

Freedom of Speech Code of Practice Checklist

Does your institution's code of practice include the required information?

From 1 August 2024 the amended Higher Education and Research Act 2017 (HERA) requires governing bodies of all OfS registered higher education providers and their "constituent institutions" to have a freedom of speech code of practice which covers the following matters:

■ The provider's **values** relating to freedom of speech and an **explanation** of how those values uphold freedom of speech.

■ The **procedures** to be followed by **staff, students** and the **students' union** when organising **meetings** or **other activities** held on the provider's premises which fall within **any class specified in the code**.

The "classes of meeting and other activities to be specified in the code" will need to be considered in light of the institution's legal duties, including those in relation to freedom of speech and academic freedom, regulatory guidance and taking account of any institution-specific matters (such as the **values** mentioned above).

■ The **conduct** required of such persons in connection with any such **meeting** or **activity**.

■ The **criteria** used when making decisions (a) whether to allow the use of its premises by any individuals or bodies and (b) on what terms.

■ The **criteria** used for determining "exceptional circumstances" under which it might require an individual or body to bear costs of security.

■ Such **other matters** as are appropriate. When considering what might be appropriate, in addition to freedom of speech and academic freedom it should take into account its various legal duties (for example **equality law**, the **prevent duty**, **charitable status**).

In addition to the above, the governing body must:

- take **reasonably practicable steps** (including disciplinary measures) to secure compliance with its code of practice; and
- **bring the code of practice** (and the duty to secure freedom of speech) to the attention of all students at least once a year.

How we can help

This checklist is not a substitute for seeking specific legal advice, but our highly experienced higher education specialists can assist institutions by:

- providing training and workshops
- drafting and reviewing a range of codes, policies, procedures and guidance
- assisting with OfS regulatory compliance including undertaking compliance audits
- providing advice and legal representation in relation to: issues, complaints, regulatory investigations and litigation, staff and student disciplinary matters, and grievances
- advising on the practical application of freedom of speech, equality and academic freedom requirements



Richard Sykes

Partner

richard.sykes@mills-reeve.com

+(44)(0)7918 709311



Helen Tringham

Partner

helen.tringham@mills-reeve.com

+(44)(0)121 456 8229

