



south essex college

Freedom of Expression Policy

**Student Experience
2020-22**

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Freedom of Expression Policy

1. Aim

- 1.1 The aim of this policy is to clarify our 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. It is written with reference to the Guidance provided by the Equality and Human Rights Commission on The Legal Framework for Freedom of Expression¹. It is also linked to the statutory Prevent duty within the Counter Terrorism and Security Act 2015².

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 external lettings.

3. Responsibility to Promote Freedom of Expression

- 3.1 Section 43 of the Education (No 2) Act 1986³, places a positive duty on universities and colleges to take such steps as are reasonably practicable to ensure that freedom of expression within the law is secured for members, students and employees of the establishment and for visiting speakers.
- 3.2 Freedom of expression is a fundamental right protected under the Human Rights Act 1998⁴ and by Article 10 of the European Convention on Human Rights. It is also protected under the 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 As a College we are expected to allow open debating of challenging ideas which may need to use controversial resources. 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 Values⁵. These are:
 - democracy
 - the rule of law
 - individual liberty
 - mutual respect

¹ <http://www.equalityhumanrights.com/publication/freedom-expression-legal-framework>.

² <http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted>

³ <http://www.legislation.gov.uk/ukpga/1986/61/section/43>

⁴ <http://www.legislation.gov.uk/ukpga/1998/42/contents>

⁵ <https://www.gov.uk/government/publications/prevent-duty-guidance/revised-prevent-duty-guidance-for-england-and-wales>

- tolerance of those of different faiths and beliefs

4. Legitimate Restriction on the Freedom of Expression

- 4.1 Freedom of expression may be limited in some circumstances and in particular 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 a public body, has duties which require us to have due regard to the need to promote good relations between different communities protected by equality law. 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 South Essex College of Further and Higher Education is an educational establishment, regulated by Ofsted and the Office For Students, and is subject to legislation and statutory guidance on matters such as safeguarding children and advancing equality of opportunity. South Essex College reserves the right to monitor any activity associated with College or using 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 will complete a staff Guest Speaker Request form which will include any concerns re content of presentations.
- 5.3 The Guest Speaker Request must be supported by the organiser's line manager, and where the visiting speaker is presenting at the College for the first time, approved by the Head of Safeguarding.
- 5.4 The Head of Safeguarding will undertake due diligence on the speaker through open source checks and any queries or concerns can be

raised to the Local Authority or the Police for further advice and guidance.

- 5.5 If the request raises concerns or covers a controversial topic, the Head of Safeguarding, the organiser or their line manager can refer to the Senior Management Team, and where appropriate external agencies, for further scrutiny and or approval
- 5.6 In the case of presentations organised by students, speakers are to be invited in by the Student Union. Invitations will not be sent by a student or students individually without prior consultation with the Student Union or the Enrichment Team. As above a student Guest Speaker Request form must be completed.
- 5.7 These controls will also be applied to any lettings of our premises by outside organisations.
- 5.8 In all cases the approved procedure for engaging guest speakers or accepting bookings for lettings from external organisations will be followed and managed by the Estates Officer in liaison with the Head of Safeguarding.
- 5.9 Where permission is granted for a guest speaker, meeting or letting, the Head of Safeguarding and Senior Leadership Team may attach any conditions considered necessary for the fulfilment of the College's legal obligations to protect and secure freedom of expression and/or any other legal obligation and/or to fulfil any other College requirement or rule
- 5.10 These conditions may include a requirement that tickets must be issued where a meeting is to be open to the public (including identification of the press or other media representatives) or that an adequate number of stewards must be provided by the organisers and that the Senior Leadership Team must be satisfied concerning their suitability or that members of the College security staff must be present to help in keeping in order or that a member of the College's staff, appointed by the Senior Leadership Team, must be there as a 'controlling officer'. There may also be conditions as to the admission or exclusion of representatives of the media and, if allowed to attend, regarding their conduct e.g. taking photographs, quoting statements/speeches made.
- 5.11 While challenging and controversial content can be allowed, the College is responsible for ensuring that such views are challenged during a presentation. This may necessitate the presence of a member of College staff at any such presentation even if this is externally organised as a premises letting.
- 5.12 The College is entitled to refuse a request to lease its premises for any use which does not match our core values.
- 5.13 The College may at their discretion refuse permission for a meeting, speaker or letting or may withdraw permission already given.

