



# **Freedom of Speech Code of Practice**

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## **1. Introduction and Purpose**

This Code of Practice sets out Trafford and Stockport College Group's (TSCG's) approach to freedom of speech for the benefit of students and employees. TSCG is committed to securing freedom of speech within the law, as required by the Higher Education (Freedom of Speech) Act 2023. Restrictions on speech will only be imposed where they are prescribed by law and necessary and proportionate under the European Convention on Human Rights (ECHR). TSCG policies and values may not override legal protections for lawful speech.

## **2. Related Statutory Regulations**

### **Higher Education (Freedom of Speech) Act 2023**

This Act places a statutory duty on higher education providers to take reasonably practicable steps to secure freedom of speech within the law for staff, students, and visiting speakers. It also introduces a complaints scheme and regulatory oversight by the Office for Students.

### **Article 10 of the Human Rights Act 1998**

Article 10 of the Human Rights Act states that everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

### **Education (No 2) Act 1986**

Section 43 of the Education (No 2) Act 1986 states that every individual and body of persons concerned in the government of universities and colleges 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.

This includes in particular the duty to ensure, so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with:

- The beliefs or views of that individual or of any member of that body; or
- The policy or objectives of that body.

The Act requires that the Corporation, with a view to facilitating the discharge of this duty issue and keep up to date a code of practice setting out:

- The procedures to be followed by members, students and employees of the establishment in connection with the organisation:
  - i) Of meetings which are to be held on premises of the establishment and which fall within any class of meeting specified in the code; and
  - ii) Of other activities which are to take place on those premises, and which fall within any class of activity so specified; and
  - iii) The conduct required of such persons in connection with any such meeting or activity.

Additionally, the Act states that every individual and body of persons concerned in the government of TSCG shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the requirements of the code of practice for the Group are complied with.

### **Higher Education and Research Act 2017**

a) Section 14 of the Act – Public Interest Governance Condition – states that “‘a public interest governance condition’ means a condition requiring the providers’ governing documents to be consistent with the principles in the list published under this section, so far as applicable to the provider. Section 14(7) states “The list must include the principle that academic staff at an English higher education provider have freedom within the law: i) to question and test received wisdom, and ii) to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at the provider.” b) Under the framework introduced by the Act the governing bodies of registered universities and colleges should take ‘such steps as are reasonably practicable to ensure that freedom of speech within the law is secured within the provider.

### **Prevent Duty**

The Counter Terrorism and Security Act 2015 means TSCG must “have due regard to the need to prevent people from being drawn into terrorism” (Section 26). TSCG must also “have particular regard to the duty to ensure freedom of speech” and “to the importance of academic freedom” (Section 31). Under Section 29, we must “have regard to any such guidance in carrying out that duty.”

TSCG is complying with this duty in all its aspects, which in practice means striking a fine balance between concerns around extremism and concerns around censorship. The work in promoting British values and TSCG values and its Equality Policy all aim to positively address this challenge. It covers many areas of activity, including pastoral support for students, staff training and information sharing.

## **3. Code of Practice Objectives**

TSCG supports the principle of freedom of speech and expression within the law as one of its fundamental principles. It also has regard to the need to ensure that students and staff have freedom to question, test and to put forward new ideas and controversial or unpopular opinions, without placing themselves at any risk. Every person employed at TSCG and every student enrolling at TSCG should be aware that joining TSCG community involves obligations and responsibilities, which are consistent with the above principle and the law.

TSCG will assess all decisions affecting speech using the following framework:

1. Is speech within the law?
2. Can reasonably practicable steps be taken to secure it?
3. Are any restrictions prescribed by law and proportionate under the ECHR?

## **4. Code of Practice**

**4.1** This Code of Practice sets out the rights and obligations inherent in supporting the principle of freedom of speech and expression within the law. The Code's obligations and rights apply to:

- TSCG (which includes all bodies or persons having authority to determine any matter relevant to this Code)
- All governors and employees
- All students.
- Student forums.
- Any visiting or guest lecturers
- Any alumnus invited by TSCG
- All contractors and commissioned services
- Any person or organisation wishing to hire premises controlled by TSCG for an event.

In relation to the holding of any events on premises, the Code's rights shall also apply to persons invited or otherwise lawfully on the premises for the purposes of the event; and persons who, if it were not for the provisions of this Code, would have been invited to the event.

