



Senate

Paper Title	Code of Practice on Free Speech
Outcome requested	To consider and provide feedback on the Code of Practice on Free Speech before the Code is submitted to Council for approval.
Points for Senate members to note and further information	<ul style="list-style-type: none"> • Senate is being consulted on the revisions to the Code of Practice on Free Speech. • Note the indicative timelines for implementing the new regulatory approach by the OfS. • Note the further work to be undertaken in relation to ensuring compliance to the new legislation and regulation. • Discuss the Code of Practice on Free Speech (an updated Free Speech Policy) in Appendix A. • An additional paper on <i>'Measures to secure and promote Academic Freedom and Freedom of Speech'</i> has been prepared by Dr Shah and Professor Saha. The recommendations for training, implementation and review of existing policies align with the proposals in this paper. The draft Code sets out how complaints will be considered and the proposal to create a new Vice-Principal role is not supported although we do envisage a role for champions at various levels across the institution.
Questions for Senate to consider	<ul style="list-style-type: none"> • Does the Code clearly articulate the values of QMUL in relation to freedom of speech? • Are the roles and responsibilities clearly articulated? • Is Senate satisfied that the Code reflects the requirements of the legislation?
Regulatory/statutory reference points	<p>The Free Speech Policy has been significantly updated to reflect the new obligations of the Free Speech (Higher Education) Act. It is proposed that the Policy will now be referred to as the Code, since this more closely reflects the requirements of the legislation.</p> <p>The OfS has now published indicative timelines for their regulatory approach. New statutory duties come into force on 1 August 2024 and the OfS complaints scheme will be launched at this time. New conditions of registration and monitoring of overseas funding will come into force from 1 September 2025.</p> <p>The proposed Code ensures the Queen Mary is compliant with the new legislation and the associated regulatory requirements from the OfS. The Code has been subject to external legal review, but a final legal review will be undertaken prior to submission to Council.</p>

<p>Strategy and risk</p>	<p>The Code upholds and reinforces the University’s commitment to academic freedom and free speech, in support of the 2030 ambitions, including to ‘foster innovation and creativity, disrupt conventional thought, and respond with imagination to new opportunities to further our vision, mission and academic ambitions.’</p> <p>The Strategic Risk Register includes a risk related to a ‘failure to comply with the ongoing conditions of registration with the OFS’. The risk tolerance for this risk is 8 and there is a low level of appetite for this risk.</p>
<p>Reporting/ consideration route for the paper</p>	<p>Senate is being consulted on the Code. The Code will be submitted to Council for approval.</p>
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1. Introduction and Executive Summary

- 1.1** The Higher Education (Freedom of Speech) Act 2023 is now law, having received Royal Assent in May 2023. The Bill was first introduced to parliament in May 2021. As a result of the legislation, updates to the Code of Practice are required.
- 1.2** The University's current document is the 'Freedom of Speech Policy', however, to bring the name in line with the references within the legislation and other institutions, this policy will be known going forward as 'The Code of Practice on Free Speech'.
- 1.3** The Code will be approved by Council, but the Code also requires that Senate should be consulted on revisions. Therefore, the Code is being submitted to Senate for consultation before being recommended to Council for approval at its November meeting.
- 1.4** The Act sets out the specific requirements that should be included within a provider's Code:
 - (a) the provider's values relating to freedom of speech and an explanation of how those values uphold freedom of speech,
 - (b) the procedures to be followed by staff and students of the provider and any students' union for students at the provider in connection with the organisation of:
 - (i) meetings which are to be held on the provider's premises and which fall within any class of meeting specified in the code, and
 - (ii) other activities which are to take place on those premises and which fall within any class of activity so specified,
 - (c) the conduct required of such persons in connection with any such meeting or activity, and
 - (d) the criteria to be used by the provider in making decisions about whether to allow the use of premises and on what terms (which must include its criteria for determining whether there are exceptional circumstances).
- 1.5** The OfS has also advised that they consider that 'such a code should provide a broader framework for ensuring free speech at the university or college. This means that we would expect a university's free speech code to include broader statements about free speech and academic freedom, and to extend to activities such as teaching and curriculum content'.
- 1.6** This Code has undergone external legal review and has been discussed by a working group of Senate. As a result of the feedback received, the current version of the Code has been drafted and has been considered by SET.

