Universities UK

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Preparing for the Higher Education (Freedom of Speech) Act

Case studies

Contents

Introduction	2
King's College London: event risk assessment	3
University College London: 'Disagreeing Well' campaign	5
University of Birmingham: student training	7
University of Nottingham: freedom of speech and academic freedom statement	8
University of Sheffield: raising awareness of freedom of speech	10
University of Surrey: governance arrangements and review of policies and processes	12

Introduction

This document includes case studies from our members on what they are doing to promote freedom of speech and academic freedom, and to prepare for their new duties as a result of the Higher Education (Freedom of Speech) Act.

King's College London: event risk assessment

What happened?

In May 2023, King's College London received a speaker event booking request from the KCL Hindu Society, a student society affiliated to King's College London Students' Union (KCLSU).

The event was titled 'An Interactive Event on Hinduphobia and promoting religious equality in Academia' and the invited speaker was Rajiv Malhotra, a prominent Indian-born American author and cultural commentator. Mr Malhotra's writing and public speaking is contentious for some given their association of his views with the Hindutva ideology and his criticisms of the approaches of Western academia to research and teaching of India's history and Hindu theology. The emergence of the Hindutva ideology to greater public consciousness in the UK has been cited by some commentators as a contributary factor in recent Muslim/Hindu community tensions.

How did King's College London respond?

In advance of the event, concerns about the appropriateness of the event relating to a perceived fear of religious discrimination and hatred were raised within the student community.

Given the background circumstances, King's followed institutional processes for assessing proposed external speaker events categorised as potentially posing a higher risk.

King's considered the likely lawfulness of the speaker's content and the event's security needs and concluded that the event could take place with proportionate mitigations attached. These included:

- the use of individual ticketing with attendee ID checks;
- the presence of a university Duty Dean nearby the event venue to coordinate with security and the event organisers in the event of security or lawfulness concerns;
- a senior member of staff at KCLSU attending;
- a security plan with pre-briefing for the event organiser of their responsibilities;

- the event chair being a Society member who had completed the training for chairing high-risk events.

What was the outcome?

The event went ahead in June 2023 as planned with a high attendance and no disruption either before or during the event. The university received feedback from one of the event organisers that they were pleased the event could take place at King's and were impressed with the thoroughness and fairness of the university's approvals process. Having followed its processes carefully, King's was able to successfully uphold its statutory duty and institutional commitment to securing freedom of speech.

University College London: 'Disagreeing Well' campaign

What is the 'Disagreeing Well' campaign?

The 'Disagreeing Well' campaign is being launched externally by University College London (UCL) this autumn with the aim of addressing universities' continued role as a forum for open discourse in an increasingly polarised world. UK universities have increasingly become a focal point for political and media criticism – they have become the subject of debate rather than a forum for it. This includes around 'culture wars' and 'cancel culture' in particular. UCL therefore identified a need to demonstrate universities' continued role as forums for open discourse to redress this balance, and hope the campaign will help achieve that.

The campaign launched internally in June and aims to better equip the university community and the public to disagree well through the ability to listen with an open mind and a willingness to genuinely consider alternative viewpoints. Campaign activity is focusing on the way people disagree rather than the issues on which they disagree.

How was the 'Disagreeing Well' campaign developed?

UCL President and Provost, Dr Michael Spence, has been engaging with this topic over recent years and partaken in numerous engagements to further the discussion, including participating in an APPG panel which discussed the importance of both academic freedom and freedom of speech ahead of legislation changes. UCL has also been proactive in communicating and consulting with its internal community, engaging colleagues early in the development of the 'Disagreeing Well' campaign to ensure that everyone's voice is represented. Collaboration has been critical, and the campaign delivery group consists of colleagues from across UCL, including representation from Equality, Diversity and Inclusion (EDI), Student Union, External Engagement teams, and liaison with a Disagreeing Well Academic Panel, ensuring a cross-disciplinary approach to the work.

What are the intended outputs of the campaign?

The campaign's internal launch event showed there is strong interest from the university community in the topic, with almost 500 attendees in-person and online.

