



Cheshire College
South & West

Freedom of Expression Policy

| Key Information | |
|---|---|
| Policy Reference Number | CCSW - FOE |
| ELT Post Responsible for Update and Monitoring | Vice Principal - Innovation, Curriculum and Quality |
| Published on Website | Yes |
| Date approved by ELT | 08 June 2021 |
| Date Approved by Governor's Committee (if applicable) | 24 June 2021 |
| Date of EIA Review | Click or tap to enter a date. |
| Date of Next Policy Review | 01 July 2024 |

1. **Aim**

- 1.1 The aim of this policy is to clarify the College's responsibility to foster Freedom of Expression in an educational setting within the boundaries of the law and the protections it provides and with consideration of our core values.
- 1.2 It is written with reference to the Guidance provided by the Equality and Human Rights Commission on The Legal Framework for Freedom of Expression ([link](#)).
- 1.3 It is also linked to the statutory Prevent duty within the Counter Terrorism and Security Act 2015 ([link](#)).

2. **Objectives**

- 2.1 To clarify the College's responsibility to promote freedom of expression.
- 2.2 To identify the circumstances under which freedom of expression may be legitimately restricted.
- 2.3 To outline the College's responsibilities regarding visiting speakers, including lettings of any part of the College's estate.

3. **Responsibility to Promote Freedom of Expression**

- 3.1 Section 43 of the Education (*No 2*) Act 1986 places a positive duty on universities and colleges to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, learners and employees of the establishment and for visiting speakers.
- 3.2 Freedom of expression is a fundamental right protected under the Human Rights Act 1998 and by Article 10 of the European Convention on Human Rights. It is also protected under common law.
- 3.3 Protection under Article 10 extends to the expression of views that may shock, disturb or offend the deeply held beliefs of others.
- 3.4 Freedom of expression is protected more strongly in some contexts than others. In particular, a wide degree of tolerance is accorded to political speech and debate during election campaigns. (*See Appendix 1 for more detail about Elections and Referendums*).
- 3.5 The College is expected to allow open debate of challenging ideas which may need to use controversial resources. Controversial resources including any controversial materials should not be left unchallenged by the member of staff using them.
- 3.6 The College has a duty to promote fundamental British Values. These are:
 - 3.6.1 democracy;
 - 3.6.2 the rule of law;
 - 3.6.3 individual liberty;
 - 3.6.4 mutual respect; and
 - 3.6.5 tolerance of those of different faiths and beliefs.
- 3.7 These principles are mirrored in the College values which underpin the ethos of the College and these are to:
 - 3.7.1 act with honesty, integrity and trust;
 - 3.7.2 take time to listen, help and care;
 - 3.7.3 commit to equality of opportunity;
 - 3.7.4 value and celebrate diversity;
 - 3.7.5 empower individuals and nurture talent;
 - 3.7.6 strive for exceptional quality and success;

- 3.7.7 instil a strong work ethic and drive to succeed;
- 3.7.8 take responsibility;
- 3.7.9 work together; and
- 3.7.10 make a positive contribution to society.

4. **Legitimate Restriction on the Freedom of Expression**

- 4.1 Freedom of expression may be limited in some circumstances and does not protect statements that unlawfully discriminate against or harass or incite violence or hatred against other persons and groups, particularly by reference to their race, religious belief, gender or sexual orientation.
- 4.2 No one can rely on the human right to freedom of expression to limit or undermine the human rights of others.
- 4.3 The College as an institution operating in the public sector has duties which require it to have due regard to the need to promote good relations between different communities protected by equality legislation. This may require active challenge to the use of offensive communication and hate speech.
- 4.4 The College also has a duty under the Counter Terrorism and Security Act 2015, to participate fully in work to prevent people from being drawn into terrorism.
- 4.5 Although there is no universally accepted definition, hate speech is generally understood to describe forms of expression which incite violence, hatred or discrimination against other persons and groups, particularly by reference to their ethnicity, religious belief, gender or sexual orientation, language, national origin or immigration status.
- 4.6 It is not always easy to draw the boundary between expressing intolerant or offensive views (*which are afforded protection under Article 10*) and hate speech or other very offensive communication so serious that it is not so protected. Factors likely to be relevant in making the distinction will include the intention of the person making the statement, the context in which they make it, the intended audience, and the particular words and form of communication.
- 4.7 The College is a secular, educational establishment, regulated by Ofsted and subject to legislation and statutory guidance on matters such as safeguarding children and advancing equality of opportunity. The College reserves the right to monitor any activity or use of its premises, to ensure that it supports the ethos of the College.

