

### Freedom of Speech Policy and Code of Practice

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Policy owner:	Principal/Student Services		

#### Approval required

SMT Y/N	Y	SMT approved/review date	April 2024
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Version	Author	Date	Section	Changes summary
2	Annette Campbell	April 2024		Full review undertaken  Policy updated to take into account new duties from the Higher Education (Freedom of Speech) Act enacted May 2023

## **Policy description:**

This policy is Craven College's response to the requirement of the Education (No 2) Act 1986 and the Higher Education (Freedom of Speech) Act 2023 that the governing body of Further and Higher Education institutions should issue a code of practice setting out the procedures to be followed by students and employees of the establishment in connection with the organisation of meetings and other activities which are to be held on College premises, and the conduct required of such persons in connection with any such meeting or activity.

The requirements of this policy apply to all staff of the College, all students registered at the College and the Governors of the College.

## **Links to Government Legislation:**

- Education (No 2) Act 1986
- Higher Education (Freedom of Speech) Act 2023

## **Links to other policies:**

- Bullying and Harassment Policy
- Community Cohesion Strategy
- Lettings Policy for External Organisations
- Prevent Strategy and Action Plan
- Single Equality Scheme
- Acceptable Use Policy
- Staff Code of Conduct
- Student Positive Behaviour Policy
- External Speaker Policy

## **1.0 Freedom of Speech Policy Statement**

Freedom of speech and expression are an important part of Craven College life.

Craven College seeks to protect robustly civic and academic freedoms and to foster an academic culture of openness and inclusivity, in which members of our community engage in debate critically but courteously and remain open to both intellectual challenge and change.

The legal duty of UK College's to protect free speech is detailed in legislation, with specific requirements of the Education (No2) Act and the Higher Education (Freedom of Speech) Act 2023 placing duties on Governors of a Higher Education provider (and constituent institutions and students' unions) to i) secure freedom of speech; ii) maintain a code of practice; and iii) promote the importance of freedom of speech and academic freedom.

**Freedom of speech** means everyone can freely express lawful views and opinions, in speech or writing, without interference.

**Academic freedom** means protecting the intellectual independence of academics to question. The test received views and wisdom and put forward new ideas and controversial or unpopular opinions without placing themselves in danger of losing their jobs or privileges.

The right to freedom of expression is also subject to important limitations, for example to prevent unlawful discrimination, harassment or incitement to violence or hatred against other individuals or groups. It is against the law to discriminate against someone because of a protected characteristic. There are other laws such as privacy, libel and defamation which may restrict freedom of speech in certain circumstances.

In protecting the right to freedom of expression, the College recognises that its members may at times be confronted with views that some find unsettling, extreme or offensive. The College shall always aim, therefore, to

foster freedom of expression within a framework of robust civility, which welcomes evidence and challenge in an environment of respectful debate and peaceful exchange. The College will not allow this right to be abused for the purpose of hatred or bigotry.

This Freedom of Speech Policy and Code of Practice is part of a framework of principles and operational procedures for the management of issues relating to the exercise of the right to freedom of speech. It shall be brought to the attention of students and staff in inductions and trainings, and through annual reference in Student, Staff and Academic Handbooks.

Craven College is under no legal obligation to allow meetings to be held on College premises which are open to members of the public or made purely on a commercial basis, and therefore reserves the right to decline to accept a booking by a third party, or to cancel such a booking, particularly (but not exclusively) with reference to any major risks or issues related to such activity both on the grounds of health and safety and in the context of this Code.

### **1.1 Additional Legislation Requirements from the 1998 and 2023 Acts**

The Education (No 2) Act 1986 and the [Higher Education \(Freedom of Speech\) Act 2023](#) requires every individual and body of persons concerned in the government of any further education institution to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for students and employees of the institution and for visiting speakers.

There is also the requirement that, so far as is reasonably practicable, the use of College premises shall not be denied to any individual or body of persons on grounds connected with the beliefs or views of that individual or any member of that body, or with the policy and objectives of that body.

Every individual and body of persons concerned in the governance of the College is required to take such steps as are reasonably practicable, including where appropriate disciplinary measures, to ensure compliance with the Act and this policy.

Clear guidance is required to students, staff, governors and external agencies as to how the College manages freedom of speech as part of its Prevent Duty Guidance and in line with the Counter-Terrorism and Security Act 2015.