The university is hosting an external event series and podcast series in 2023-2024 and releasing a digital toolkit, aimed at the public as well as the university community, which covers different topics from disagreeing well across generations, to politics, to online behaviour. The university has been promoting the campaign over the summer through internal events, articles, an upcoming op-ed and continued parliamentary engagement, such as 'Disagreeing Well' events at the 2023 party conferences.

University of Birmingham: student training

The University of Birmingham is a large and highly diverse university, with over 38,000 students from more than 150 countries with many different backgrounds and identities. This breadth of student population brings a diversity of experiences, viewpoints and ideas that are an asset to an open and intellectually challenging academic community. Freedom of speech plays a key role in supporting this.

What is the University of Birmingham's approach?

While the university is confident that it already has robust approaches in place to secure freedom of speech, it has been considering what more it can do to promote and encourage freedom of speech. During this academic year the university will be piloting a new online course for all students which is designed to help students understand the importance of freedom of speech as a concept and demonstrate that is vital to the role of universities as it enables ideas, concepts and viewpoints to be explored, tested, and challenged. As well as introducing students to the relevant legislation, including the 2023 Act, the course will provide examples relevant to campus life to help students understand how the legal concepts apply in practice. The training will also explain the interaction of freedom of speech with other legislation, including the occasions where it may be lawful to limit free speech, such as inciting hatred.

What is the intended outcome of this approach?

The university also wants to help students to develop their skills in civil discourse - to engage well with those who hold different views, to articulate their own views concisely, and to have the ability to listen respectfully to others despite disagreement. The course will therefore also feature a mini-video series called ‘The Wisdom of Disagreeing Well’, where leaders from different backgrounds share their personal experiences and tips on engaging in conversations about topics that might be sensitive. These videos will aim to inspire students to develop their abilities and confidence in exploring different perspectives on important issues and exercising their freedom of speech as a skill for life.

University of Nottingham: freedom of speech and academic freedom statement

What is the University of Nottingham's approach?

In December 2020, The University of Nottingham established a working group chaired by its Registrar, Dr Paul Greatrix, to review the university's approach to freedom of speech. This included consideration of the university's current position and the drafting of a new university statement on free speech which provides an appropriate framework ahead of the new legislation coming into force.

The university had an existing Code which aimed to meet the duties set out in Section 43 of the Education (No. 2) Act 1986 and the Prevent duty. The group brought in other considerations, including the Human Rights Act 1998, the university's dignity policy as well as the formal guarantee of academic freedom which is enshrined in university statutes.

The group met throughout the first half of 2021 and developed a new statement on free speech and academic freedom. The statement was adopted by the university following a wide internal consultation with staff and students and ultimate approval by the Senate.

What is the intended outcome of this approach?

The statement sets out the University of Nottingham's commitment to actively promote freedom of speech and allow for robust and civil debate within the law. The statement is intended to protect the freedom of speech of staff and students from those external to the university community who seek to interfere with it. It also stresses the importance of helping students learn through debate and exposure to new ideas, while providing a supportive environment and infrastructure for them to support their wellbeing.

Academic freedom is also core to the statement and the statement stresses that controversial ideas should be subject to questioning and challenged by evidence and reason.

The statement also includes the assertion that the university is not a public square. This means that the university is a stronghold of free speech, but it is not open to all comers, stressing that the university is not obliged to provide a platform to those with no relevant expertise or who promote views at odds with objective facts.

The university's policies continue to be designed to ensure that debates about controversial ideas are peaceful and civil and take place within the law, and that participants in these debates are not made to feel intimidated or censored.

It is expected that the statement will be a living document which will be reviewed periodically and as it is stress-tested in operation. The first review started in summer 2023, in response to the passing of the new legislation. It is not intended to cover every case which will arise, but it is hoped that it provides a strong starting point for addressing many free speech issues including the more challenging situations which may occur.

University of Sheffield: raising awareness of freedom of speech

What is the University of Sheffield's approach?

The University of Sheffield has initiated a series of workstreams to raise awareness of freedom of speech and the requirements of the Higher Education (Freedom of Speech) Act 2023 as well as preparing for its implementation.

