UNIVERSITY OF CAMBRIDGE

Freedom of Speech: Key Concepts

Governance and Compliance Division

Freedom of speech and academic freedom

- Freedom of speech = the freedom, within the law, to impart and receive ideas, opinions or information by means of speech, writing or images (including in electronic form) without interference
- Academic freedom = the freedom, within the law, for academic staff to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without loss of their jobs or privileges at the University, or the likelihood of their securing promotion or different jobs at the University being reduced

The right to freedom of speech

- Article 10 of European Convention on Human Rights (in Human Rights Act 1998)
  - "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"
- Right extends to offensive, disturbing and controversial ideas
- Right regarded as pre-requisite to a democratic society
- Separate ECHR right to freedom of assembly (protest)

HE-specific duties (1)

- Higher Education (Freedom of Speech) Act 2023
  - Updates and strengthens previous duties in section 43 of Education (No. 2) Act 1986
  - Main duties came into force 1 August 2025
  - Applies to universities – also Oxbridge Colleges are subject to many of the provisions in their own right
- Office for Students regulation of freedom of speech and academic freedom
  - Regulated as part of public interest governance principles I and VII (themselves part of the management and governance registration condition E)
  - Director for Freedom of Speech and Academic Freedom
  - Some regulatory changes pending

HE-specific duties (2)

- Main duties on universities
  - Duty, having 'particular regard' to the importance of freedom of speech, to take 'reasonably practicable' steps to **secure** freedom of speech within the law for staff, students and visiting speakers, including:
    - Securing that the use of premises is not denied to any individual or body on the grounds of their views, beliefs, aims or objectives (or terms of use varied for same reasons)
    - Securing academic freedom for academic staff
  - Duty to issue a **code** of practice on freedom of speech
  - Duty to **promote** importance of freedom of speech and academic freedom

Qualifications to the right (1)

- Right to freedom of speech is qualified ‘within the law’
- Many laws circumscribe freedom of speech
  - Crime, terrorism and public order laws, for example prohibiting:
    - Threats to kill
    - The encouragement of terrorism
    - Incitement to racial or religious violence
    - Harassment
  - Communications, defamation, privacy and confidentiality laws
  - Counter-Terrorism and Security Act 2015
    - Prevent Duty – must have ‘due regard’ to the need to prevent people from being drawn into terrorism (but openly balanced against free speech duties)

Qualifications to the right (2)

- Many laws circumscribe freedom of speech (contd.)
  - Equality Act 2010
    - Unlawful discrimination, harassment or victimisation on grounds of protected characteristics – harassment involves test of objective reasonableness, not just perception
    - Public Sector Equality Duty – must have ‘due regard’ to needs to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between people who share a protected characteristic and those who do not (but balanced against free speech duties)
    - Protected beliefs – established by the courts

Governance and other policies/procedures

- Free speech policy is overseen by Committee on Prevent and Freedom of Speech, a joint committee of Council and General Board
- Core document
  - University Code of Practice on Freedom of Speech
- Related documents and resources
  - Freedom of speech guidance, resources and training