2. Legislative Context and Background

- 2.1.** The legislation places the duty on higher education providers to take the steps that, having 'particular regard' to the importance of freedom of speech, are reasonably practicable for it to take to secure free speech within the law for staff,

members, students and visiting speakers. In relation to academic staff, there is also the duty to secure their academic freedom. Academic freedom means freedom within the law to question and test received wisdom and put forward new ideas and controversial or unpopular opinions, without placing them at risk of loss of their job or privileges or the ability to secure promotion or employment at another institution.

- 2.2.** There are several further practical elements as to how providers must demonstrate this, including maintaining a code of practice, preventing the use of non-disclosure agreements related to sexual abuse, sexual harassment or sexual misconduct, or bullying and harassment and requirements related to the recording of overseas funding.
- 2.3.** The legislation introduces, for the first time, duties upon students' unions in relation to having particular regard to the importance of free speech.
- 2.4.** The law allows for civil claims for a breach of duty (a statutory tort), meaning a person can bring civil proceedings against a provider or the students' union in respect of a breach of any of the above duties if that breach causes the person to sustain a loss. However, proceedings may only be brought where the person has brought a complaint on the matter under the relevant complaints scheme and a determination made in respect of the complaint.
- 2.5.** Providers are also required to actively promote the importance of free speech and academic freedom.
- 2.6.** The legislation places duties on the OfS to promote the importance of free speech and academic freedom, including through the introduction of initial and ongoing conditions of registration related to free speech. In particular, this means that the OfS must ensure institutions have in place adequate and effective management and governance arrangements to secure compliance by the governing body of the institution with their duties.
- 2.7.** The legislation also introduces a free speech complaints scheme, to be operated by the OfS and for the OfS to appoint a director for freedom of speech and academic freedom to oversee the performance of their free speech functions.

3. Implementation and Compliance

- 3.1.** The first director for freedom of speech and academic freedom, Arif Ahmed, took up his post on 14 August 2023. The OfS have advised they now expect to consult on key elements, such as the new conditions of registration, to give providers, staff, students and other interested parties an opportunity to inform their approach.
- 3.2.** The OfS have stated they are taking a phased approach to implementing their new regulatory approach and have published indicative timelines for this. On 1 August 2024, the new statutory duties on free speech, including for students' unions come into force and the OfS will launch their free speech complaints scheme. On 1 September 2025 the conditions of registration on free speech and

academic freedom will come into force, together with the provisions related to the OfS' monitoring of overseas funding.

- 3.3.** Further work will be undertaken by Directorate of Governance and Legal Services to create an action plan focussed on ensuring compliance with the legislation and regulation and the implementation of the Code, working with others across the University as required.
- 3.4.** The content of this plan is likely to include:
- Possible training and/or guidance being made available for academic staff.
 - Checking that any overseas funding is record in a manner which would enable reports to be run, if required by the OfS.
 - Reviewing any associated policies and procedures to ensure compliance and suitable references to the Code, for example HR policies and events procedures.
 - Ensuring there are fit for purpose procedures for handling complaints related to free speech and academic freedom, considering the proposals from the OfS for their complaints scheme.
- 3.4** The plan will also evolve as further details of the regulatory approach of the OfS becomes clearer.

4. Consultation and Engagement

- 4.1.** Last academic year Senate established a working group, including academic members and representatives of the SU to review the Code. Key issues raised by the group and addressed within the revisions include:
- Aligning information on legislation more closely with specific wording of the legislation itself.
 - Providing greater clarity on the university's values and how these relate to free speech.
 - Inclusion of references to academic freedom.
- 4.2.** The initial drafts of the Code, prior to discussions of the working group, were subject to external legal review and the final proposed Code will also be reviewed externally before being submitted to Council for approval.