- 4.2** Nothing in this Code will affect the rights of any person taking any steps pursuant to lawful industrial action.
- 4.3** Those who are under a duty to observe and uphold the principle of freedom of speech within TSCG shall do so at all times.

### **Academic Freedom**

- 4.4** The principle of freedom of speech set out in this Code shall extend to the performance by all employees of their duties and responsibilities and to any visiting or guest lecturer invited by TSCG. It shall also extend to students presenting or exhibiting work produced during the course of their studies with TSCG.
- 4.5** Any person or body to which this Code applies shall not take any action (other than by reasonable and peaceful persuasion) to prevent the holding or continuation of any lecture, tutorial, exhibition, or other academic activity because of the views held or expressed or which are reasonably likely to be expressed, (whether or not within TSCG) by the lecturer or tutor or student concerned, except those to whom the Code applies.:
- 4.6** Any person or body to whom this Code applies shall not take any action (other than reasonable and peaceful persuasion) to prevent any student or group of students from attending any academic activity required by, or properly associated with, the course for which they are enrolled because of the views or beliefs held or lawfully expressed (whether or not within TSCG) by that student or because of the reasonable likelihood that such views will be expressed.
- 4.7** Academic staff and students shall have the freedom, within the law, to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without placing themselves at risk of losing their jobs, privileges, or academic standing.

### **Events**

- 4.8** Where any person or body subject to the obligations of this Code wishes to hold any event for the expression of any views or beliefs held or lawfully expressed on premises controlled by TSCG, consent shall not be unreasonably refused.
- 4.9** Save for the provisions where it shall be reasonable to refuse consent or withhold facilities, it shall not be a reasonable ground of refusal of permission or facilities for any event that the views likely to be expressed there may be controversial or contrary to any policy of TSCG or Central or Local Government, provided that the expression of such views is lawful. Expression of opinions which are annoying, offensive, in bad taste, or ill-mannered is not automatically

unlawful and should not be the sole ground for refusal unless this would result in TSCG failing in its wider legal duties (for example, to promote equality of opportunity and good relations between persons of different racial groups). The fact that disorder may result at any event is not of itself a ground for refusal of permission or facilities unless the creation of such disorder is the intention of the organisers of, or speakers at, any such event or public safety and order might be jeopardised.

**4.10** It shall be accepted as reasonable to refuse consent, or withhold facilities for any event to which this Code applies where TSCG reasonably believes (from the nature of the speakers or from similar events in the past whether held at TSCG or otherwise) that:

- The views likely to be expressed by any speaker are contrary to the law
- The intention of any speaker is likely to be to incite breaches of the law or is to intend breaches of the peace to occur
- The views likely to be expressed by any speaker are for the promotion of any illegal organisation or purpose
- The views likely to be expressed by any speaker are for the promotion of any organisation subject to the Group's "No Platform" policy as amended from time to time
- It is in the interests of public safety, the prevention of disorder or crime or the protection of those persons lawfully on premises under the control of TSCG, that the event does not take place
- TSCG will assess speaker requests based solely on legality and risk. Decisions will not be made based on alignment with institutional values, reputational concerns, or political disagreement. Only where a speaker's content is unlawful or presents unmitigable risks will consent be refused.

**4.11** Subject to Paragraphs 4.26 and 4.28, where TSCG is reasonably satisfied that the otherwise lawful expression of views at any event is likely to give rise to disorder, TSCG shall consider what steps it is necessary to take to ensure:

- The safety of all persons
- The maintenance of order; and
- The security of premises.

**4.12** TSCG may impose such conditions and requirements upon the organisers as are reasonably necessary in all the circumstances. These may include, but are not limited to, requirements as to provision of stewards, variation of location and time, and whether the event shall be open to the public at large.

**4.13** Where TSCG concludes that imposing conditions would not be sufficient to prevent serious disorder within premises subject to their control, it may decline to permit such events to be held. Before doing so, however, TSCG will generally consult the police with a view to establishing whether the serious disorder can be prevented or otherwise dealt with appropriately by attendance of police officers or alternative conditions.

**4.14** Where any person or body to whom this Code applies is engaged in the organisation of any event on TSCG premises at which it is reasonably suspected that disorder is likely to occur, the organiser shall normally give the Head of Marketing (HoM) not less than 28 days' notice in writing of such a proposed event. The DM&C shall inform the person or body organising the event in writing within seven days of the date of the notice whether the meeting may go ahead.

