free speech within the law to express a viewpoint. We will take reasonably practicable steps to secure the academic freedom of our academic staff. Staff are free to question, and test received wisdom and to put forward new ideas and controversial or unpopular opinions without placing themselves at risk of being adversely affected by losing their jobs or privileges or reducing their likelihood of securing promotion.

## **Promotion**

Where a person applies for academic promotion, the person will not be adversely because they have exercised their freedom within the law to question and test received wisdom, or to put forward new ideas and controversial or unpopular opinions. As a reasonable step we do not require applicants for academic promotion to commit to values, beliefs or ideas, if that may disadvantage them for exercising their academic freedom within the law.

## **Complaints and Investigation Processes**

Hartpury will not encourage students or staff to report others over lawful expression of a particular viewpoint. We will promptly reject vexatious, frivolous or obviously unmeritorious complaints relating to speech. In order to avoid unnecessary intrusive investigations, it is likely to be reasonably practicable to include a preliminary assessment/triage to assess whether to commence an investigation. The starting point of any such process should be that lawful speech will not be punished because of a viewpoint that it expresses.

## **Governance**

Universities should put in place and follow delegation arrangements setting out clearly and explicitly which committees or individuals are authorised to make decisions that are likely to have a substantial (positive or negative) effect on compliance with any free speech duties. Universities should ensure that terms of reference, of all committees that could affect compliance with free speech duties, expressly provide for consideration of this impact. The Clerk to the Governing Body will ensure that all terms of reference comply with our duty to promote freedom of speech and academic freedom

The Governing Body will ensure that decisions about the curriculum and the way it is delivered:

- safeguard the autonomy of individual academics to teach and communicate lawful ideas that may be controversial or unpopular or that some (or many) find offensive; and
- do not restrict the exposure to students of such ideas because they are controversial or unpopular or because some (or many) find them offensive.

## **Research**

Staff and students should be free to undertake academic research within the law. This freedom should not be restricted or compromised in any way because of a perceived or actual tension between:

- any conclusions that the research may reach or has reached or the viewpoint it supports, and
- Hartpury's policies or values.

Hartpury will ensure, in relation to research ethics committees, that:

- Ethical review and requirements are focused on ethical issues and do not impose requirements related to the quality of the proposed research or reputational concerns
- Ethics review committees have particular regard to the importance of academic freedom and to the risks to academic freedom of any decision
- Ethical review processes are transparent
- The ethics review process is subject to scrutiny for evidence of unnecessary suppression of research.

## **Speaker Events (see Managing External Speakers & Events Policy & Procedure)**

### **Teaching**

Hartpury will not treat a student unfavourably, or less favourably than it treats or would treat another student:

- in the way it provides education for the student
- in the way it affords the student access to a benefit, facility or service
- by not providing education for the student
- by not affording the student access to a benefit, facility or service
- by excluding the student; or by subjecting the student to any other detriment on the grounds of that student's opinions or ideas.

Academic staff should not be constrained or pressured in their teaching to endorse or reject value judgements.

### **Training and Induction**

Hartpury will provide staff training particularly to those staff involved in making decisions in relation to (for example) the following.

- admission, appointment, reappointment and promotion
- disciplinary matters
- processes and policies relating to equality or equity, diversity and inclusion
- fitness to practise
- harassment and bullying
- IT policies and processes, including acceptable use policies and surveillance of social media use
- Prevent duty
- principles of curricular design
- research ethics
- speaker events
- staff and student codes of conduct.

This training will ensure that staff have an understanding of:

- the free speech code of practice and how it applies in practice, including its application in detail to the member of staff's role in the organisation; and
- the requirements of HERA, the Human Rights Act (HRA) and the Equality Act 2010 in relation to freedom of speech and how they apply in detail to the member of staff's role in the organisation.

So far as is reasonably practicable, Hartpury will make available, to all staff and students, adequate induction on freedom of speech and academic freedom. Induction to all staff and students will provide an up-to-date understanding of:

- Hartpury's Freedom of Speech – Code of Practice
- their own free speech rights under HERA, the HRA and the Equality Act 2010; and
- the free speech rights of staff, students and visiting speakers under HERA, the HRA and the Equality Act 2010.

