

## **British Institute of Technology**

### **Free Speech Code of Practice**

Version: 3.1

Owner: Academic Registry

#### **Introduction**

1. The Institute is committed to the principle and promotion of freedom of speech and academic freedom. This Code of Practice outlines the Institute's commitment to ensuring that free speech duties under the Higher Education (Freedom of Speech) Act 2023 is secured for all members of the Institute community, including students, staff, and visitors.

#### **Purpose**

2. This Code of Practice aims to:

- Recognising the high threshold of protection associated with free speech and academic freedom, we will endeavour to secure and promote freedom of speech and academic freedom, recognising that everyone has the right to free speech within the law.
- Ensure that members of the Institute community are entitled to teach, learn, research and engage in a culture that values productive, open and vigorous debate and discussion and therefore exposure to the widest possible range of views.
- Outline the legal responsibilities of the Institute and its members in upholding free speech and academic freedom.

#### **Scope**

3. This Code applies to:

- All members of the Institute community, including students, staff, occasional lecturers and visitors.
- Visiting speakers and all other persons invited or otherwise who are lawfully participating in Institute activities on or off Institute premises.
- All events and activities taking place on Institute premises, including those organized by external parties that relate to academic life, whether those activities take place on or off campus.

#### **Freedom of Speech Principles and Legal Framework**

4. The Institute upholds the right to promote freedom of speech as protected within law to impart ideas, opinions or information by means of speech, writing or images (including in electronic form). All speech is deemed lawful i.e. 'within the law', unless restricted by law.
5. Freedom of speech must be exercised within the framework of the law, which includes but is not limited to:

a) The Equality Act 2010

- i. Speech that amounts to unlawful harassment, discrimination, intimidation or incitement to threats of hatred or violence on the grounds of race, sex, age, religion or philosophical belief, sexual orientation, disability, gender reassignment, marriage and civil partnership, or pregnancy or maternity is protected under the Equality Act 2010 and Public Sector Equality Duty (PSED) does not constitute free speech within the law and is not protected.
- ii. The provisions of the Equality Act 2010 should not be used to undermine freedom of speech and academic freedom. This includes the right to express and debate controversial or unpopular views, provided they do not breach the law. This may include exposure to course material, discussion or speaker's views that may be found to be difficult, contentious, or discomfiting but that are protected within the law and are unlikely to be considered unlawful harassment or discrimination under the Equality Act 2010.

b) The Public Sector Equality Duty (PSED) Act 1986

- i. The Institute takes all reasonably practical steps to exercise due regard of the Public Sector Equality Duty to advance equality of opportunity and foster good relations between those who share such a protected belief and those who do not share it.

c) The Counter-Terrorism and Security Act 2015

- ii. Section 26 of the Counter-Terrorism and Security Act 2015 places a duty on certain bodies, including higher education institutions such as the Institute, in the exercise of their functions to have 'due regard to the need to prevent people from being drawn into terrorism'. The Institute performs these duties through the Events and Speakers protocols and procedures which assess the risks associated with meetings or events that are Institute hosted, affiliated, funded, or branded.
- iii. The Institute takes all reasonable steps to ensure that events or speakers that do not comply with legislative duties will be denied. This includes but is not limited to, offences under the Terrorism Acts, if speech encourages terrorism, or amounts to the incitement of religious or racial hatred or hatred on the grounds of sexual orientation under the Public Order Acts, as well as statutory requirements relating to the holding of processions and assemblies.

d) The Education (No. 2) Act 1986

- i. It includes the right to Academic freedom within the law (Human Rights Act 1998, European Convention on Human Rights, Article 10) as a means to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without fear or recourse to loss to jobs or privileges at the Institute, or the likelihood of securing promotion or different jobs at the Institute.

- ii. The Institute is not under any obligation to secure or promote freedom of speech that contravenes other legislative requirements. If a speaker breaks the law, it is the speaker who is culpable.

### **Values and Behaviours**

6. Through our values and behaviours which are: transformative, collaborative, empowering, professional, creative, and inclusive, we will together endeavour to secure free speech and academic freedom.
7. We strive to deliver the highest standards of service and scholarship and to foster a culture of free speech within the law, freedom to conduct research and distribute knowledge without fear of placing oneself at risk of losing their position, place, job or other privileges and benefits.
8. The Institute expects staff (including occasional lecturers), students, and visitors to be inclusive and tolerant of different views and to engage in discussion in a constructive, questioning, and peaceable way.
9. This includes the right of staff and students to freedom of assembly, and to protest certain viewpoints, in a manner which will not obstruct the ability of others to exercise their lawful freedom of speech. These rights extend to visitors and attendees to the Institute community taking part in affiliated events and activities.
10. We thrive through inclusive, trusting and supporting relationships which build a sense of community and mutual responsibility and help achieve our goals.

