



## **Apex College**

### **Freedom of Speech Code of Practice**

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#### **1. Purpose**

1.1 To provide a code of practice setting out Apex College's approach to freedom of speech for the benefit of both students and staff.

1.2 Provide information and guidance on how to recognise and deal appropriately with a freedom of speech issue.

#### **2. Background**

##### **2.1 Article 10 of the Human Rights Act 1998**

2.1.1 Article 10 of the Human Rights Act<sup>1</sup> states that everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are proscribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the

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<sup>1</sup> Human Rights Act 1998 <http://www.legislation.gov.uk/ukpga/1998/42/schedule/1/part/I/chapter/9>



reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

## **2.2 Education (No 2) Act 1986**

2.2.1 Section 43 of the Education (No 2) Act 1986<sup>2</sup> states that every individual and body of persons concerned in the government of higher education institutions 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 institution and for visiting speakers. This includes, in particular, the duty to ensure, so far as is reasonably practicable, that the use of any premises of the institution is not denied to any individual or body of persons on any ground connected with:

- a) the beliefs or views of that individual or of any member of that body; or
- b) the policy or objectives of that body.

2.2.2 The Act requires that Apex College's Academic Standards Board and Executive Board shall, with a view to facilitating the discharge of this duty, issue and keep up to date a code of practice setting out the procedures to be followed by members, students and employees of the College in connection with the organisation of:

- (i) Meetings to be held on the premises of the College and which fall within any class of meeting specified in the code
- (ii) Other activities which are to take place on College premises and which fall within any class of activity so specified
- (iii) The conduct required of such persons in connection with any such meeting or activity.

2.2.3 Additionally, the Act states that every individual and body of persons concerned in the governance and management of Apex College shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the requirements of the freedom of speech code of practice are complied with.

## **2.3 Prevent Duty<sup>3</sup>**

2.3.1 The Counter Terrorism and Security Act 2015<sup>4</sup> means the Apex College *must*

<sup>2</sup> Education (No 2) Act 1986, Section 43 <http://www.legislation.gov.uk/ukpga/1986/61>

<sup>3</sup> The statutory Prevent Duty Guidance has been issued to all 'specified authorities', with additional guidance for institutions of higher education <https://www.gov.uk/government/publications/prevent-duty-guidance>

<sup>4</sup> Counter Terrorism and Security Act 2015 <http://www.legislation.gov.uk/ukpga/2015/6/section/26>



*have due regard to the need to prevent people from being drawn into terrorism (Section 26). The College must also have particular regard to the duty to ensure freedom of speech and to the importance of academic freedom (Section 31). Under Section 29, the College must have regard to any such guidance in carrying out that duty.*

2.3.2 Apex College complies with this duty in all its aspects, which in practice means striking a fine balance between concerns around extremism and concerns around censorship. The work in promoting British values and the College's values aim to positively address this challenge. It covers many areas of activity, including pastoral support for students, staff training, information sharing and assessing speaker events. In assessing speakers for events associated with Apex College account will be taken of the Government's list of terrorist groups or organisations banned under UK law and details of proscription criteria.<sup>5</sup>

## **2.4 Apex College Policies**

2.4.1 This Freedom of Speech Code of Practice should be read in conjunction with other relevant policies of the College as follows

- Information about Higher Education Provision Policy
- Social Media Policy.

## **3. Scope**

3.1 Apex College's Freedom of Speech Code of Practice sets out the rights and obligations inherent in supporting the principle of freedom of speech and expression within the law. The Code's obligations and rights apply to:

- (i) Apex College (which includes all bodies or persons having authority to determine any matter relevant to this Code)
- (iii) All students of the College
- (iv) Any visiting or guest lecturers invited by the College
- (v) Any alumnus invited by the College<sup>[SEP]</sup>
- (vi) Any person or organisation wishing to hire premises controlled by the College for an event.

3.2 In relation to the holding of any events on premises controlled by Apex College, the Code of Practice's rights shall also apply to:

- (i) Persons invited or otherwise lawfully on the premises for the purposes of the event

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<sup>5</sup> *Proscribed terrorist groups or organisations* [https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations-- 2#history](https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2#history)



(ii) Persons who, if it were not for the provisions of this Code, would have been invited to the event.

3.3 Subject to 3.1 above, those who are under a duty to observe and uphold the principle of freedom of speech within the College shall do so at all times, irrespective of whether or not they are on property owned or controlled by the College.