5. Next Steps

- 5.1.** Feedback will also be sought from the SU. The code will then we submitted to Council for approval.
- 5.2.** Further work will be undertaken associated with the development of the action plan and completion of associated work to ensure compliance.

Code of Practice on Free Speech

1. Introduction and Values

- 1.1. Queen Mary University of London ('Queen Mary', 'the University') has a longstanding commitment to promoting and encouraging free debate and enquiry. This commitment is enshrined within the University Charter, which states that:

The University shall uphold freedom of speech within the law and academic staff shall have freedom within the law to question and test accepted ideas, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges [academic freedom].

- 1.2. The values of free speech are fundamental to the University's academic mission. The university:
- a) encourages individuals to express themselves freely and to hold their own opinions, even if their views or are unpopular or could upset or offend others;
 - b) expects mutual respect and tolerance of those with different views;
 - c) recognises that free speech must operate within the law.

2. Purpose

- 2.1. The purpose of this Code is to ensure that as far as reasonably practicable, freedom of speech within the law is secured for members, students and employees of Queen Mary as well as for visiting speakers and that academic freedom within the law is secured for academic members of Queen Mary.
- 2.2. In matters of free speech and academic freedom, this Code will take precedence over other policies and procedures of the University.

3. Legislative Context

- 3.1. Queen Mary has adopted this Code of Practice ('the Code') to ensure that it acts in accordance with the duties imposed upon it by Section 43 of the Education (No 2) Act 1986, as updated by the Higher Education and Research Act 2017 and the Higher Education (Freedom of Speech) Act 2023.
- 3.2. Also, there are other requirements that the Queen Mary must consider, to comply with various elements of legislation and regulation.
- 3.3. The Education Act (No 2) 1986 (Section 43) imposes specific obligations on higher education providers ('providers') to promote and protect freedom of speech and

requires that they: “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.” The Act includes a duty on provider governing bodies to issue and keep updated a code of practice setting out the procedures to be followed by members, students and employees in connection with meetings on the provider’s premises.

- 3.4. The Education Reform Act 1988 (section 202) (reinforced by the Higher Education and Research Act 2017) makes clear that academic staff have freedom within the law to question and test received wisdom, and 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 their institutions.
- 3.5. The Higher Education and Research Act 2017 (HERA) makes it clear that all universities and colleges which register with the Office for Students (OfS) must uphold the existing laws around freedom of speech and follow the OfS’s regulatory framework. Under the framework 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.’ HERA also includes a general duty for the OfS to protect institutional autonomy including academic freedom.
- 3.6. The Higher Education (Freedom of Speech) Act 2023 requires higher education providers (‘providers’) to have particular regard to the importance of freedom of speech and take steps that are reasonably practical to secure freedom of speech within the law for staff, members, students and visiting speakers. It also requires providers to secure academic freedom within the law for academic staff.
- 3.7. Freedom of thought, conscience and religion (Article 9) and freedom of expression (Article 10) are safeguarded by the European Convention on Human Rights and incorporated into UK law by the Human Rights Act 1998.
- 3.8. The Equality Act 2010 places a duty on Queen Mary to have due regard to the need to; eliminate discrimination, harassment and victimisation; advance equality of opportunity and to foster good relations between all members of the University’s community.
- 3.9. The Protection from Harassment Act 1997 creates both civil and criminal offences for harassment and makes provision for protecting persons from harassment and similar conduct.
- 3.10. The Public Order Act 1986 contains a range of criminal offences relating to violent conduct, speech or actions that threaten violence or cause fear, harm or distress. The Act also makes it an offence to use threatening, abusive or insulting words or behaviour either with the intention of stirring up racial and religious hatred, or in circumstances where it is likely racial or religious hatred will be stirred up as well as stirring up hatred on grounds of sexual orientation.
- 3.11. The Terrorism Acts of 2000 and 2006 define certain criminal activities including inciting acts of terrorism, disseminating terrorist publications or belonging to or supporting proscribed organisations. Terrorism is defined as including the use or threat of serious

violence against a person or serious damage to a property for the purpose of advancing a political, religious or ideological cause. The Counter Terrorism and Security Act 2015 places an obligation on Queen Mary to have due regard to the need to prevent people from being drawn into terrorism ('the Prevent Duty').

