

# Freedom of Speech



**Harper Adams  
University**

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## **Harper Adams University**

### **Freedom of Speech, Academic Freedom and External Speaker Policy**

#### **Summary and Introduction:**

The University welcomes a range of speakers to its campus during each academic year. Conferences guests may also arrange to have speakers, who make presentations on the University premises. Very occasionally there may be a “University branded” event which involves an invited external speaker that takes place in a venue other than the University campus.

The usual range of speakers are as follows:

1. Speakers invited by academic staff to give presentations to students on course related matters
2. Speakers invited by the Vice-Chancellor or other staff to give a key note talk to staff/students/invited guests
3. Speakers invited by Harper Forum to give talks at the regular Harper Forum Meetings to which all students and staff are invited
4. Speakers invited by conference organisers as part of an event booked on HAU premises through the Conference and Short Courses Office
5. After dinner speakers invited by staff or students to address members of the University (and possibly other external guests), as part of a formal dinner or similar event

It is recognised that almost all speakers in categories 1-3 (and often in 4 also) will be industry speakers or people who are experts in the agri-food chain and related industries. Such speakers are unlikely to give talks on subjects that could give raise to concerns around freedom of speech or pose a security or other similar threat. Definitions of “Freedom of Speech” and “Academic Freedom” are included in the annex to this document.

However the University needs to take steps to ensure that it has formal policies and procedures in place to secure freedom of speech and maintain academic freedom. This policy is designed to provide a factual basis for consideration of the merits of various forms of action and does not suggest or propose any particular course of action. Importantly, this policy paper presents our best understanding of what is a complicated area of the law. It is not and should not be taken to be legal advice, or a definitive statement of the legal position.

The University may refuse to hold an event where it reasonably believes it is likely to;

- Incite a breach of the law
- Lead to an expression of views which are contrary to the law
- Promote or support an illegal organisation , or
- It is in the interests of public safety, the prevention of disorder or crime or the protection of those persons lawfully on the University premises that the event does not take place.

The University expects its members, external speakers and visitors to abide by its values statement. (Appendix A). Principal organisers are responsible for ensuring visitors at events and conferences are aware of this policy.

#### **Procedures for approval of events involving external speakers on Harper Adams University premises or for events held off campus that are University “branded”**

The following applies to the management of events which are not an integral part of the day to day academic or administrative business of Harper Adams University.

**Students:**

All events involving external speakers that are booked by the Harper Forum or other student body, wherever the event is to take place (i.e. on or off campus) will require the organiser(s) to appoint a Principal Organiser to complete and submit an external speaker form. In most cases this will be a person nominated by the Harper Forum Committee or the Student's Union or the relevant Club or Society. (Appendix B). This will identify the speaker, the organisation that they represent and the subject matter of the speech or debate. The completed form should be returned to the Data Protection Officer or University Secretary **not less than 14 days before the planned event.**

**Staff:**

Academic Staff booking external speakers for events on or off campus should inform their Departmental Administrator who will seek advice from the University Secretary or her office as necessary. Departmental Administrators will keep a record of the speaker and venue, subject and date on the form held on the University portal. Other staff should discuss their proposed speaker(s) with their line manager and seek advice from the University Secretary or her office as necessary. A record of the speaker's name, organisation and his/her subject, date of event as a minimum should be retained by the relevant line manager. The form on the University portal may be used (please contact Alison Waide for further advice)

**External Clients:**

Any clients booking a venue through the Conference Office will be subject to the Universities terms and conditions of business, which also contain the Universities values statement. Most events booked through the Conference Office will be routine and many are repeat bookings made by repeat customers. However, if any concerns are raised about events or organisations booking an event at the University, then they should, in the first instance be raised with The Short Courses and Conference Office Manager or one of her staff, who will consult with the Director of Finance as senior line manager for the team if appropriate. If the Director of Finance has any concerns about the speaker or event, then additional conditions or restrictions may be placed upon the organiser, in order to ensure a safe environment for all those concerned with the event. The Director of Finance may also cancel the event in line with this policy and the relevant legislation.

**Cancellation of events:**

Any external speaker or event, organised by a member of staff, student or external client (including after dinner speakers), will only be cancelled or permission for the event withdrawn, by the University Secretary or another members of the Senior Management Team in line with this policy and the relevant legislation in force at the time of the decision. In considering the risks around any particular event, the university will check for links with prescribed organisations and/or may seek advice from relevant external bodies including the police, Association of University Chief Security Officers (AUSCO), Local Channel Panel members or BIS Regional Prevent Co-ordinator. In considering how any identified risks might be appropriately mitigated, such that the University's Prevent Duty can be met, advice published by Universities UK and/or the Charity Commission will be considered.