## **4. General Principles and Code of Practice**

### **4.1 General Principles**

4.1.1 Apex College supports the principle of freedom of speech and expression within the law as one of the fundamental principles upon which the College was founded. The College also has regard to the need to ensure that students (present and past), staff and visiting speakers have the freedom to question, test and to put forward new ideas and controversial or unpopular opinions, without placing themselves at any risk. Every person employed by Apex College and every student enrolling at the College should be aware that joining the College's community involves obligations and responsibilities, which are consistent with the above principle and the law.

4.1.2 Free speech is not an unqualified privilege, and higher education institutions are subject to a range of legislation and obligations (see Section 2 above) to ensure the safety and well being of students, staff and the wider community. To give some examples:

- The protection of freedom of speech does not extend to allowing a speaker to commit a criminal offence in the course of speaking
- Institutions of higher education are subject to the statutory duty to have *due regard to the need to prevent people from being drawn into terrorism*
- Due regard of other legal responsibilities, such as those relating to preventing discrimination, harassment and victimization, and the health, safety and welfare of employees, students, external speakers and visitors.

### **4.2 Academic Freedom and Freedom of Speech**

4.2.1 In accordance with the Office for Students public interest governance principles, that apply to all registered providers of higher education, to quote OfS: *academic staff at an English higher education provider 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 the provider (<https://www.officeforstudents.org.uk/advice-and-guidance/regulation/public-interest-governance-principles>).*

4.2.2 Apex College's Freedom of Speech Code of Practice sets out the rights and obligations inherent within the principles of freedom of speech and expression and shall be constructed and applied in the spirit of upholding those principles within the law wherever reasonably practicable.

4.2.3 Apex College recognises that freedom of speech is essential to the interests of students as stated by the Office for Students (<https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/freedom-of-speech>). Freedom of speech, as stated by the Office for Students and recognised by Apex College, is important for students since it:

- *exposes students to new and challenging ideas*
- *encourages robust but civil debate which respects and understands different viewpoints*
- *underpins the diversity of England's higher education sector*
- *is a key part of giving students a high-quality higher education.*

4.2.4 All staff employed by Apex College, both academic and professional services staff, have the freedom to question, test and to put forward new ideas and controversial or unpopular opinions without placing themselves at risk to their employment status or losing their job with Apex College. Expressing new ideas, controversial or unpopular opinions must be within the law and take account of sensitivities with other members of staff and students at Apex College. Freedom of speech does not extend to allowing a speaker to commit a criminal offence such as engaging in or promoting: discrimination or inciting hatred, harassment and/or victimisation, or affecting the health, safety and welfare of employees, students, external speakers and visitors. Where a member of staff is suspected of or has committed a criminal offence in this context, disciplinary proceedings may be invoked and the police informed where deemed necessary.

4.2.5 If a student or member of staff at Apex College has a concern about freedom of speech at the College they should first raise the matter with the Principal. In the circumstance that the person raising the concern about freedom of speech Apex College with the Principal thinks the matter has not been dealt with to his or her satisfaction recourse should be made to the College's formal complaints procedure. This is available on Apex College's website at <http://apexcollege.co.uk/prospective-students/policies-support>.

4.2.6 Apex College, as an institution of higher education, is subject to the statutory duty to have due regard to the need to prevent people from being drawn into terrorism as detailed in the GBS Prevent Policy.

### **4.3 Code of Practice**

4.3.1 Apex College is an academic community of staff and students. Central to this concept is the ability of all its members freely to challenge prevailing orthodoxies,



query the positions and views of others and to put forward ideas that may sometimes be radical in their formulation.

4.3.2 Any individual or body of persons shall be free, within the law, to hold meetings or engage in such other activities of the type set out in **Appendix I** on the premises of the College, regardless of the beliefs, views, policies or objectives of that individual or body. **Appendix 2** provides further guidance on types of activities.

4.3.3 The College will seek to ensure that the use of the College's premises is not denied on grounds connected with the beliefs, views, policies or objectives of an individual body or body of individuals, as long as such use is at all times within the law.

4.3.4 Where there are concerns about an event, Apex College will seek to facilitate an open and transparent dialogue with the event organisers to establish whether the event can take place whilst ensuring the College meets its legal obligations. Event organisers will be expected to take part in this dialogue in an open and transparent manner.

4.3.5 Apex College branded events which take place outside of the College's premises will reflect the values of the College, as stated in its Strategic Plan 2018-21 and Learning and Teaching Enhancement Strategy 2018-21, and will comply with the spirit of the general principles and Code of Practice detailed above.

4.3.6 Apex College has a zero tolerance approach to discrimination, bullying, harassment or extremism or acts which could incite or promote terrorist activity. It has a duty to maintain safety and good order on its premises and is also under a duty to prevent individuals being drawn into terrorism under the Counter Terrorism & Security Act.