5. **Visiting Speakers and Lettings**

- 5.1 The Prevent duties identified in the Counter Terrorism and Security Act 2015, require that the College has oversight of the content of any speeches or presentations by visiting speakers.
- 5.2 Organisers of a visiting speaker presentation should carry out a risk assessment using the **Guidelines and Checklist** (*Appendix 2*) which will include any concerns regarding content of presentations.
- 5.3 The risk assessment must be approved by the organiser's line manager.
- 5.4 If the risk assessment raises concerns, the organiser or their line manager should pass the risk assessment to the Personal Development Manager for further scrutiny.
- 5.5 These controls will also be applied to use of the College's premises by outside organisations.
- 5.6 While challenging and controversial content can be permitted, the College is responsible for ensuring that such views are challenged during a presentation. This may necessitate the presence of a member of College's staff at any such presentation even if this is externally organised as a premises letting.
- 5.7 The College is entitled to refuse a request to lease its premises for any use which does not match the College's core values.

Appendix I

Elections and Referendums

It is important to state at the outset that there is a particularly high level of legal protection for freedom of expression during election periods. Any interference with this right must be exceptional and subject to the strict limitations set out in human rights law. The law permits people to say things that offend others during election periods and at other times. It is entirely proper that there should be vigorous debates about controversial matters, and this is particularly important during elections periods.

However, it is also important to note that the right to freedom of expression does not justify incitement to racial or religious violence or hatred, or other unlawful conduct. The right to freedom of expression cannot be at the expense of the rights and freedoms of others.

Equality and Human Rights Law during an Election Period – Equality and Human Rights Commission.

Free elections and freedom of expression, particularly freedom of political debate, together form the bedrock of any democratic system... The two rights are interrelated and operate to reinforce each other... For this reason, it is particularly important in the period preceding an election that opinions and information of all kinds are permitted to circulate freely.

Bowman v UK (1998) the European Court of Human Rights.

1. Cheshire College South and West has a duty to promote Fundamental British Values.
2. The College tutorial programme includes democracy as a theme which is linked to the dates of elections where these are known sufficiently in advance. Activities are likely to include encouragement of voter registration by learners, hustings style meetings and mock elections.
3. The College may invite official candidates for the College's Local Government Ward or Parliamentary Constituency to participate in events. This invitation will not be extended to political parties who are not represented in the relevant election.
4. The College is conscious of the potential for leafleting (*to help inform its own mock elections and participation in the local or national elections*) from Political Parties, pressure groups or individuals to cause litter and other problems and so will present copies of literature from official candidates in a controlled central display. Any materials brought into College and left around, or fly posted will be removed. Political leaflets may be used as teaching resources. In this case the suitability will be at the professional judgement of the member of staff concerned. The member of staff concerned should also vet the suitability of any learner generated materials for display.
5. In the case of national or local referendums, the College will facilitate debates between representatives of the opposing views in the referendum and will display official literature on the referendum question, as well as providing this to tutors and lecturers to use as appropriate in their teaching.
6. The College promotes elections of course representatives, learner executive members and learner and staff governors.
7. Any questions about the suitability of printed material for the College setting should be addressed to the Personal Development Manager.

Appendix 2

Guidelines and Checklist for Visiting Speakers and Organisations

The Prevent Duty identified in the Counter Terrorism and Security Act 2015, requires that the College has oversight of the content of any speeches or presentations by visiting speakers.

These controls will also be applied to any lettings of the College's premises to outside organisations.

While challenging and controversial content can be permitted, the college is responsible for ensuring that such views are challenged during a presentation. This may necessitate the presence of a member of College's staff at any such presentation even if this is externally organised.

The College is entitled to refuse a request to lease its premises for any use which does not match the College's core values.

About the Event

| | | |
|-----------------------------|---|--|
| Date and Time | : | |
| Staff Member & Organiser | : | |
| Location | : | |
| Audience | : | |
| Speaker(s) | : | |
| Topic of Presentation/Event | : | |
| Organisation | : | |
| Address of Organisation | : | |

Checklist

| Risk | Completed? | | Detail | Action Taken (By Whom and by When) |
|---|------------|----|--------|---------------------------------------|
| | Yes | No | | |
| I have researched the speaker/or they are known to me | Yes | No | | |
| I have considered the benefits that the speaker/organisation will bring to the learners and the college | Yes | No | | |
| I have considered the potential risks e.g., controversy, disruption, inappropriate subject matter | Yes | No | | |

Authorisation

| | | | | | |
|--------------|---|--|-----------|---|--|
| Line Manager | : | | Signature | : | |
|--------------|---|--|-----------|---|--|

Escalation

If this risk assessment raises concerns, the organiser or their line manager should pass it to the Personal Development Manager / Safeguarding, Behaviour and Welfare Manager for further scrutiny.

I approve the event: Personal Development Manager / Safeguarding, Behaviour and Welfare Manager

| | | | | | |
|------|---|--|-----------|---|--|
| Name | : | | Signature | : | |
|------|---|--|-----------|---|--|

This signed risk assessment must be sent to HR once it has been completed and authorised.