**4.15** If any person or organisation believes that the actions of the HoM in refusing permission or facilities for the holding of any event, or the actions of TSCG in imposing conditions are

unreasonable, it shall have a right to make representations. Any representation shall be made to the Principal within seven days of the date of the letter confirming the original decision. The Principal shall consider such representations and within seven days shall confirm in writing to the relevant person or organisation whether the original decision is to be upheld or varied. If the event organiser has been unable, for legitimate reasons, to comply with the normal requirement to provide 28 days' notice to the VPCSP shall, at their absolute discretion, have the right to vary this procedure in order to ensure that a final decision is provided to the organiser prior to the date of the meeting.

Appeals against decisions to restrict speech or deny events shall be reviewed by an independent panel. This panel should consist of senior academic staff, not involved in the original decision along with compliance representation. Outcomes will be recorded and published in anonymised form to ensure transparency and accountability.

- 4.16** Any person or body wishing to hold an event on TSCG premises must complete the relevant room booking form and provide further details of the event if required. This requirement applies to both internal and external bookings. It will be a mandatory requirement that the organisers of any event indicate they accept the terms of this Code when making a venue booking.
- 4.17** All event organisers shall ensure proper security and organisation (including stewarding and charring) of the event for the purpose of protecting the right of freedom of speech. Whilst the heckling of speakers is a right not to be disturbed, it shall be contrary to the Code to seek, by systematic or organised heckling or disruption of such activity, to prevent the lawful expression of views.
- 4.18** It shall be contrary to this Code for any person or body subject to the Code to organise, engage in or become associated with, any conduct with the intention of preventing (other than by reasonable and peaceful persuasion) any event subject to this Code from being held or from continuing.
- 4.19** The organisers of the event shall have a duty so far as is reasonably practicable to ensure that both the audience and the speaker act in accordance with the law during the event. In the case of unlawful conduct, the event organiser shall give appropriate warnings, and, in the case of continuing misconduct, the event organiser shall require the withdrawal or removal by the stewards or if necessary, by the police of the person(s) concerned.
- 4.20** It shall be the responsibility of the organisers of the event to ensure that no articles or objects shall be taken inside the venue where the event is being held in circumstances which are likely to lead to injury, damage or breach of the law.

#### **No Platform Policy**

- 4.21** TSCG does not operate a blanket No Platform policy. Any decision to deny a platform will be made on a case-by-case basis, based on whether the speaker's content is unlawful or presents risks that cannot be mitigated through reasonably practicable steps. A list of banned speakers will only be maintained where there is a clear legal justification

#### **General**

- 4.22** Any breach of the provisions of this Code by employees, students or governors will be punishable under the applicable Disciplinary Procedures.
- 4.23** It shall be the duty of all those subject to the Code to assist the Group in upholding the rights of freedom of speech set out in this Code.

**4.24** Where a breach of this Code occurs, it shall be a duty of all to whom this Code applies to take all reasonable steps to secure the identification of the persons involved in that breach.

**4.25** Where breaches of the criminal law occur, TSCG shall, where appropriate, assist the Police and the Crown Prosecution Service. In respect of any criminal charges, TSCG, shall not, unless the Principal determines otherwise, proceed with any disciplinary proceedings in respect of the same matters, until the conclusion on any ongoing criminal proceedings.

**4.26** The operation of the Code shall be monitored by TSCG's Executive Leadership Team.

## **5. Review**

Section 43(3) of the Education (No.2) Act 1986 requires that the Corporation shall issue, and keep up to date, a Code of Practice on Freedom of Speech. To comply with this duty, this Code shall be reviewed annually. To support transparency and continuous improvement, TSCG will publish an annual internal report on freedom of speech compliance, including anonymised data on speaker requests, refusals, and appeals. This will be presented annually at both the EDI and HE C+Q committees.

## **6. Definitions**

By 'speaker' this Code means any organiser or other person invited to address the meeting other than members of any audience at that meeting.



## **Appendix 1: Responsibilities of External Speakers**

This guidance is intended to support lawful freedom of speech. All decisions regarding external speakers will be based on legality and risk, not alignment with institutional values. TSCG will document all decisions and provide an appeals process as outlined in Section 4.15.