Training or induction will not impose any requirements on staff or students completing the training to actively endorse any viewpoint or value-judgement.

### **Communication**

To ensure the effective communication of this code we will:

- Communicate to all students and staff in writing at least once each calendar year
- Publish the code on the Hartpury website
- Set out our expectations in any student or staff handbooks
- Include a section in all relevant policies endorsing our commitment to free speech and academic freedom.

### **RELATED POLICIES and HARTPURY DOCUMENTS**

This Policy should be read in conjunction with the following Hartpury documents and policies:

- Code of Professional Conduct (staff)
- Harassment & Bullying Policy (staff)
- Bullying & Harassment Policy (students)
- Equality, Diversity & Inclusivity Policy
- Admissions Policy
- Hartpury Code of Research Practice
- Public Interest Disclosure Policy & Procedure (Whistleblowing)

### **EQUALITY, DIVERSITY AND INCLUSION**

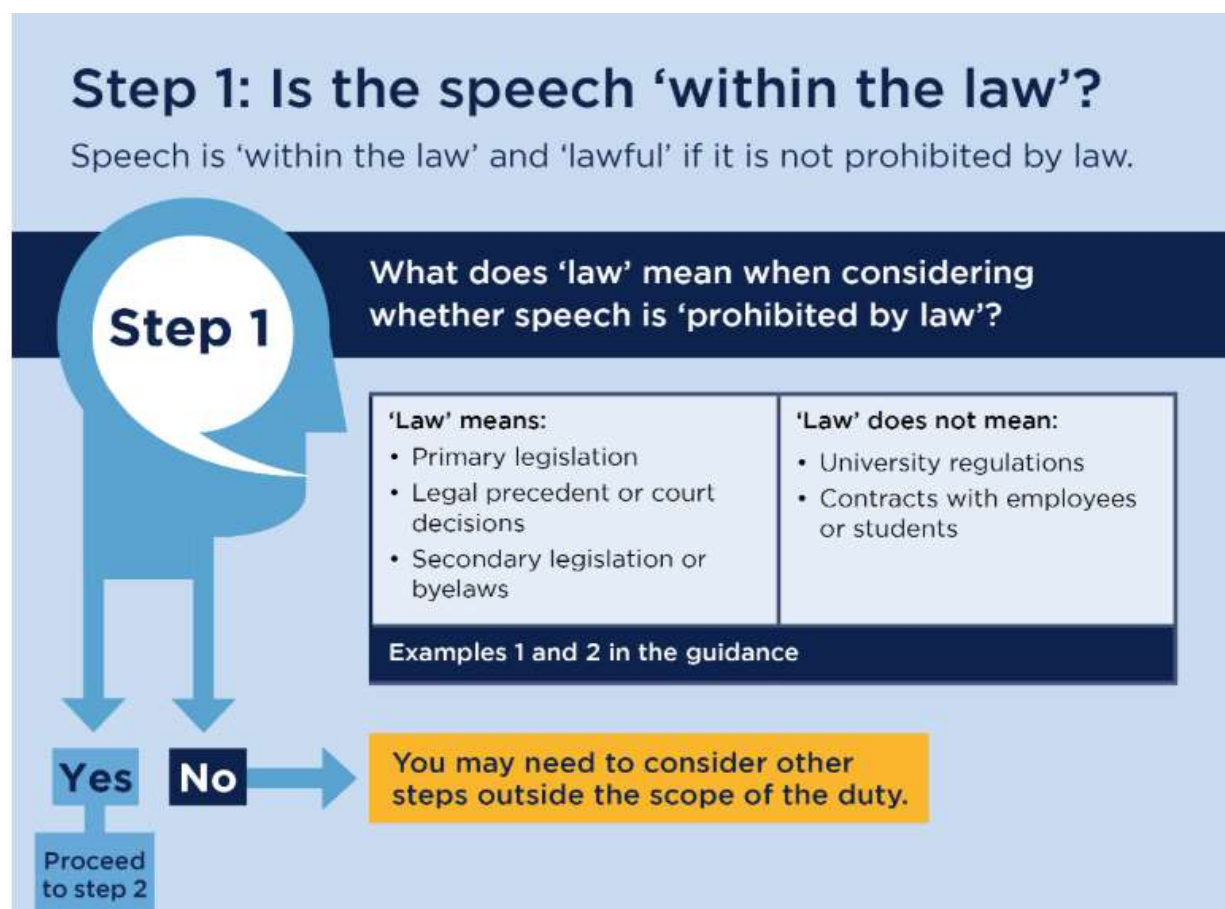
As with all Hartpury policies and procedures, due care has been taken to ensure that this policy is appropriate to all members of staff and students regardless of their age, disability, ethnicity, gender, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation and transgender status.

