

Magdalene College, Cambridge
Code of Practice on Freedom of Speech

1. INTRODUCTION

- 1.1. Magdalene College ('the College') is fully committed to the principle, and to the promotion, of freedom of speech.
- 1.2. This Code of Practice sets out the College's commitment to freedom of speech, outlines the various legislative frameworks under which such freedoms must be upheld and may be circumscribed, and summarises the procedures used by the College to manage these issues.

2. SCOPE

- 2.1. This Code of Practice applies to:
 - 2.1.1. all Fellows, members, staff and students of the College; and
 - 2.1.2. visiting speakers and all other persons invited or otherwise lawfully participating in College activities on College premises.
- 2.2. For the avoidance of doubt, this Code of Practice does not apply to purely commercial meetings or events on College premises. Nor does it apply to purely social, artistic or sporting events at which the only speeches which might be made are formal in character.
- 2.3. References in this Code of Practice to 'College premises' means those premises over which the College exercises control, whether indoor or outdoor.
- 2.4. The University of Cambridge and its associated Cambridge Students' Union both have their own duty to secure freedom of speech within the law and each has issued its own Code of Practice on this topic.
- 2.5. The activities of the Middle Combination Room ('MCR') and Junior Combination Room ('JCR') of the College are subject to this Code of Practice, and adherence of the MCR and the JCR to the Code is monitored by the College.
- 2.6. This Code does not affect the provisions of the College Rules regarding the display in windows of flags, posters and similar items.

3. KEY CONCEPTS AND LEGISLATIVE FRAMEWORK

- 3.1. Freedom of speech means the freedom, within the law, to receive and impart ideas, opinions or information by means of speech, writing or images (including in electronic form) without interference.
- 3.2. Academic freedom, in relation to academic staff at the College, means their freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without loss of their jobs or privileges at the College, or the likelihood of their securing promotion or different jobs/roles at the College being reduced.
- 3.3. These concepts are underpinned by the Human Rights Act 1998, which gives effect to the European Convention on Human Rights in national law. Article 10 of the Convention articulates freedom of expression as a human right and sets out the limited circumstances in which that right might be circumscribed (such as to protect public safety, for the prevention of disorder or crime, or for the protection of the reputation or rights of others). These concepts also exist within other UK legislation. Universities and similar institutions in England (including the College) have duties under the Higher Education and Research Act 2017 (as amended by the Higher Education (Freedom of Speech) Act 2023) to take such steps as are reasonably practicable to secure and promote freedom of speech and academic freedom within the law for staff and students and for visiting speakers.
- 3.4. Section 26 of the Counter-terrorism and Security Act 2015 places a duty on certain bodies, including higher education institutions such as the College, in the exercise of their functions to

have 'due regard to the need to prevent people from being drawn into terrorism'. This necessitates the establishment of protocols and procedures by which to assess the risks associated with meetings or events that are College-hosted, affiliated, funded, or branded. This Act also requires the College to have particular regard to its other duties with regard to academic freedom and freedom of speech. Debate, discussion, and critical enquiry are, in themselves, powerful tools in preventing people from being drawn into terrorism.

- 3.5. Under the Equality Act 2010, Fellows, staff and students must not be subjected to unlawful discrimination, harassment, intimidation or threats of violence on the grounds of race, sex, age, religion or philosophical belief, sexual orientation, disability, gender reassignment, marriage and civil partnership, or pregnancy or maternity. However, the provisions of the Equality Act 2010 are not to be interpreted to undermine freedom of speech and academic freedom. As a result, students' learning experience and the working environment of Fellows and staff may include exposure to research, course material, discussion or speakers' views that they find offensive, contentious or unacceptable, but are nonetheless within the law, and unlikely to be considered unlawful harassment or discrimination under the Equality Act 2010.
- 3.6. There are other legislative requirements that may be relevant in particular cases, such as offences under the Terrorism Acts if speech encourages terrorism, or amounts to the incitement of religious or racial hatred or hatred on the grounds of sexual orientation under the Public Order Acts, as well as statutory requirements relating to the holding of processions and assemblies. The college is not under any obligation to secure or promote freedom of speech that contravenes any legislative requirements.

