



Minimum requirements for staff and student behaviour

To ensure English HEPs' compliance with their free speech obligations

1. English Universities and other Higher Education Providers (“HEPs”) must have in place an appropriate level of core prohibitions and associated disciplinary procedures and sanctions in order to secure compliance with both the letter and spirit of their legal obligations under the **Education (No.2) Act 1986**, their Public Sector Equality Duty under the **Equality Act 2010** and their own statements, codes and requirements relating to the protection of free speech (“**Relevant Requirements**”). This is a statement of what we believe are the minimum set of requirements necessary to ensure that HEPs comply with their obligations to secure free speech. Which will apply in any particular case will depend on all the circumstances.

Prohibited conduct

2. The following actions by academics and other staff and students (“**Participants**”) should be prohibited. Taking or doing such actions by a Participant should be a potential disciplinary matter.
 - 2.1 Issuing, sending or sharing extreme personal vituperation (as defined in paragraphs 3 and 4 below) against or about a Participant, or a visiting speaker to the HEP or its premises (“**Visiting Speaker**”) in connection with statements made or beliefs or opinions held or expressed by any such person (within the law).
 - 2.2 Organising or joining or participating in a campaign or concerted course of action (an online mobbing is for these purposes deemed to be a campaign and a concerted course of action) involving extreme personal vituperation against or about any other Participant or a Visiting Speaker in connection with statements made or beliefs or opinions held or expressed by any such person (within the law).
 - 2.3 Taking any deliberate action or course of action which is, or is likely to be, materially detrimental to the interests of a Participant or a Visiting Speaker in connection with statements made or beliefs or opinions held or expressed by any such person (within the law). This includes making malicious or vexatious or knowingly false allegations against a person, calling for their sacking, suspension

or disciplining, and regarding and treating their work less favourably as a consequence of those statements, beliefs or opinions.

- 2.4 Threatening, intimidating or harassing a Participant or a Visiting Speaker in connection with statements made or beliefs or opinions held or expressed by any such person (within the law). (Peaceful protests (i.e. protests not themselves including threats or intimidation or other illegality) and which take place on or close to HEP premises should not be regarded as harassment for these purposes. A similar protest held elsewhere (e.g. at the homes of Participants or Visiting Speakers) should be.)
 - 2.5 Without reasonable excuse, taking action intended to prevent a meeting, event or other activity from happening at the HEP (or any of its constituent institutions or SU), or elsewhere, or render such a meeting or activity impossible or impracticable or more difficult or expensive to organise or publicise than meetings or activities of that sort would usually be, because of the statements made or beliefs or opinions held or expressed (within the law) of any persons organising or intended to participate in such meetings or activities.¹
 - 2.6 Pressurising the HEP's staff to do anything which could contravene the Relevant Requirements, such as indicate that it regards the content of or materials about an event as "harmful" or "hateful", or not share information about an event or events in an inappropriate and/or discriminatory way.
 - 2.7 Taking steps to prevent or hinder, or exert inappropriate pressure on others to prevent or hinder, viewpoints being expressed, events held or the like.
 - 2.8 Failing, in a material respect and without reasonable excuse, to comply with the HEP's FS Requirements, so far as they relate to a Participant or a Visiting Speaker.
 - 2.9 In connection with, or in consequence of dislike of or opposition to the statements or beliefs or opinions held or expressed by another person, doing anything which is illegal.
 - 2.10 Doing any of the above things, anywhere or at any time, in respect of any of the family, friends, colleagues and associates of any Participant or Visiting Speaker.
3. When used in relation to the prohibited conduct described above, "*extreme personal vituperation*" means attacks (whether verbal or online or in writing) on a person, and/or their character or attributes, which are substantially more abusive than a reasonable

¹ Prohibited actions will include: knowingly making misrepresentations or exaggerated claims of the likely negative consequences of holding the meeting, event or activity, for instance making claims of likely violent protest which are not supported by real and credible evidence; acting on such misrepresentations or exaggerated claims in the knowledge that they are misrepresentations or exaggerated; and threatening violent protest or other adverse consequences in connection with the holding or the meeting, event or activity.

person (acting reasonable) would make in the context of the opinions in connection with which the attacks are being made, and includes:

- 3.1 making materially false and damaging statements about and allegations against the relevant person;
 - 3.2 threats and intimidation, whether of violence or of any action or course of action which is or is likely to be materially detrimental to the interests of the relevant person; and
 - 3.3 calling for sanctions or other material adverse consequences for that person.
4. For the avoidance of doubt, *“extreme personal vituperation”* does not include statements of disagreement with or challenge or argument against such statements or beliefs or opinions, even if strongly expressed, as long as it is not expressed in a way to include actual or implied extreme personal vituperation. People can, of course, have strong disagreements with other people’s opinions which they want to express in strong terms, and this can extend to expressing negative opinions about people who hold such opinions. While HEPs might wish to discourage Participants from abusing other people, free speech considerations also apply to such expressions or disagreement, provided that they do not otherwise fall within the scope of the above prohibitions.

Appropriate sanctions

5. Increasingly serious sanctions should apply depending on the seriousness and/or repetition of prohibited conduct.
6. Depending on the facts, sanctions could range from written warnings (e.g. for first or less serious offences), to compulsory free speech training (where appropriate and thought to be potentially beneficial), to temporary suspension from attendance or work at HEPs, and, ultimately, to expulsion, exclusion or dismissal in the case of very serious or repeated instances of prohibited conduct.
7. It may be appropriate for differing sanctions to apply depending on whether the perpetrator is academic or other staff, or a student.
8. Extreme personal vituperation, or organising or joining a campaign or concerted course of action involving extreme personal vituperation, under a pseudonym (i.e. under a name or in a way which means it is not reasonably easy to identify or find out the identity of the relevant person who has taken these actions) should be regarded as an aggravating factor in identifying appropriate sanctions.
9. The same principle should potentially apply in cases involving prohibited conduct in respect of a person who has opinions which are or should be treated as “protected characteristics” under the Equality Act.

10. Prohibited conduct on the part of academic or other staff against or in respect of a student should be viewed as a very serious aggravating factor in identifying appropriate sanctions, especially organising a campaign or concerted course of action against a student.

Best Free Speech Practice

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