### **1.2 Code of Practice on Freedom of Speech**

Code of Practice issued under section 43 of the Education (No 2) Act 1986 the Higher Education (Freedom of Speech) Act 2023:

- This Code applies to all governors, students, and employees of the College, in respect of all College premises. Outdoor as well as indoor meetings and other events on College premises are included.
- An intentional or reckless breach of this Code of Practice is an offence under the policies of the College and may be the subject of disciplinary action.
- Where the acts of individuals involve alleged breaches of criminal law, the College will assist the prosecuting authorities in implementing the due process of law and any internal disciplinary proceedings may be deferred or suspended pending the outcome of criminal proceedings.

## **2.0 CRAVEN COLLEGE POLICY AND CODE OF PRACTICE**

Freedom of speech has fundamental importance for colleges as places of education, learning and the disinterested pursuit of truth. The College is also required under Article 11 of its Articles of Government to have regard to the need to ensure 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 at risk of losing their jobs or any privileges they may have at the College. Colleges have a responsibility, so far as is reasonably practicable, to protect and advance the principle of academic freedom.

Members, students and employees of the College must conduct themselves so as to ensure that freedom of speech within the law is secured for members, students, and employees of the College and for visiting speakers. The freedom protected by this Code of Practice is confined to the exercise of freedom of speech within the

law. The College believes that a culture of free, open and robust discussion can be achieved only if all concerned avoid needlessly offensive or provocative action and language.

This Policy and Code of Practice applies to events to which visiting speakers are invited and to the letting of College premises to external organisations.

## 2.1 Organisation of Meetings

- All meetings taking place on College premises are private unless the public is expressly invited to attend.
- Students and employees of the College have freedom of speech within the law, as do visiting speakers.
- Where meetings are organised by students, speakers should normally come from a club, society or organisation recognised by the College. Invitations should not be sent out by individual student/s without consultation with the Student Services Manager. The Student Services Manager must inform the Vice Principal – Curriculum and Quality of any invitation issued.
- Where meetings are organised by staff, speakers must come at the invitation of a department of the College, a trade union or of a member or members of staff individually. The member/s of staff must inform the Student Services Manager and the Vice Principal – Curriculum and Quality of any invitation issued.
- In the case of meetings organised by the College, speakers must come at the invitation of the Principal.
- Where a meeting is organised by more than one individual or a collective body, the organisers should appoint one person as the “Organiser” to simplify communication and liaison.
- The individual or the organiser must give the Student Services Manager 2 weeks’ written notice of the meeting to include:
  - Proposed date, time and place
  - The purpose / subject of the meeting
  - The name of the speaker
  - The organisation represented by the speaker (where relevant)
  - Whether the meeting is private or will be open to the public
- The Information is required at least 10 working days in advance (although the Student Services Manager may, at their discretion, agree to receive information closer to the time of the meeting than this). The Student Services Manager may cancel any meeting or event where the required information has not been provided ten working days in advance.
- The Student Services Manager will respond in writing within 5 working days of receiving the notice.
- Where permission is granted, the Student Services Manager may attach any conditions s/he considers necessary to meet the College’s legal obligations in order to protect freedom of speech, any other legal obligation or any other College requirements or rule e.g.:
  - Tickets must be issued if the meeting is open to the public
  - “Stewards” must be provided and the Student Services Manager must be satisfied as to their suitability
  - Specified members of College management or staff should attend
  - The admission or exclusion of representatives of the media
- Any conditions set by the Student Services Manager must be complied with by the Organiser / organisers.
- The Student Services Manager has discretion to consult with the police and, if then deemed appropriate, to attach further conditions.
- The Student Services Manager may, at their discretion, refuse permission for a meeting, or later withdraw permission previously given.
- The Student Services Manager will not seek to curtail or cancel a meeting or event unless in their considered opinion the meeting or event infringes on the legitimate rights and freedoms of others or poses a significant risk to health and safety or there is some other substantial and lawful ground for the curtailment or cancellation. S/he will consult as necessary with the Principal, and where necessary with the Director of Governance and police about forthcoming meetings and events. In any case where serious disruption may be anticipated which may not be effectively addressed by any conditions

specified, the Student Services Manager shall have power, having taken into consideration any advice received from the Director of Governance and / or police, to order or to advise the cancellation, postponement, or relocation of the meeting.