4.3.7 All persons to whom this Code of Practice applies are required to observe the principle of freedom of speech whilst on College premises and shall show respect and tolerance towards the expression of views, opinions and beliefs of others, even though those views, opinions or beliefs may run contrary to their own personal views, opinions or beliefs.

#### **4.4 Some Wider Considerations and Context**

4.4.1 Institutions of higher education do not function in a vacuum, and wider conflicts and disputes, often involving ethnicity or religious faith, may sometimes find expression on the College premises amongst the student body or other constituencies. The challenge for institutions of higher education is to identify when the pursuit of freedom of ideas and expression crosses a threshold and becomes unlawful or poses unacceptable risks to the health, safety or welfare of employees, students or visitors.

4.4.2 Apex College will ensure that appropriate procedures are in place in order to allow all its stakeholders to report any instance (direct or indirect) of alleged hate



crime, harassment, threat or intimidation and for their concerns to be investigated promptly and thoroughly, with the appropriate measures taken in response, including, where necessary, reference to the Police and other external bodies.

## **5. Responsibilities**

5.1 Apex College's Executive Board is jointly responsible for ensuring that appropriate procedures are in place to deal with relevant legislative requirements.

5.2 Academic Standards Board is responsible for approval of the Freedom of Speech Code of Practice and oversight of its operation across the College.

5.3 The Vice-Principal has overall responsibility for the Freedom of Speech Code of Practice and ensuring that activities (events, external speakers, etc.) comply with the above (Section 4) principles of freedom of speech, the details of the Code and procedures for approving relevant activities.

## **6. Procedures for the Organisation of Meetings and Activities using College Premises**

6.1 All events involving external speakers on the premises of Apex College must be held in a location that has been booked in accordance with the College's procedures for booking rooms (see the Head of Administration).

6.2 Apex College will not unreasonably refuse to allow events to be held on its premises but has a duty to ensure that events are conducted in compliance with the law, including health and safety legislation. Events that cannot demonstrate full compliance with the requirements of the law will not be permitted on the College's premises. Requests to hold events on the College's premises may be declined if a suitable location is not available.

6.3 The College has the discretion but has no legal obligation to allow meetings or events held on its premises to be open to members of the public. The College shall have the right to require that it is provided in advance with a list of all attendees for an event and also has the right to require that events held on its premises may be ticketed.

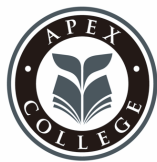
6.4 The College shall have the right to refuse entry to those attending the event if they bring onto College premises items that it deems to be:

- Unduly provocative or offensive in nature
- Designed or have the potential for use to cause injury to people or property.

6.5 For any proposed event intended to be held on the College's premises the event organiser should consult with the Vice-Principal well in advance of the proposed event and no less than two weeks before the proposed date for the event.

## **7. Procedures for the Organisation of Meetings and Activities outside of College Premises**

7.1 This Freedom of Speech Code of Practice and associated procedures identified above for holding events applies to all events involving external speakers held under



the authority or brand of Apex College or otherwise associated with the College. This applies regardless of the location of the event. It should be noted for the avoidance of doubt that holding an event at an external venue does not enable this Code of Practice and associated procedures to be circumvented. Failure of staff or students or other responsible individuals to comply with this Code of Practice may result in disciplinary action.

## **8. Management of Events and Speakers**

### **8.1 Conduct of Speakers**

8.1.1 All external speakers must present their ideas and opinions in the spirit of debate and they must be receptive to challenge and questions from all members of the audience. All external speakers must act in accordance with the law and must not breach the lawful rights of others. During the course of the event, no external speaker shall:

- (i) Break the law or incite others to break the law
- (ii) Incite intolerance, discrimination, hatred or violence
- (iii) Encourage or promote illegal acts or promote individuals, groups or organisations that undertake illegal acts.

8.1.2 These requirements are not exhaustive and Apex College reserves the right to terminate an event if it considers that a speaker will not conduct themselves in accordance with this Code of Practice. The Vice-Principal should be consulted when such matters arise or are thought to have arisen.

8.1.3 All external speakers are to be provided with a copy, either electronically or a hard copy, of this Code of Practice. Where appropriate the Vice-Principal may require the external speaker to confirm in writing to the College that they have read and understood the Code of Practice and that they agree to abide by its requirements. Where required, this confirmation must be submitted at least seven days in advance of the event.

### **8.2 Publicity Materials**

8.2.1 Apex College shall have the right to require that it is:

- Provided with copies of all publicity materials for the speaker and the event, together with an explanation of any abbreviations, acronyms, alternative or coined nomenclature or any technical terms used
- Informed if representatives of the media are to be admitted or excluded. The College's logo and other associated symbols and emblems shall not be used in publicity materials for any event without the written consent of the Vice-Principal.