Any appeal against such a decision made by the Director of Finance or University Secretary or another member of the Senior Management Team will be to the Vice-Chancellor or Deputy Vice-Chancellor, whose decision will be final.

Where permission has been withheld, the University will seek advice from members of the local Channel Panel and BIS Regional Co-ordinator about whether or not its decision should be shared with other Universities or partners through the BIS Regional Co-ordinator.

For meetings or other activities where there is a real likelihood that the speaker may not be able to enter or leave the premises safely and/or deliver his or her speech, please refer to the Code of Practice at Appendix C for details of the procedure to be followed.

### **Social Media**

It is recognised that staff and students may wish to make use of social media to express opinions and/or share information which may include reference to their relationship with the University. Staff are reminded that they must comply with the Social Media Policy for Staff. All students are reminded that they must comply with the Social Media arrangements for Students set out in the Student Handbook.

**Dr C.E. Baxter**

**University Secretary**

**Approved by the Board of Governors July 2015**

**Revised document approved by the Chairman of the Board of Governors, January 2016**

## Appendix A

### HAU Mission, Vision and Values (Extract from the Harper Adams University Strategic Plan 2015-2010)

#### Our Mission

Our mission is to provide: World leading higher education and research for the delivery of sustainable food chains and rural economies.

#### Our Vision

Our vision for 2020 is that Harper Adams University will be:

- Closely engaged with the industries, professions and organisations that comprise the global agri-food chain and the UK rural economy to deliver a high quality and inclusive learning environment that enhances personal development and employability;
- A recognised centre of research excellence, especially in the application of science and technological advances and;
- A trusted source of independent and authoritative commentary to inform public and policy debate on agri-food, animal welfare, land, environmental and rural business matters.

#### Our Values

Harper Adams has a strong set of values that have underpinned its development since its foundation nearly 115 years ago. The four core values are that we will be **outstanding**, **inspirational**, **distinctive** and **welcoming** in all that we do.

In our Learning and Teaching Strategy, students and staff have worked together to encapsulate the “Harper Spirit” in a word graphic as follows:



**Appendix B :Harper Forum External Speaker Information** (note This form may be adapted for Short Courses and Conference Office Use or by the University Secretary for speakers booked by staff if required)

**Harper Adams University -External Speaker Information**

Organising Society / Organisation

Location of event

Date of event    Start time                    /End time

Title and Purpose of event:

**Please provide the following details of the external speaker/s attending this event.**

Name/s .....
.....

-  How many attendees are you expecting?
-  Have tickets been issued?
-  Is there any known or likely media interest in the proposed event?
  
-  Where was the event advertised (*E.g. internally / social media*)
  
-  Are you expecting external attendees (if yes how many?)  
*(If you have said yes, you will need to see our procedures for governing visitors on campus)*
  
-  Is the event likely to have an impact on the university's/ Student Union's reputation?
-  Is there any known or likely impact on the safety of students, staff or wider community attending the event?
  
-  Will there be external catering?... ..

When completed this form will need to be signed by

1. Harper Adams University Student Union Club/Society) .....  
Date.....
2. University Secretary.....Date.....
3. Catering Manager (David Nuttall) (if applicable) .....Date .....

## University Code of Practice

*(with acknowledgement to Universities UK for providing this recommended Code of Practice)*

### Preamble

In pursuance of its duties as laid down in Section 43 of the Education (No.2) Act 1986, the University Board of Governors hereby enacts the following Code with a view to taking the steps which are reasonably practicable to ensure that freedom of speech within the law is secured from members, students and employees of the University and for visiting speakers.

### I. Principles

1. So far as is reasonably practicable, no premises of the University shall be denied to any individual or body of persons on any grounds connected with:

- (a) The beliefs or views of that individual or of that body; or
- (b) The policy or objectives of that body.

The University must also take account of other legal obligations which may require it to have regard to what is said on its premises. A speaker, for example, who incites an audience to violence or to breach of the peace or to racial hatred, transgresses the bounds of lawful speech. Equally, assemblies of persons, even if directed to lawful purposes, cease to be lawful if they cause serious public disorder or breaches of the peace.