- The Organiser / organisers may appeal to the Principal against the whole or part of the Student Services Manager' decision within five days of receiving that decision. The Principal's ruling will be final and will be communicated to the Organiser / organisers within five days of receiving full details of the appeal.
- Where a meeting proceeds, the organisers are under a duty to see that nothing in their preparations for it, or their conduct of it, infringes the law.
- Any other member of the College or member of staff who has concerns about a prospective meeting or event should bring his or her concerns promptly to the attention of the Student Services Manager and they shall together take such reasonable steps as are warranted.
- It is the ongoing duty of any person involved in organising a meeting or other activity, and also the duty of any person responsible for processing the booking of rooms in the College, to inform the Student Services Manager as soon as there are reasonable grounds to believe that:
  1. The activity may be disrupted, for example, by reason of:
    - the status of the speaker; or
    - the nature of any of the subjects to be discussed; or
    - the views or beliefs (whether or not related to the activity) of any person attending; or
    - the coincidence of the activity with another activity
  2. The personal safety or property of any person attending may be at risk by reason of their involvement in the activity; or
  3. Intimidation, duress, or harassment might be applied to any person in an attempt to prevent their attending the activity; or
  4. The activity might be picketed.
- A record must be kept of all meetings approved, disallowed or cancelled and reported to the Vice Principal with supporting information (e.g. reason disallowed) on request and at the end of the academic year.

## **2.2 Conduct at meetings**

- It is the duty of every member, student, and employee of the College not to impede any person entitled to be present from entering or leaving a place where the right to freedom of speech is being or is to be exercised. This duty is subject only to such conditions as may have been specified in accordance with the terms of this Policy or any limitations imposed or directions given by the police or other relevant public authority.
- Nothing in this Code shall be taken to prohibit the exercise of the right to protest by peaceful means, provided always that such protest is conducted lawfully within the general principles and other requirements of this policy and code and other policies of the College.
- No articles or objects may be taken inside the building where a meeting is taking place, or taken or used elsewhere on College premises, in circumstances where the presence or use of those articles or objects is likely to lead to injury or damage.
- The responsibility for conducting a meeting rest with the appointed chairperson. This calls for a close liaison and consultation beforehand between the chairperson and the Organiser / organisers, especially if the Student Services Manager has attached any conditions to permission to use College premises.
- At the meeting, the chairperson has a duty to keep order and, so far as possible, to secure that both the speaker and the audience act in accordance with the law. The chairperson should issue warnings of unlawful conduct, such as when the use of violence is threatened or takes place, and where such conduct continues, should require the offenders to withdraw or be removed by the stewards. The chairperson may call upon the help of any College or external personnel whose presence the Student Services Manager has made a condition of holding the meeting.

- However, if the chairperson has made all reasonable efforts to keep order but the meeting goes or continues out of control, the chairperson must send a member of College staff present to seek help from the Duty Principal.
- The organisers and those in attendance at any meeting or event must comply with any reasonable instructions given during the course of a meeting or event by the Student Services Manager, by any other College officer or person authorised to act on behalf of the College in the proper discharge of his or her duties, or by police.
- College premises used for meetings must be left clean and tidy. In default, the organisers may be charged for any additional cleaning and for any repairs which are necessary. Payment in advance, or evidence of ability to pay, may be required before a meeting takes place.

### **2.3 External bookings / Lettings**

All bookings or lettings to external organisations must follow the guidance as set out in the College's Lettings Policy for External Organisations Policy which can be found on the Staff Intranet. A record must be kept and reported to the Vice Principal on request and at the end of the academic year.

### **2.4 Other legal requirements**

The College is mindful of its pro-active duties under equality legislation. The right to freedom of speech is constrained by laws protecting others from discrimination, victimisation and harassment, protecting national security and public safety, preventing of disorder or crime, protecting the reputation and rights of others, and preventing the disclosure of information received in confidence. Reference to such legislation and guidance can be found in Appendix one.