4. VALUES

- 4.1. The College's core values are 'freedom of thought and expression' and 'freedom from discrimination' and it encourages its Fellows, staff, students and visitors to engage in robust, challenging, evidence-based and civil debates as a core part of academic enquiry and wider College activity, even if they find the viewpoints expressed to be disagreeable, unwelcome or distasteful. These values extend to the MCR and the JCR. The steps the College takes to embed its values in practice are set out in section 5 below.
- 4.2. The College fosters an environment in which all of its Fellows, staff and students can participate fully in College life, and feel able to question and test received wisdom, and to express new ideas and controversial or unpopular opinions within the law, without fear of intolerance or discrimination. In exercising their right to freedom of speech, the College expects its Fellows, staff, students and visitors to be tolerant of the differing opinions of others, in line with the College's core values of freedom of expression. The College also expects its Fellows, staff, students and visitors to be tolerant of the diverse identities of others, in line with the College's core value of freedom from discrimination. While debate and discussion may be robust and challenging, all speakers have a right to be heard when exercising their right to free speech within the law. Neither speakers nor listeners should have reasonable grounds to feel censored or intimidated.
- 4.3. The College will ensure that Fellows and staff are able to exercise freedom of thought and expression within the law without placing themselves at risk of losing their job, Fellowship or other supernumerary position, or any College privileges they have, nor affecting the likelihood of their securing other jobs or roles in the College. The College expects all Fellows, staff and students to engage with intellectual and ideological challenges in a constructive, questioning and peaceable way. The right of Fellows, staff and students to freedom of assembly, and to protest against certain viewpoints, should not obstruct the ability of others to exercise their lawful freedom of speech.

5. STEPS THE COLLEGE TAKES TO ENSURE FREEDOM OF SPEECH AND ACADEMIC FREEDOM

- 5.1. The College will ensure that its teaching, curriculum design, programmes of events (of the College, the MCR and JCR), policies and procedures reflect its duties to ensure, so far as is reasonably practicable, freedom of speech and academic freedom within the law and the very high level of protection for the lawful expression of viewpoints and for speech in an academic context, including but not limited to:
 - 5.1.1.its processes for programme development and approval, quality assurance and academic assessment;
 - 5.1.2.its processes for admission, appointment, reappointment and promotion;
 - 5.1.3.its policies relating to equality, diversity and inclusion (including the public sector equality duty) and the Prevent duty;
 - 5.1.4.its processes for facilitating research; and
 - 5.1.5.its codes of conduct and other behaviour policies, which will ensure no individual will be subjected to disciplinary sanction or other less favourable treatment by or on behalf of the College because of the lawful exercise of freedom of speech or academic freedom.
- 5.2. The College does not enter into non-disclosure agreements relating to complaints about any form of sexual misconduct (including sexual abuse and sexual harassment), bullying or harassment, where the agreement purports to any extent to prevent a Fellow, member of staff, student or visiting speaker from publishing or disclosing information (to any person) about a complaint relating to such behaviour.
- 5.3. The College will develop processes to identify and manage any risks to freedom of speech or academic freedom arising from the terms of certain overseas funding, including funding from endowments, gifts, donations, research grants and contracts, and educational or commercial partnerships.
- 5.4. The College will:
 - 5.4.1.ensure that this Code of Practice is brought to the attention of new students at registration and new Fellows and staff during induction;
 - 5.4.2.draw the attention of Fellows, students and staff to this Code of Practice annually, and ensure that it is referred to in other College documentation as appropriate;
 - 5.4.3.ensure that all relevant Fellows and staff are aware of this Code of Practice and, where necessary for them to carry out their College role receive appropriate training on freedom of speech and academic freedom;
 - 5.4.4.ensure that all relevant decision-makers, in making any decision or adopting any policy that could directly or indirectly (and positively or negatively) affect freedom of speech, act compatibly with the College's free speech duties as they apply in the relevant circumstances;
 - 5.4.5.periodically seek feedback from Fellows, staff, students and other stakeholders to secure their views on whether freedom of speech and academic freedom at the College are being adequately protected and take the responses into account;
 - 5.4.6.ensure that there are adequate measures in place to raise concerns about freedom of speech and academic freedom;
 - 5.4.7.ensure that when new policies and procedures are introduced consideration is given to their impact on freedom of speech and academic freedom;
 - 5.4.8.ensure that it has appropriate processes for the holding of events and meetings as set out in section 6 below;
 - 5.4.9.monitor any concerns that have been raised about freedom of speech and academic freedom to ensure that they are addressed so far as is reasonably practicable and to address any lessons learned and draw the attention of complainants to its processes for investigating complaints and the Office for Students ('OfS') complaint scheme as set out in section 7; and

- 5.4.10. take steps to secure compliance with this Code of Practice, including where appropriate taking disciplinary action.
- 5.5. The MCR and JCR are to report on their compliance with this Code of Practice in writing for the December, April and July meetings of the Governing Body.