The policy will be applied fairly and consistently whilst upholding Hartpury's commitment to providing equality to all. If any employee feels that this or any other policy does not meet this aim, please contact the HR Department (staff) or an academic tutor (student).

Hartpury is committed towards promoting positive mental health by working towards the MINDFUL EMPLOYER Charter, holds the Student Minds University Mental Health accreditation and has signed the AoC Mental Charter. Hartpury aims to create a culture of support within the workplace where employees can talk about mental health problems without the fear of stigma or discrimination.

<b>APPROVAL &amp; REVIEW CYCLE</b>		
Reviewed By	Chief People Officer	July 2025
Approved By	SMT	July 2025
Interim-Review	No	-
Next Review Date		July 2027

## APPENDIX 1





## Step 2: Are there any 'reasonably practicable steps' to secure the speech?

The particular circumstances will be important in considering whether a step is reasonably practicable. Reasonably practicable steps may include positive steps – doing something – and negative steps – refraining from doing something.

### Step 2

#### Factors to consider:

##### Factors likely to be relevant:

- Legal / regulatory requirements e.g. duties in relation to harassment
- Maintaining essential functions of the institution (= learning, teaching, research, and administration and institutional resources necessary for essential functions)
- Physical safety

##### Factors likely to be irrelevant:

- The viewpoint that the speech expresses, including:
  - whether it aligns with the provider's aims or values
  - whether it is controversial or offensive
  - whether external or internal groups approve of the viewpoint that the speech expresses
- The reputational impact of the speech on the provider or constituent institution

See examples 3 to 23 in the guidance

No

Yes

Take these steps. Do not restrict the speech.

Proceed to step 3

## Step 3: Are any restrictions 'prescribed by law' and proportionate under the European Convention on Human Rights?

This step involves considering whether restriction or regulation of the speech ('interference') is compatible with the European Convention on Human Rights (ECHR).

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This step involves considering whether restriction or regulation of the speech ('interference') is compatible with the European Convention on Human Rights (ECHR).

#### Is the interference prescribed by law?

An interference is prescribed by law if:

- there is a specific domestic English legal rule or regime which authorises the interference;
- the person affected by the interference must have adequate access to the rule in question; and
- The rule is formulated with sufficient precision to enable the affected person to foresee the circumstances in which the law would or might be applied, and the likely consequences that might follow.

#### Is the interference proportionate?

To assess the proportionality of a measure to interfere in lawful speech, you must consider:

- whether the objective of the measure is sufficiently important to justify the limitation of a protected right,
- whether the measure is rationally connected to the objective,
- whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective; and
- whether, balancing the severity of the measure's effects on the rights of the persons to whom it applies against the importance of the objective, to the extent that the measure will contribute to its achievement, the former outweighs the latter.

See example 24 in the guidance

The proportionality test in Article 10(2) means that, in practice, it is difficult to restrict or regulate speech in a higher education context. This is because there is a high bar for limitation of a protected ECHR right in general terms, and the particular purpose of higher education is such that limitation of Article 10 rights would undermine that purpose.

**Yes** **No**

**Your restrictions are not consistent with your free speech obligations. You will need to revise your approach.**

Your regulations or restrictions are likely to be consistent with your free speech obligations.

Regulations or restrictions should:

- use legal definitions where these are available
- incorporate objective tests where appropriate, for instance in relation to harassment
- avoid vague language or undefined terms
- include clear, adequate and effective 'safeguard' statements protecting academic freedom and freedom of speech within the law (for instance, to the effect that where a policy conflicts with academic freedom, the latter prevails).