While the Bill was progressing through parliament, a workshop facilitated by an external lawyer was held for senior leaders, including:

- an overview of the current legal and regulatory landscape
- how this would change when the Bill was enacted
- and an opportunity to discuss plans for its implementation internally

This was followed by a further session with Heads of academic departments across the university and professional services leads, led by the same legal expert, to consider appropriate institutional responses to real life case studies that must take into account issues of freedom of speech and academic freedom.

These workshops provided an invaluable opportunity for key stakeholders to understand the context in which education, research and innovation would be delivered going forward and where there were opportunities to respond, areas of challenge and staff developmental needs. As a result, a freedom of speech coordination group was established to oversee three main areas of institutional activity - engagement with academic staff, reviewing internal policies and procedures and staff communications.

Conversations about key principles for the application of freedom of speech in a learning and teaching context have been held with all of the university's Faculty Education Committees, led by the Vice-President for Education and a Faculty Director of Education. The university Secretary is undertaking a review of internal policies and procedures that must take freedom of speech and academic freedom into account. Training on freedom of speech is also being developed for the University's Equality, Diversity and Inclusion Committees. Briefings have been produced to keep staff informed of progress.

What is the intended outcome of this approach?

This instigation of multiple and simultaneous workstreams, taken forward by senior leaders, is helping to ensure that the university takes a proactive approach towards the promotion and application of freedom of speech across the institution and the requirements of the Act.

University of Surrey: governance arrangements and review of policies and processes

What is the University of Surrey's approach?

The University of Surrey has taken steps to ensure that the university is well positioned ahead of the Act's implementation. The university regards being compliant with the new law as being of paramount importance, but beyond this wants to ensure that freedom of speech and academic freedom is embedded in the institutional culture.

Questions about academic freedom were raised during a consultation exercise on the university's new appraisal process for academic staff. In asking staff to meet performance criteria to improve the opportunities for underrepresented student groups to access, succeed and progress, it was questioned whether this was putting academic freedom at risk.

In line with the university's governance arrangements, the university's Senate determined that the changes in performance criteria could reasonably be reconciled with commitments in the university's access and participation plan and other valued-led activities that academic staff may be asked to undertake.

What is the intended outcome of this approach?

The lessons learnt from this discussion were:

1. By listening carefully to concerns being expressed and being willing to make modifications to ensure academic freedom and freedom of speech were not put at risk, the university managed to facilitate 'disagreeing well', which is a vital ingredient to building an open and tolerant intellectual culture.

2. The discussion demonstrated that academic freedom concerns can legitimately be raised across many different aspects of the university eg HR policies, training programmes and appraisal or promotion processes.

In view of the risk to academic freedom that was identified, the university decided to create a formal committee of Senate with a remit of protecting academic freedom. This committee will meet during the 2023-24 academic year, providing an outlet for

staff members to refer concerns about academic freedom (as an alternative to lodging formal HR grievances, which must also remain an avenue of redress depending on the character of the concern being raised).

The Provost of the university, Tim Dunne, is also chairing a task and finish group that brings together all the key portfolios impacted by the Higher Education (Freedom of Speech) Act. This includes strong representation from the students' union as the CEO, President and Vice-President (Student Voice) are members. This collaboration with the students' union is critical to Surrey's commitment to protect freedom of speech as events involving speakers need to be effectively co-managed. Working closely with the sabbatical officers, the university aims to jointly draft a code of conduct so that all staff and students involved in events understand the university and students' union's responsibility to protect freedom of speech and academic freedom.

The work undertaken by the task and finish group includes:

- reviewing statements on freedom of speech and academic freedom that appear in the university's founding documents, to make sure that they clearly articulate the rights and duties the university must uphold
- modifying the existing code of practice on freedom of speech
- reviewing key HR documents to ensure freedom of speech and academic freedom are given due prominence
- reviewing educational documents including training courses and advisory documents in relation to inclusive education
- reflecting on what should be included in any new partnership arrangements with overseas universities and commercial entities.

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