6. COLLEGE AND MCR/JCR EVENTS AND MEETINGS – PROCEDURES AND CONDUCT OF ATTENDEES

- 6.1. Active speaker programmes are an important part of the academic and other activities of the College. Fellows, staff and students are encouraged to invite a wide range of speakers and to engage critically but courteously with them, including as set out at paragraph 6.6 of this Code. This Code of Practice provides the only mechanism by which the College can cancel or impose conditions on College and MCR/JCR meetings or events where this action is deemed necessary as a result of the event's subject matter and/or speaker(s). This is to ensure that the use of College premises is not inappropriately denied to any individual or body of persons on any ground connected with their beliefs or views or the policy or objectives of a body (with the exception of proscribed groups or organisations) of which they are a member. However, all speakers should anticipate that their views might be subject to robust debate, critique and challenge.
- 6.2. The starting point should always be that the event should go ahead, and that cancellation is exceptional and undesirable. Depending on the circumstances, it may however be reasonable to refuse permission for a College meeting or event where the College reasonably believes (from the nature of the speakers or from similar activities in the past whether held at the College or otherwise) that:
- 6.2.1.the views likely to be expressed by any speaker are contrary to the law;
 - 6.2.2.the speaker is likely to incite breaches of the law or to intend breaches of the peace to occur;
 - 6.2.3.the meeting will not permit contrary or opposing viewpoints to be held or expressed;
 - 6.2.4.the speaker and/or the organisation they represent advocates or engages in violence in the furtherance of their political, religious, philosophical or other beliefs;
 - 6.2.5.the views likely to be expressed by any speaker are for the promotion of any illegal organisation or purpose, including organisations listed on the government's list of proscribed terrorist groups or organisations; or
 - 6.2.6.it is in the interest of public safety, the prevention of disorder or crime, the proper functioning of the College or the protection of those persons lawfully on College premises, that the meeting does not take place.
- 6.3. The lawful expression of controversial or unpopular views will not in itself constitute reasonable grounds for withholding permission for a College or MCR/JCR meeting or event.
- 6.4. Where the College is reasonably satisfied that the otherwise lawful expression of views at an event or meeting on College premises is likely to give rise to disorder or threats to the safety of participants or the wider College community, the College shall consider what steps it is necessary to take to ensure the safety of all persons and the security of College premises. These may include, but are not limited to: requirements as to the provision of security/stewards, the speaker being part of a panel, ensuring that a member of staff is in attendance, or that the event or meeting should take place in alternative premises, at a later date, or in a different format. The College may impose such conditions and requirements upon the organisers as are reasonably necessary in all the circumstances, ensuring that the conditions and requirements go no further than is necessary to address the risks it has identified. The College will only pass on the costs of security for using the premises to those arranging the relevant event or meeting in exceptional circumstances, this being where the costs of security are over £200, or where the visiting speaker could reasonably be expected to have their own security because of the political or state office they hold. Any request to pay

security costs will not be influenced to any degree by the ideas or opinions of any individual involved in organising the event or meeting, or by the policy or objectives of, or the views of any of the members of, any body involved in organising the event or meeting.

- 6.5. These narrow exceptions to the general principles of freedom of speech are not intended ever to apply in a way that is inconsistent with the College's commitment to the completely free and open discussion of ideas.
- 6.6. Those attending events and meetings at the College are expected to conduct themselves in a manner consistent with the following principles:
 - 6.6.1. everyone has the right to free speech within the law.
 - 6.6.2. the aim of events at the College is to expose Fellows, staff and students to the widest possible range of views, within the law.
 - 6.6.3. protest is itself a legitimate expression of freedom of speech but protestors should recognise the rights of others participating in the event or meeting, and in particular not violate the rights of others to speak during the event. Protest must not shut down debate.
- 6.7. Where any person or body to whom this Code of Practice applies is seeking to hold a College, MCR or JCR event or meeting on College premises which is outside the normal academic curriculum the processes in the Annex shall be followed, except where the event or meeting falls within one of the exceptions in para. 2.2, above.

7. BREACHES AND COMPLAINTS

- 7.1. The procedure for dealing with the grant or refusal of permission for a meeting is set out in the Annex. Where the College receives a concern about the exercise of academic freedom or freedom of speech or where it has received a concern about a possible infringement or departure(s) from the values and procedures set out in this Code of Practice, it will consider which of its procedures are most appropriate to consider the concern, making such enquiries and seeking such information as it considers necessary.
- 7.2. The OfS operates a free speech complaints scheme. Under that scheme, the OfS can review complaints about free speech from members, students, staff, applicants for academic posts and (actual or invited) visiting speakers. Information about the complaints that the OfS can review will be available on its website from August 2024.

