



**Buckinghamshire
College Group**

Freedom of Expression Policy 2020-22

Responsible Officer: Executive Director Student Support and Services
Date : September 2020
Next review date: September 2022
Policy available: Intranet and website
Policy Approved by: Executive

1. Aim

The aim of this policy is to clarify our responsibility to foster Freedom of Expression in an educational setting within the boundaries of the law and the protections it provides and with consideration of our core values. It is written with reference to the Guidance provided by the Equality and Human Rights Commission on The Legal Framework for Freedom of Expression.

<http://www.equalityhumanrights.com/publication/freedom-expression-legal-framework>. It is also linked to the statutory Prevent duty within the Counter Terrorism and Security Act 2015:

<http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted>

2. Objectives

- 2.1 To clarify the College's responsibility to promote freedom of expression.
- 2.2 To identify the circumstances under which freedom of expression may be legitimately restricted.
- 2.3 To outline the College's responsibilities regarding visiting speakers including external lettings.

3. Responsibility to Promote Freedom of Expression

- 3.1 Section 43 of the Education (No 2) Act 1986, places a positive duty on universities and colleges to 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.
- 3.2 Freedom of expression is a fundamental right protected under the Human Rights Act 1998 and by Article 10 of the European Convention on Human Rights. It is also protected under the common law.
- 3.3 Protection under Article 10 extends to the expression of views that may shock, disturb or offend the deeply-held beliefs of others.
- 3.4 Freedom of expression is protected more strongly in some contexts than others. In particular, a wide degree of tolerance is accorded to political speech and debate during election campaigns. See Appendix 1 for more detail about Elections and Referendums.
- 3.5 As a College we are expected to allow open debating of challenging ideas which may need to use controversial resources. Controversial materials should not be left unchallenged by the member of staff using them.
- 3.6 The College has a duty to promote fundamental British Values. These are:
 - democracy
 - the rule of law
 - individual liberty
 - mutual respect
 - tolerance of those of different faiths and beliefs

4. Legitimate Restriction on the Freedom of Expression

- 4.1 Freedom of expression may be limited in some circumstances and in particular does not protect statements that unlawfully discriminate against or harass, or incite violence or hatred against, other persons and groups, particularly by reference to their race, religious belief, gender or sexual orientation.
- 4.2 No one can rely on the human right to freedom of expression to limit or undermine the human rights of others.
- 4.3 The College as a public body has duties which require us to have due regard to the need to promote good relations between different communities protected by

- equality law. This may require active challenge to the use of offensive communication and hate speech.
- 4.4 The College also has a duty under the Counter Terrorism and Security Act 2015, to participate fully in work to prevent people from being drawn into terrorism.
 - 4.5 Although there is no universally accepted definition, hate speech is generally understood to describe forms of expression which incite violence, hatred or discrimination against other persons and groups, particularly by reference to their ethnicity, religious belief, gender or sexual orientation, language, national origin or immigration status.
 - 4.6 The Buckinghamshire College Group is a secular, educational establishment, regulated by Ofsted and subject to legislation and statutory guidance on matters such as safeguarding children and advancing equality of opportunity. Buckinghamshire College Group reserves the right to monitor any activity associated with Buckinghamshire College Group or any group using its premises, to ensure that it supports the ethos of the College.

5. Visiting Speakers and lettings

- 5.1 The Prevent duties identified in the Counter Terrorism and Security Act 2015, require that the College has oversight of the content of any speeches or presentations by visiting speakers.
- 5.2 The organiser of a visiting speaker presentation should complete a risk assessment which will include any concerns re content of presentations.
- 5.3 The risk assessment must be approved by the organiser's line manager.
- 5.4 If the risk assessment raises concerns, the organiser or their line manager can pass the risk assessment to the Prevent Committee for further scrutiny.
- 5.5 These controls will also be applied to any lettings of our premises by outside organisations.
- 5.6 While challenging and controversial content can be allowed, the College is responsible for ensuring that such views are challenged during a presentation. This may necessitate the presence of a member of College staff at any such presentation even if this is externally organised as a premises letting.
- 5.7 The College is entitled to refuse a request to lease its premises for any use which does not match our core values.