### II. Procedures

2. (a) By the authority of the University Board of Governors the following procedures must in future be followed by members, students and employees of the University in respect of:

- (i) Meetings or other activities which are to be held on premises of the University falling within the class of meetings specified in paragraph 3 below; and
- (ii) The conduct required of all persons in connection with any such defined meetings or activities; and
- (iii) Any other related or ancillary matters which the University Board of Governors from time to time declares to fall within this Code. (See paragraphs 4(v) and 5 below).

(b) Infringements of, or departures from, these procedures in whatever respect will render those responsible subject to disciplinary proceedings as laid down by the University.

(c) Additionally, if any such actions involve breaches of the law the University authorities will be ready to assist the prosecuting authorities to implement the processes of law and, if charges are preferred, will stay disciplinary proceedings pending the outcome of any such proceedings.

(d) The University Board of Governors, in laying down the following, appoints the University Secretary to act on its behalf to ensure as far as is reasonably practicable that all members, students and employees of the University, and visiting speakers, comply with the provisions of this Code.

### Meetings or other activities to which this Code applies

3. Any meetings or other activities where there is a real likelihood that the speaker may not be able to enter or leave the premises safely and/or deliver his or her speech will be deemed to fall within the requirements of this Code.

#### 4. Preparation for and conduct of meetings, etc. on University premises

- (i) This section applies to any meetings or activities falling within the meaning of paragraph 3 above.
- (ii) The organisers of any such event shall ensure that a single person is appointed as principal organiser of the event.
- (iii) The principal organiser of such an event shall secure that at least two weeks before the date proposed for the event notice of the proposal is given to the University Secretary. Such notice shall contain a written statement of the name of the speaker, the subject of the address and the precise timing of arrival and departure of the speaker. (Appendix B)
- (iv) Within five days of receiving such notice the University Secretary shall issue a statement which shall either grant or withhold permission for the use of University premises as proposed for the conduct of the event. (See paragraph 6 below.)
- (v) Permission so granted may be granted subject to such conditions as the University Secretary considers reasonably necessary to secure fulfilment of the University's statutory responsibilities concerning the protection of free speech within the law. (See paragraph 5 below.)
- (vi) The principal organiser and every other person concerned with the organisation of an event for which permission has been granted shall be required to comply with any and every condition laid down by the University Secretary under the provisions of this Code. Such conditions may include a requirement that tickets must be issued for public meetings and that an adequate number of stewards should be available, as to whose suitability the University Secretary must be satisfied, in addition to any security staff that the University Secretary may feel should be present to maintain order. (See paragraph 5 below.)
- (vii) The University will normally supply and pay the cost of a public address system if there is reasonable cause to consider this necessary to enable a meeting to take place within adequate hearing for the speaker.
- (viii) Organisers have a duty to see that nothing in the preparations for or conduct of a meeting or activity infringes the law, eg. by conduct likely to cause a breach of the peace or incitement to illegal acts.
- (ix) The Chair of the meeting has a duty so far as possible to secure that both the audience and the speaker act in accordance with the law during the meeting. In case of unlawful conduct the Chair is required to give appropriate warnings and, in case of continuing unlawfulness, to require the withdrawal or removal of persons concerned by the stewards or security staff.
- (x) No article or objects may be taken inside the building where the meeting is taking place, or taken or used elsewhere on University premises in circumstances likely to lead to injury or damage. Premises used for meetings or activities must be left in clean and tidy conditions in default of which the organisers may be charged for any additional cleaning and repairs that are subsequently required. Payment in advance or evidence of ability to pay towards these costs may be required.
- (xii) The conditions prescribed by the University Secretary under subsection (v) above and paragraph 5 below may include conditions concerning admission or exclusion of press, television or broadcasting personnel.

5. In addition to the conditions set out in paragraph 4 above the University Secretary has discretion to lay down further conditions, if appropriate, after consultation with the police. Thus s/he may, for example, require the designated meeting or activity to be declared public (which would permit a police presence); s/he may arrange for University staff to be responsible for all security arrangements connected with the meeting or activity and appoint a member of staff as "controlling officer" for the occasion. If not satisfied that adequate arrangements can be made to maintain good order s/he may refuse or withdraw permission for the meeting or activity. Such a step would normally only be taken on the advice of the police.