8. MONITORING AND REVIEW

- 8.1. The Governing Body will annually review the contents and operation of this Code of Practice and report on its operation.
- 8.2. The point of contact for any query about this Code of Practice and its Annex is the Dean, Alistair Mills (am716@cam.ac.uk).

July 2024

Annex: Processes for meetings and events on College premises

- A1. This Annex is issued under paragraph 6.7 of the College's Code of Practice on Freedom of Speech, which reads: 'Where any person or body to whom this Code of Practice applies is seeking to hold a College, MCR or JCR event or meeting on College premises which is outside the normal academic curriculum the processes in the Annex shall be followed, except where the event or meeting except where the event or meeting falls within one of the exceptions in para. 2.2, above'.
- A2. Any meeting or event on College premises to which this Annex applies should have at least one organiser who is responsible for the meeting or event and is a Fellow, member of staff or student of the College. If a meeting is proposed without such an organiser, it may proceed only on condition that a Fellow, member of staff or student of the College is identified or nominated as the organiser responsible for the meeting or event.
- A3. Permission is required for all meetings taking place in College premises, whether indoors or outdoors. Permission is to be sought from the Assistant Bursar who will apply the Code of Practice on Freedom of Speech. Permission must be sought not less than seven working days before the proposed meeting or event.
- A4. The starting point of any event is that it should go ahead and that cancellation is exceptional and undesirable. It is anticipated that, in the vast majority of cases, the Assistant Bursar will straightforwardly consider the request as part of normal business. Conditions may be agreed between the organisers and the Assistant Bursar. The Assistant Bursar may seek advice in relation to their functions from the Dean.
- A5. However, in the exceptional circumstances that the Assistant Bursar considers that the holding of the meeting or event might reasonably be refused on any of the grounds set out at paragraph 6.2 of the Code of Practice on Freedom of Speech, or where they consider that conditions are required to which the organisers do not agree, the matter must be referred to the Senior Tutor, Senior Bursar, and Dean ('the Referral Group'). A referral is made by the Assistant Bursar to the Dean. Only the Referral Group may refuse permission in this way and on the bases in paragraph 6.2 of the Code of Practice. The request should be forwarded to the Referral Group with a statement of the concerns. This referral should be made at least five working days in advance of the proposed meeting or event. Where a matter is referred to the Referral Group, those seeking permission for the meeting may make representations to the Group by email to the Dean not later than three working days in advance of the proposed meeting or event. The Referral Group will, in consultation as necessary, determine whether the meeting or event can go ahead as originally planned, or should be subject to reasonable conditions such as those set out in paragraph 6.4 of the Code of Practice on Freedom of Speech. Only in exceptional circumstances, when there are risks which cannot be mitigated or the event organiser refuses to meet any conditions imposed, will permission be withheld. If permission is withheld, reasons must be given in writing.
- A6. Any decision by the Referral Group that a meeting or event should not take place, or may only take place subject to conditions, is binding and takes precedence over any other decision which may have been taken by any other body or officer in the College. A person dissatisfied with a decision of the Referral Group may make a complaint under para. A10.
- A7. In cases of urgency, where it has not been practicable to comply with the time periods above, an application may be made directly to the Referral Group, by email to the Dean. Such an

email should include all reasons why the event should be permitted, and address potential objections to it, bearing in mind the factors listed in para. 6.2 of the Code of Practice, above.

- A8. Once approved, the organisers of meetings and events must comply with any conditions set by the College. Such conditions may include the requirement that tickets should be issued, that an adequate number of stewards or security staff should be available, that the Head Porter should be consulted and his/her advice taken about the arrangements, and that the time and/or place of the meeting should be changed. The cost of meeting the conditions, apart from security costs, and the responsibility for fulfilling them, rests with the organisers. Security costs will be borne by the College other than in exceptional circumstances, as set out in para. 6.4 of the Code of Practice, above.
- A9. Questions about the process for applying for permission should be addressed to the Dean, Alistair Mills (am716@cam.ac.uk).
- A10. As set out in para. 7.1 of the Code of Practice, above, where a concern regarding freedom of speech is received, the College will determine which of its procedures is appropriate for dealing with that concern. Formal complaints relating to freedom of speech will be determined by the Master sitting with two Fellows. In case of a refusal of permission, the Master will permit the Fellow, member of staff, student or visiting speaker to respond to the reasons given by the Referral Group (as defined in the Annex). In case of a grant of permission, the Master will request reasons from the decision-maker, and permit the complainant to respond to those reasons. The Fellow, member of staff, or student organising the meeting and the visiting speaker may respond to the complaint. If a person is required to attend a meeting as part of a formal investigation, they are entitled to be accompanied by a friend or advisor.