4. Scope

- 4.1. This Code is applicable to:
- a) the legal personality of Queen Mary University of London;
 - b) all persons (academic or otherwise) working for the University or undertaking duties on its behalf, including members of Council ;
 - c) all students at the University, including those who are registered, in association, or affiliates, and including those taking part in activities organised by Queen Mary Student Union ('QMSU') and by its affiliated clubs, societies and other groups;
 - d) visitors speaking at or taking part in meetings, events or other activities on University or QMSU managed premises (including lectures, seminars, committee meetings, conferences whether live streamed or recorded) and any other activities (referred to as 'events')
 - e) all events and meetings held by the University or endorsed by it or using its facilities whether including an external speaker or not, together with all events which are University organised, funded or branded, including events organised by individuals, groups or societies using its name or resources (including lectures, seminars, committee meetings, conferences whether live streamed or recorded) and any other activities (referred to as 'events')

5. Principles

- 5.1. Queen Mary is committed to securing the freedom within the law of its academic staff to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves at risk of loss of their jobs or privileges at the university or the likelihood of their securing promotion or different jobs at another provider being reduced.
- 5.2. The University operates a presumption that exposure of students to course materials and statements made and views expressed by a person as part of teaching, research or discussions about any subject matter that is connected with the content of a course are unlikely to constitute harassment unless otherwise demonstrated that these matters do in fact amount to harassment.
- 5.3. The University does not take an institutional position on political, cultural and religious debates. Instead, it endeavours to provide a platform to facilitate discourse on contemporary issues by encouraging critical debate within the law, where expression of views within the law by different parties is tolerated.
- 5.4. This means that we encourage a wide range of views which might entail the airing of opinions and ideas that are unpopular, controversial or provocative and foster an environment where academic freedom and freedom of speech and expression is

secured within the law.

6. Roles and Responsibilities

- 6.1. Council is responsible for the approval of this Code.
- 6.2. Responsibility for the interpretation and implementation of this Code is delegated to the President and Principal (the Principal Officer) by the University's Council.
- 6.3. Heads of Schools and Institutes, Directors of Research Institutes and Centres, Directors of Professional Services and the President of the Students' Union are responsible for the day-to-day implementation of this Code and accountable to the President and Principal for ensuring that this Code and its principles are applied consistently across all activities under their management.
- 6.4. In academic schools and institutes, including research institutes and centres, the responsibility of implementing this Code relates to all education and research related activities and events organised or sponsored by the school or institutes.
- 6.5. The President and Principal shall report to Council on the circumstances of any significant infringements of, and departures from, the provisions of this Code. Any such infringements or departures, in whatever respect, may render those responsible liable to disciplinary action under the relevant University policy.
- 6.6. For the purposes of procedures for events (Section 7, below), the following are considered 'Designated Officers'; Heads of Schools and Institutes (for events hosted within their respective schools and institutes) and for all other events, the Designated Officer will be the Head of Security, or their designated deputy.

7. Procedures for Events

- 7.1. Procedures relevant to this Policy (such as those for booking rooms or arranging events on campus) shall be published separately and may be subject to change as the need arises.
- 7.2. All room bookings will be made in line with the relevant room booking policies and procedures. Nothing in those policies and procedures will conflict with the principles of this Code.
- 7.3. In considering whether to permit its premises (including online platforms) to be used for (or its name to be associated with) a particular activity on campus or remotely, Queen Mary will apply a clear policy of free speech within the law. In doing so, the University will consider whether the views or ideas to be put forward (including the manner of their expression) or whether the activity in question:
 - a) constitutes a criminal offence (and whether a participant has a previous conviction in relation to words either written or spoken);