Appendix 1 – Elections and Referendums

It is important to state at the outset that there is a particularly high level of legal protection for freedom of expression during election periods. Any interference with this right must be exceptional and subject to the strict limitations set out in human rights law. The law permits people to say things that offend others during election periods and at other times. It is entirely proper that there should be vigorous debates about controversial matters, and this is particularly important during elections periods. However, it is also important to note that the right to freedom of expression does not justify incitement to racial or religious violence or hatred, or other unlawful conduct. The right to freedom of expression cannot be at the expense of the rights and freedoms of others.

Equality and Human Rights Law during an Election Period – Equality and Human Rights Commission.

Free elections and freedom of expression, particularly freedom of political debate, together form the bedrock of any democratic system... The two rights are interrelated and operate to reinforce each other... For this reason it is particularly important in the period preceding an election that opinions and information of all kinds are permitted to circulate freely. *Bowman v UK* (1998) the European Court of Human Rights.

- A. The Buckinghamshire College Group has a duty to promote Fundamental British Values such as democracy as identified in section 3.6 above. The curriculum includes a range of themed weeks which may be linked to the dates of local, national or European elections where these are known sufficiently in advance. Activities are likely to include encouragement of voter registration by students, hustings style meetings and mock elections.
- B. The College will make every effort to invite official candidates for the College's Local Government Ward, Parliamentary Constituency or European Parliamentary Constituency to participate in events. This invitation will not be extended to political parties who are not represented in the relevant election.
- C. The College is conscious of the potential for leafleting from Political Parties, pressure groups or individuals to cause litter and other problems and so will present copies of literature from official candidates in a controlled central display, to help inform its own mock elections and participation in the local, national or European elections. Any materials brought into College Campuses and left around or fly posted will be removed. Political leaflets may be used as teaching resources. In this case the suitability will be left to the professional judgement of the member of staff concerned. They should also vet the suitability of any student generated materials for display.
- D. In the case of national or local referendums, the College will aim to facilitate debates between representatives of the opposing views in the referendum and will display official literature on the referendum question, as well as providing this to tutors and lecturers to use as appropriate in their teaching.
- E. The College promotes elections of tutor group representatives for the annual Student Conferences. Student Executive Members are selected by interview for their positions of responsibility and voted for by the student body.

- F. Any questions about the suitability of printed material for the College setting should be addressed to the Executive Director for Student Support and Services and Executive Director with marketing responsibilities.

This policy should be read in conjunction with Visiting Speakers and Organisations Policy

Equality Impact Statement

We have a duty to consider the impact of changes on groups with Protected Characteristics (race, disability, age, sexual orientation, religion or belief, gender reassignment, pregnancy and maternity, marriage and civil partnership).

What are the overall aims of the change? Why are you proposing it?	The aim of this policy is to provide a framework to ensure that the guidelines are in place to support all stakeholders
Given the aims of your proposal, what issues does your data/information highlight?	Everybody is included within this policy, and all groups are given equality in regards to their needs and provisions
How could the proposed change affect positively/negatively on groups with protected characteristics?	This has a positive impact on all groups with protected characteristics, as they are ensured equal treatment and provision based on their needs. Risk assessments may be carried out to ensure that this is the case and provisions maybe altered to accommodate specific needs
What actions will you take to mitigate any negative impact?	No negative impact to having this policy
Is there any potential negative impact justified in light of wider benefits of the proposal?	No negative impact to having this policy
Recording final decision	This policy requires Executive approval
Has the policy taken into consideration the requirements of GDPR regulations? Are there any actions that need addressing, e.g.; data sharing agreement; has data consent been considered; data retention timescales?	GDPR regulations have been considered and actions comply with data protection requirements.