### **2.5 Sanctions and Complaints**

- Failure to observe the requirements of this policy or of any conditions laid down by the Principal or his / her authorised representative / Student Services Manager makes any student or member of staff concerned liable to disciplinary action by the College and, at the discretion of the College, to regard any booking of a room as void.
- If any actions involve breaches of the criminal or civil law, the College will assist the prosecuting authorities as appropriate.
- Where a breach of this Code of Practice takes place at a meeting or demonstration, steps will be taken by the College and/or the police to secure identification of the persons committing offences and for appropriate action to be taken against them.

#### **Complaints - Free speech complaints scheme**

Under the Freedom of Speech ACT 2023 Students, staff members and visiting speakers can use the Free Speech Complaints scheme, operated by the OfS. Individuals can complain to the OfS about either Craven College as a higher education provider or Students' Union if they have 'suffered adverse consequences due to actions or inactions about free speech duties.

### **2.6 Responsibilities and Compliance**

#### **Governing Board**

- The Governors have overall responsibility for the effective operation of this Policy and for ensuring compliance with relevant legislation.
- The Governors will take reasonably practicable steps to secure compliance with the Freedom of Speech Code, including, where appropriate disciplinary action.
- Governors will perform their statutory duties and ensure that the Freedom of Speech Code is shared with students' at least once a year.
- Periodically survey staff, students and other stakeholders to secure their views on whether freedom of speech and academic freedom at the institution are being adequately protected and consider the findings.
- Ensure that there are adequate and effective mechanisms to raise concerns about freedom of speech and academic freedom.
- When concerns are raised about freedom of speech and academic freedom, ensuring that, so far as is reasonably practicable, they are addressed, and any lessons to be learned are incorporated into a review of relevant policies, practices and procedures.

- Ensure all meetings for which the use of College premises is granted or withheld under this Policy will be reported to the Board of Governors.
- Ensure the Policy will be reviewed annually by the Principal. The Board of Governors will review the Policy at least every three years.

#### **Students' Union (HE) Responsibilities**

- It is the duty of Craven College Students Union to promote the importance of freedom of speech and academic freedom and, in doing so, to take 'reasonably practicable steps to promote freedom of speech' (Freedom of Speech Act 2023). This includes members of the students' union, staff and students and visiting speakers.
- It is the responsibility for the Students' Union to have a code of practice about freedom of speech and to share it with members at least once a year.

## **Appendix one**

### **Relevant legislation and sources of information**

Legislation in this area is characterised by three key themes:

Protection of the special status of Higher Education Institutions:

Education Act 1986

Education (No. 2) Act 1986

Education Reform Act 1988

Higher Education (Freedom of Speech) Act 2023.

Anti-discrimination legislation and proactive equalities legislation:

Human Rights Act 1998 (incorporating the European Convention on Human Rights)

Employment Equality (Sexual Orientation) Regulations 2003

Employment Equality (Religion or Belief) Regulations 2003

Race Relations Act 1976

Race Relations (Amendment) Act 2000

Sex Discrimination Act 1976

Disability Discrimination Act 1995, as amended

Equality Act 2010

Prevent Duty 2015

Counter Terrorism and Security Act (2015)

Racial and Religious Hatred Act 2006

Provisions that qualify rights:

Public Order Act 1986

Crime and Disorder Act 1998

Protection from Harassment Act 1997

<http://www.preventforfeandtraining.org.uk/lm-guidance-materials>

## Appendix two – Booking form

Staff Name:		Department:	
Number of students attending:			
Number of external visitors attending:			
Age of Attendees: <i>(select all that apply)</i>	16-18 <input type="checkbox"/>	19+ <input type="checkbox"/>	
Staff Member Taking Responsibility for the Event:			
Name of Guest Speaker(s) and the organisation they are representing:			
Address of Organisation:			
Telephone Number:		Email:	
Is there any known or likely media interest in the proposed event?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
If yes, please detail:			
Background checks – are there any matters that require further investigation / action? Supply brief discussion.			
<b>Source</b>	<b>Agreed</b>		
<b>Website Checked</b>			
<b>Printed Literature Checked</b>			
<b>Resources to be Presented</b>			
<b>Google Search Completed</b>			
<b>Other Colleges Recommended</b>			
<b>Other Checks, Please State:</b>			
What topic or event will the Speaker be holding:			
How will learners benefit:			
Date of Event:	Room of Event:		
Start Time:	End Time:		
Authorised signature	Date		