- b) constitutes a threat to public order (including whether a participant is from an organisation that is officially proscribed by the UK Government);
 - c) constitutes a threat to the health and safety of individuals attending the event or in the locality, which cannot be satisfactorily managed;
 - d) incites others to commit criminal acts;
 - e) infringes the legal rights of others or breaches legal requirements in respect of non-discrimination.
 - f) seeks to disrupt an authorised event or activity, on Queen Mary premises or online; any protest must be conducted without infringing the rights of others, including the right to freedom of speech.
- 7.4. The expression of views which are unpopular, controversial or provocative or which cause offence do not, if lawful, constitute grounds for the refusal or cancellation of an event or an invited speaker.
- 7.5. Queen Mary reserves the right to impose such conditions upon the use of its facilities as are reasonably necessary for the discharge of its obligations relating to the health and safety of its registered students, employees and other persons lawfully upon its premises or for the efficient conduct and administration of its functions. Conditions for events may include, for example, restrictions on access by those outside the University.
- 7.6. Queen Mary reserves the right to decide that practical considerations such as the cost, short notice period or difficulty of providing the necessary mitigations may require an event to be modified, curtailed, postponed or - in exceptional circumstances - cancelled. The University will bear the cost of appropriate security for approved events to safeguard freedom of speech within the law.
- 7.7. Queen Mary expects speakers and those taking part in activities to respect the values noted above (in section 1), to be sensitive to the diversity of its community, and to show tolerance to all sections of its community. These precepts apply in particular to the way in which views are expressed and the form of activities, including any form of protest activity.
- 7.8. Permission may be withheld only on the grounds indicated in 7.3, 7.5 and 7.6, or if the organiser cannot or will not ensure compliance with any conditions set by the Designated Officer. It shall, in all cases, be open to the Designated Officer to invite the Police to be present at any activity on University premises or premises managed by QMSU.
- 7.9. It shall be open to the Designated Officer to withdraw permission for an activity if, having originally granted permission, he or she so judges that the activity will not in fact conform to this Code.
- 7.10. It shall be open to the Designated Officer to withdraw permission for an activity or event to be held in association with the name of Queen Mary University of London where the meeting or event is being held on premises or online platforms not owned or controlled by the University.

8. Appeals and Complaints

- 8.1. Appeals against the rulings of the Designated Officer, in relation to events and speakers, may be made to the President and Principal, whose decision shall be final. The President and Principal may delegate the consideration of such an appeal to the Chief Governance Officer and University Secretary. Such an appeal must be received within two working days of the decision of the Designated Officer.
- 8.2. Any complaints related to events organised by QMSU will be subject to the relevant complaints policy/procedure operated by QMSU¹.
- 8.3. Students can submit a complaint related to concern about matters that affect the quality of a student's learning opportunities or student experience via the Student Complaints Policy².
- 8.4. Academic Staff can submit a complaint related to their academic freedom as part of HR Codes of Practice³.
- 8.5. Any other complaints related to free speech at the University may be submitted for consideration under the University's Whistleblowing Procedure.

9. Review

- 9.1. This Code will be reviewed at least every three years. Senate will be consulted as part of any review and on any significant revisions of the Code.
- 9.2. Minor revisions to this Code that do not affect the rules, principles or intent of the Code may be approved by the University Secretary and Chief Governance Officer on behalf of Council.

¹ <https://www.qmsu.org/governance/>

² [https://arcs.qmul.ac.uk/media/arcs/policyzone/academic/Student-Complaints-Policy-\(2022-23\).pdf](https://arcs.qmul.ac.uk/media/arcs/policyzone/academic/Student-Complaints-Policy-(2022-23).pdf)

³ <https://hr.qmul.ac.uk/procedures/> & <https://hr.qmul.ac.uk/media/hr/docs/working-at-qm/policiesprocedures/Introduction-2010.pdf>