6. Appeals against the rulings of the University Secretary may be made to the Vice-Chancellor whose decision shall be final but must be reported to the next meeting of the University Board of Governors.

## **ANNEX**

### Freedom of speech

Freedom of speech is a wider concept that goes beyond the rights of academics and applies to everyone. It is commonly defined by reference to the freedom to speak freely without censorship or limitation. In practice, the right to free speech is not absolute in any country and is commonly subject to limitations which recognise the potential conflict between free speech and other rights.

Freedom of speech has a special role in universities, specifically protected as a matter of law. The legislation, in the form of the Education (No. 2) Act 1986, emphasises the significance of free speech for universities by imposing a legal obligation on them to promote and protect it, and in particular states that the only constraints on the duty to secure freedom of speech are those imposed by the law. As with academic freedom, it is for the law, not for institutions, to set limitations.

Section 43 of the Act provides that:

Persons concerned in the government of any establishment... 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.

This is a positive and proactive legal duty. The obligation is not merely to refrain from limiting or infringing freedom of speech, but rather to do all that is reasonably practicable to ensure that it is secured. The duty is directed at free speech for all participants in university life – members of staff, students, and visiting speakers.

Section 43 also imposes a number of more specific obligations:

- A duty on university governing bodies to issue, and keep updated, a code of practice setting out the procedures to be followed by members, students and employees of the establishment in connection with the organisation of meetings and other activities on the university's premises; the conduct required of members, students and employees in connection with any such meeting or activity; and such other matters as the governing body considers appropriate. These codes will typically cover rights to refuse permission to attend or close an event in lawful circumstances, and the responsibilities of event organisers and members of the university, including observing good order during an event.
- A duty on every individual and body of persons concerned in the government of the institution to take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to ensure that the requirements of the code of practice are complied with.
- A duty to ensure that the use of any university premises is not denied to any individual or body of persons on the grounds of their beliefs, views, policies or objectives.

### **Equality issues**

Universities are, as a matter of law, required to prevent unlawful discrimination, and to promote equality of opportunity. In particular gender, race, disability, religion and belief, sexual orientation and age are all protected characteristics, which means that staff and students cannot be treated less favourably, directly or indirectly, by the university as an organisation or by its staff or others acting on its behalf. This also includes a right not to be unlawfully harassed.

Difficulties sometimes arise in defining the boundary between free speech and unlawful harassment. Harassment is defined in terms of conduct or speech relating to one of the protected equality

characteristics, which has the purpose or effect of violating another's dignity or of creating a hostile, intimidating, offensive or humiliating environment. In the context of academic freedom and free speech in universities, an important element of this legal definition is that it is not just for the complainant to state that the speech or conduct in question has had the relevant effect on them: the complainant's perception is just one factor in an analysis which requires consideration of all the circumstances, and crucially, whether it is reasonable to conclude that the speech or conduct had the prohibited effect.

This definition therefore allows – indeed requires – the speech or conduct to be viewed in context. Speech or conduct which occurs in the specific context of research or teaching, academic debate, speaker events, demonstrations and protests must therefore be judged by what is reasonable in those specific contexts. When judging whether speech or conduct created a hostile, intimidating, offensive or humiliating environment, it is necessary to take into account the essential characteristic of universities as communities in which a central place must be given to critical thinking, vigorous debate, the free exploration and exchange of ideas and opinions (including those which are controversial), and the respect and tolerance of diverging or opposing values, thoughts and beliefs.

This approach is also relevant where there are 'clashes' of protected characteristics, such as conflict between opposing religious beliefs, or between faith-based and secular positions (for example regarding the value of religious belief, the role of women in society, sexual orientation and religious morality, and abortion). The views and opinions expressed on either side of these debates may be considered 'offensive' by those on the other side of the argument, but that does not of itself amount to unlawful harassment. The question is whether a hostile, intimidating, offensive or humiliating environment is created and, while the line between what is lawful and unlawful may not always be easy to predict. The basic yardstick is to assess whether, judged in context, the speech or conduct goes beyond what is reasonable in either its content or impact. It will often be the manner and form in which views are expressed, rather than the opinions themselves, which take the relevant speech or conduct into the area of unlawful harassment.

Free speech is a qualified privilege subject to the limits imposed by law including those governing the protection of national security, health and safety, prevention of crime, charities, human rights, equality and discrimination and the protection of rights and freedoms of others.

### Academic Freedom

The 1988 Education Reform Act established the legal right of academics in the UK '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 the privileges they may have'.