### **8.3 Assessment of Events and Speakers**

8.3.1 Before giving permission for any event to take place on College premises, or off-site under the authority or brand of Apex College, the Vice-Principal must





consider and decide upon the following questions:

- (i) Has the proposed speaker been previously barred from speaking at either this or another education establishment for expressing views that contravene the purposes of this Policy?
- (ii) Does the proposed speaker or the theme or content of the event contravene the purposes of this Policy, including the need to have due regard to the need to prevent people from being drawn into terrorism?
- (iii) Will the proposed speaker or the theme or content of the event be likely to attract attendance from individuals or groups that have previously been known to express views or to act in ways that contravene the purposes of this Policy?
- (iv) Is there or might there be an intention to segregate the audience on the basis of any protected characteristic?
- (v) Has the event has been organised to raise or gather funds for any individual, organisation or cause that encourages, promotes or undertakes acts that break the law?

8.3.2 If the answer is *no* to all of the above questions and it is clear that there are no issues that require further consideration then the organisation of the event can be approved to proceed by the Vice-Principal.

8.3.2 If the answer is *yes* to one or more of these questions or there is uncertainty or further consideration required in relation to any of the questions then a request to approve an external speaker or the theme or content of the event should be discussed and decided upon by the Vice-Principal in consultation with the Principal.

8.3.4 This set of questions is not exhaustive and the Vice-Principal has the discretion to consider other factors. Apex College will also have the discretion to consult other parties and external information sources as part of his or her deliberations.

**8.3.5 *In all circumstances, the College should only take such action and make such decisions as it considers proportionate, objective, reasonable, and fair to the furtherance and fulfillment of this policy.***

## **9. Obtaining Permission to hold an Event or Invite an Outside Speaker**

9.1 The event organiser (the person – member of staff or student or student group) responsible for organising the event must first check with the Head of Operations that accommodation at the College would be available. Following this the event organiser must complete the *Form for Obtaining Permission to Hold an Event or Invite an Outside speaker* and then submit this with any additional appropriate documents to the Vice-Principal to obtain a decision over whether or not the proposed event and/or outside speaker can be approved.

## **10. Breaches of the Code of Practice**



10.1 Any breach of the provisions of this Code of Practice shall be punishable under the appropriate Disciplinary Procedures of Apex College where applicable.

10.2 It shall be the duty of all those subject to this Code of Practice to assist the College in upholding the rights of freedom of speech set out in this Code.

10.3 Where a breach of this Code of Practice occurs, it shall be a duty of all to whom this Code of Practice applies to take all reasonable steps to secure the identification of persons involved in that breach.

10.4 Where breaches of the criminal law occur, Apex College shall, where appropriate, assist the Police and the Crown Prosecution Service. In respect of any criminal charges, the College, shall not, unless the Principal determines otherwise, proceed with any disciplinary proceedings in respect of the same matters, until the conclusion on any ongoing criminal proceedings.

10.5 The operation of the Code shall be monitored by the Apex College's Executive Board, and overseen and approved by Academic Standards Board.

#### **Appendix 1: Activities covered by the Code of Practice**

Activities covered by Apex College's Freedom of Speech Code of Practice include:

- i) Meetings, lectures, talks, seminars, tutorials, classes, short courses, conferences, other teaching or informative activities of a similar nature
- ii) Stage plays, cinematic or video film showings, music concerts, literary readings
- iii) Demonstrations, processions, pickets.

#### **Appendix 2: Guidance on activities**

An **event** is any gathering (which would include meetings, events and other activities) conducted, hosted, or sponsored by the College and events hosted by other organisations that take place on the College's premises.

The person, society or group who takes responsibility for organising an event will be referred to as the **Event Organiser**.

**External speaker event** is any event that involves an external speaker addressing a group, including in a teaching, learning or research setting (lecture, conference, seminar) or in the context of extracurricular activity. This does not include meetings held in the normal course of the College's administration or management, provided that (with the exception of the external speaker) they are attended exclusively by staff or managers of the College.

An **external speaker** is anyone who is not a member of the College community and who is invited to speak at an event in order to provide or disseminate their views, ideas or opinions on a given topic. For example, a guest lecturer, member of a discussion panel, those giving religious addresses or prayer leaders would be an external speaker. A trainer, for example, who leads a fitness class would not usually



be classed as an external speaker.

The **Head of Administration** is the person who looks after external room bookings and is based within the Operations team.

A **Proscribed Group** is an organisation which has been banned from the UK and placed on the UK Government's proscribed groups list.

**Appendix 3: Form for Obtaining Permission to Hold and Event or Invite and Outside speaker**