### **Steps the Institute takes to secure freedom of speech and academic freedom**

11. This section sets out the following reasonably practicable steps the Institute takes to secure freedom of speech and academic freedom through embedding the principles of regulatory advice within our policies and procedures, where policies or procedures may directly or indirectly (both positively or negatively) affect freedom of speech and our capability to act compatibly with the statutory free speech duties.
12. Institute policies and procedures should be followed by staff, occasional lecturers, students and visiting speakers, guests, and visitors.

13. Policies and procedures which describe institutional activity and may relate to securing free speech include:

- Staff and student codes of conduct
- Admission, appointment, reappointment, and promotion
- Course and curricular development, design, validation, and quality assurance
- Delivery of learning, teaching and assessment
- Addressing harassment and bullying
- Disciplinary matters and complaints
- Employment contracts (that may include conditions on speech)
- Training and continuous professional development
- Equality or equity, diversity, and inclusion, including the Public Sector Equality Duty (PSED)
- IT, including acceptable use policies and surveillance of social media use
- Safeguarding and Prevent duty
- Principles of curricular design
- Research ethics
- Speaker events and activities (both on and off campus and including online spaces)
- Activity associated with educational/ commercial partnerships, funding, gifts or grants

#### **Institute meetings, events and activities**

14. The Institute actively engages with and organises a diverse programme of speakers and activities which is integral to our academic mission.

15. Our institutional *Guidance on the Arrangement and Risk Assessment of Speakers, Events and Activities* sets out our statutory Prevent Duty responsibilities and how this intersects with this Free Speech Code of Practice.

16. The overarching principles below will apply:

- Any meeting, event or activity will be arranged by a Principal Organiser who will be the identified point of contact for questions about the process.
- When organising speakers and events, the Institute will not make onerous requests for information (for example, detailed scripts of speeches to be delivered).
- To offer fairness and transparency, all speakers and events will be subject to the same process and risk assessment.
- Meetings, events and activities should be planned, allowing for timely consideration of any risks to the event to enable the Institute to plan and implement reasonably practical steps to facilitate the activity. Cancellation should only occur in exceptional circumstances and should be communicated to all parties at the earliest opportunity.
- Any fees or security costs will be set out in advance.

## **Expected conduct of attendees and grounds for cancellation**

17. Lawful expression of controversial views will not in itself be a reason to prevent attendance to, nor an event or activity to proceed. However, it may be reasonable for the Institute to refuse attendance or permission for an event or activity to proceed where:

- The views likely to be expressed by any speaker will be unlawful.
- Any speaker is likely to incite breaches of the law or intend breaches of peace.
- Contrary opinions or debate are not permitted.
- Violence is supported for the furtherance of political, religious, or other beliefs.
- Promotion and support of a proscribed group or organisation is expressed.

## **Governance of Free Speech duties**

18. Policies and procedures that could directly or indirectly (both positively or negatively) affect freedom of speech and to act compatibly with the statutory free speech duties should be clearly governed by the relevant decision-makers. This includes the role of any relevant leadership oversight and committees that may make decisions on the amendment or adoption of policies. We recognise this work through the embedding free speech principles through relevant committee Terms of Reference to ensure freedom of speech and academic freedom are fore in any decision making and policy review. The portfolio of our committees which may have this operational oversight extend to, but are not limited to:

- Quality Committee
- Senate
- Audit and Risk Committee
- Safeguarding Committee
- Health and Safety Committee

## **Breaches and complaints**

19. The Institute adopts a fair process to complaints that includes an objective and rapid triage process for complaints relating to free speech. The Institute has a right to reject complaints that constitute to vexatious, frivolous, or obviously unmeritorious complaints because of a lawful expression of a viewpoint. We also recognise a person's right to complain should a breach in the code occur. Anyone issuing a complaint, will not be adversely affected and penalised for their action.

20. Staff (including occasional lecturers), students, and visitors found to have breached this Code of Practice may face action, such as sanction, disciplinary or referral to appropriate agency e.g. Police.

## **Promotion**

21. The Institute will work with all members of its community to disseminate the importance of free speech and academic freedom and the expected code of practice for all staff and students.
  
22. The Free Speech Code of Practice is published on the Institute website and promoted a range of channels through our staff and student hubs our recruitment and induction activities. Relevant policies which intersect freedom of speech or academic freedom will cite this Code of Practice.

## **Monitoring and Review**

23. Through our institutional schedule of policy review, the Institute will regularly review this Code of Practice to ensure it remains effective and compliant with the law.

## **Policies and procedures**

24. This Code of Practice makes direct and indirect reference to policies and procedures which describe Institute functions and processes.
  
25. Key policies and procedures include, but are not limited to:
  - Student Discipline Procedure
  - Student Complaints Procedure
  - Staff Discipline Procedure
  - Staff Grievance Policy
  - Dignity at Study Policy
  - Dignity and Respect at Work Policy
  - Safeguarding Policy.