An external speaker or visitor is used to describe any individual or organisation who is not a student or employee or one of TSCG's contracted partners and who has been invited to speak to students and/or employees. This includes any individual who is a student or employee from another institution. It also includes the main contact from any external venue hire client who is paying to use college facilities.

An event is any event, presentation, visit, activity or initiative organised by a student group/society, individual or employee that is being held on TSCG premises or where TSCG is being represented by a stand on non-college premises e.g. at an exhibition, school event or fair. It includes events where external speakers are streamed live into an event or a pre-recorded film is shown. It also includes any activity being held on TSCG's premises but organised by external venue hire clients.

All speakers or visitors should be made aware by the person or group arranging the event that they have a responsibility to abide by the law and TSCG's policies and procedures including that they:

- Must not advocate or incite hatred, violence or call for the breaking of the law.
- Are not permitted to encourage, glorify or promote any acts of terrorism including individuals, groups or organisations that support such acts.
- Must not spread hatred and intolerance in the community and thus aid in disrupting social and community harmony.
- Must be mindful of the risk of causing offence to or seek to avoid insulting other faiths or groups, within a framework of positive debate and challenge.
- Are not permitted to raise or gather funds for any external organisation or cause without express permission of TSCG.
- Must report to reception on arrival at TSCG premises.

## **Appendix 2: Guidance for Employees and Students Organising an Event with an External Speaker or Venue Hire Client**

This guidance is intended to support lawful freedom of speech. All decisions regarding external speakers will be based on legality and risk, not alignment with institutional values. TSCG will document all decisions and provide an appeals process as outlined in Section 4.15.

The Chief Commercial Officer must be informed of any events that involve external speakers to ensure that all invited speakers and/or events arranged to enhance curriculum provision are consistent with TSCG's values and Prevent responsibilities. The details of all speakers and/or events need to be logged in the central register for speakers and/or events. No event involving any external speakers may be publicised or considered confirmed until the speaker has been cleared in accordance with this procedure. This includes advertisement through any social media platform.

Details concerning the distribution of leaflets (including electronic) and all publicity materials must be submitted 7 days prior to the event to ensure the materials are consistent with TSCG's responsibilities in accordance with the Prevent Duty.

TSCG reserves the right to cancel, prohibit or delay any event with an external speaker if the procedure is not followed or if health, safety and security criteria cannot be met.

Any room booking/ event organisation with an external speaker involved must be made no later than 7 days before the date of the event. This is to allow for the organiser to have made adequate safeguarding checks as well as allowing time for alterations to the event if necessary. Any request made outside of this timeframe will be rejected unless there are extreme extenuating circumstances.

The individual/group organising an external speaker should be clear on the purpose of the event and be satisfied that the requirements set out in this procedure are satisfied. If in doubt as to the suitability of a speaker the Head of Studies or Manager should refer the decision to the DM&C. Reasons for doubt could be (but are not restricted to) the following:

- Any person or group on/or linked to the Government's list of proscribed terror organisations
- Talks by organisations generally considered to be extremist.
- A speaker who is known to have spoken previously at another institution on a topic that has caused fear or intimidation of students or staff.
- A speaker accepted in mainstream as being highly controversial.
- A link or links to any person or group that has been connected with any controversy of a negative or positive nature.
- A speaker who has a significant profile and attracts a following that could create crowd control and health and safety issues.
- A speaker from a political party during election purdah.

In the event of referral, one of the following decisions will be made:

- To not permit the event with the external speaker to go ahead.
- To not permit the external speaker to attend the event (if it is a wider event).
- To fully permit the event with the external speaker to go ahead unrestricted.
- To permit the event with the external speaker to go ahead on the basis of regulatory steps designed to reduce risk. These may include observation, independent filming and the inclusion of opportunities to debate or challenge the view being held.

In making recommendations the DM&C may consult on a wider basis with one of the TSCG Designated Safeguarding/Prevent Officers. Risk will be assessed on the following basis:

- The potential for any decision to limit freedom of speech.
- The potential for the event going ahead to cause reputation risk to TSCG.
- The potential for the speaker's presence on site to cause fear or alarm to students or employees and/or to give rise to breach of peace.

Any colleague making arrangements to hire space to an external client must make the client aware of this procedure and request details of any external speakers, distribution of leaflets, publicity materials or presentations etc. This information should be provided no later than 7 days prior to the event.

All external speaker events should be recorded centrally.

The organiser of the event must remain in the room whilst the external speaker/representative is addressing students.