The employment contracts for Academic Staff at Harper Adams confirm the latter's rights and responsibilities with regard to Academic Freedom.

Academic Freedom has been described by the Universities and College's Union in more detail as follows:

### **UCU statement on academic freedom**

1. One of the purposes of post-compulsory education is to serve the public interest through extending knowledge and understanding and fostering critical thinking and expression in staff and students, and then in society more widely. Academic freedom is essential to the achieving these ends and therefore to the development of a civilised democracy.

2. Academic freedom includes the right(s) to:

- freedom in teaching and discussion;
- freedom in carrying out research without commercial or political interference;
- freedom to disseminate and publish one's research findings;
- freedom from institutional censorship, including the right to express one's opinion publicly about the institution or the education system in which one works; and

- freedom to participate in professional and representative academic bodies, including trade unions.

3. Academic freedom is also bound up with broader civil liberties and human rights. Higher and further education staff have the right to freedom of thought, conscience, religion, opinion, expression, association and assembly. Staff must not be hindered or impeded in exercising their civil rights as citizens, including the right to contribute to social change through free expression of opinion on matters of public interest. We recognise that this may touch upon sensitive or controversial issues.

4. Academic freedom also comes with the responsibility to respect the democratic rights and freedoms of others. In particular, the University and College Union (UCU) expects all its members to respect national rule 6.1.\*

5. Academic freedom requires the development of open, democratic and collegial forms of institutional governance, including access to proper whistleblowing procedures. UCU believes that academic and academic-related staff must play the pre-eminent role in determining the curriculum, assessment standards and research priorities. Academic freedom means that academic and academic-related staff should also have the right to elect a majority of representatives to academic bodies (Senates, Academic Boards etc) within their college or university, as well inclusion on governing bodies. Collegial decision-making should encompass decisions regarding curricula, research, administration, outreach and community work, the allocation of resources and other related activities.

6. Academic and academic-related staff must be free to criticise and publish without fear for their jobs. Academic freedom, therefore, is dependent upon proper employment conditions for higher and further education staff. Security of employment in the profession constitutes one of the major procedural safeguards of academic freedom and against arbitrary decisions by managements and funders.

\*Rule 6.1: All members and student members...shall refrain from all forms of harassment, prejudice and unfair discrimination whether on the grounds of sex, race, ethnic or national origin, religion, colour, class, caring responsibilities, marital status, sexuality, disability, age or other status or personal characteristic.

### **Case Studies:**

Some examples are given below of meetings and events that have either taken place or been stopped across the UK Higher Education sector that would fall under the jurisdiction of this code of practice. It should be noted that this list is provided for illustrative purposes only and is not intended to be exhaustive.

#### **Oxford University**

A debate that was to have involved a far-right leader was met with a campaign of student resistance. This opposition, coupled with police advice following a series of racially motivated nail-bombings in London, resulted in the cancellation of the debate.

The University's Union Society invited a euthanasia campaigner to take part in a debate. The invitation was subsequently withdrawn due to concerns about the "fairness" of the debate when other speakers were unwilling to speak alongside him.

#### **Cambridge University**

The head of the British National Party, and a fundamentalist Muslim cleric with alleged terrorist connections, were approached to take part in a debate, titled "This house believes that Islam is a threat to the west".

### **Durham University**

Representatives of the British National Party were invited onto campus by the Union Society to take part in a debate. The University gave permission for the debate to go ahead. The National Union of Students (of which Durham Student's Union was a member) objected to the debate and threatened to protest violently if it took place. The event was therefore, cancelled due to threat of violence and as the safety of those taking part could not be guaranteed. As a consequence of the actions of the NUS, Durham Students' Union withdrew from membership of NUS for a year.

### **University of Westminster**

The Global Ideas Society at Westminster University hosted a debate titled 'Economic Future: The Real Solutions' which featured a senior member of the Hizb-ut-Tahrir Executive Committee, as a speaker. Students had raised concerns about this due to the fact that the NUS lists Hizb-ut-Tahrir as a fascist organisation under their 'No Platform Policy'.

### **University of Hertfordshire**

The University's Islamic Society invited a speaker with controversial views on homosexuality to give a talk on campus. The invitation to the speaker was subsequently withdrawn due to concerns expressed by the LGBT Society and due to the fact that the University and the Students' Union had not been informed of the event and therefore, the correct procedure had not been followed.