- 5.14 If a Guest Speaker, meeting or letting is not approved, the organiser, can appeal with further evidence on the event to the Assistant Principal Student Experience. Within five days the Senior Leadership Team will review the decision and their ruling will be final being communicated to the organiser within the 5 day time frame.
- 5.15 Failure to observe the requirements of this Code or of any conditions laid down by the Principal and Chief Executive 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.
- 5.16 If any actions involve breaches of the criminal or civil law, the College will assist the police or prosecuting authorities as appropriate.

Linked policies and procedures:

- Safeguarding Policy and Procedures
 - Appendix: Prevent Procedure: Detecting and preventing radicalisation and extremism
- Behaviour Improvement Policy and Procedures
- Equal and Diversity Policy
- Staff Code of Professional Conduct
- Staff Disciplinary Policy
- Prevent Strategy, Risk Assessment & Action Plan
- E-Safety Policy
- Whistleblowing Policy and Procedures
- Code of Ethics
- Learner Voice Strategy

Appendix 1 – Elections and Referendums

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

“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.”

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

“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.”

- A. South Essex College has a duty to promote fundamental British values such as democracy as identified in section 3.6 above. Activities organized by the Enrichment Team and/or Student Union are linked to national and regional theme weeks including local, national or European elections where these are known sufficiently in advance. Activities may include encouragement of voter registration by students, hustings style meetings and mock elections.
- B. The College will make every effort to invite official candidates for the College’s Local Government wards, Parliamentary constituencies or European Parliamentary Constituency to participate in events where appropriate. This invitation will not be extended to political parties who are not represented in the relevant election.
- C. The College is conscious of the potential for leafleting 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, to help inform its own mock elections and participation in the local, national or European elections. 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 left to the professional

judgement of the member of staff concerned. They should also vet the suitability of any student generated materials for display.

- D. 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.
- E. Any questions about the suitability of printed material for the College setting should be addressed to the Senior Management Team.

Appendix 2: Guest Speaker Request Form

<p>This form is to be used for all requests by staff for external/guest speakers. Each request will be considered by the College under our Freedom of Expression Policy. Completed forms to be forwarded to the Head of Safeguarding or Assistant Principal Student Experience. Forms must be submitted at least 4 working weeks before the date of the planned event.</p>			
ORGANISER			
Name		Department	
Email Address		Extn	
SPEAKER (one form required for each speaker)			
SPEAKER'S NAME (please print clearly):			
Contact details: (email/Phone)			
ORGANISATION SPEAKER REPRESENTS (Please print clearly):			
Has the speaker spoken at South Essex College before (circle as appropriate) If yes, please give most recent dates		YES (give dates)	NO
As far as you are aware, has the speaker ever been refused permission to speak at South Essex College or any other educational establishment (circle as appropriate) If yes, please give details		YES (give dates)	NO
DETAILS OF THE EVENT			
If the speaker is being invited in on a number of occasions during the course of an academic year, please provide the dates of each event (if necessary continue on a separate sheet)			
Location (Campus and Room)			
OVERVIEW OF THE EVENT			
Title/Topic (please describe the event, including the subject matter of the event, the format (e.g. lecture, debate, questions and answers), the name of any person who will chair the event, the language the event will be conducted in)			
Title Topic:			
Format:			
Chairperson (if applicable):			
Other details:			
Is the event for a particular student group or open to all students? If for a particular	Student Group(s)		

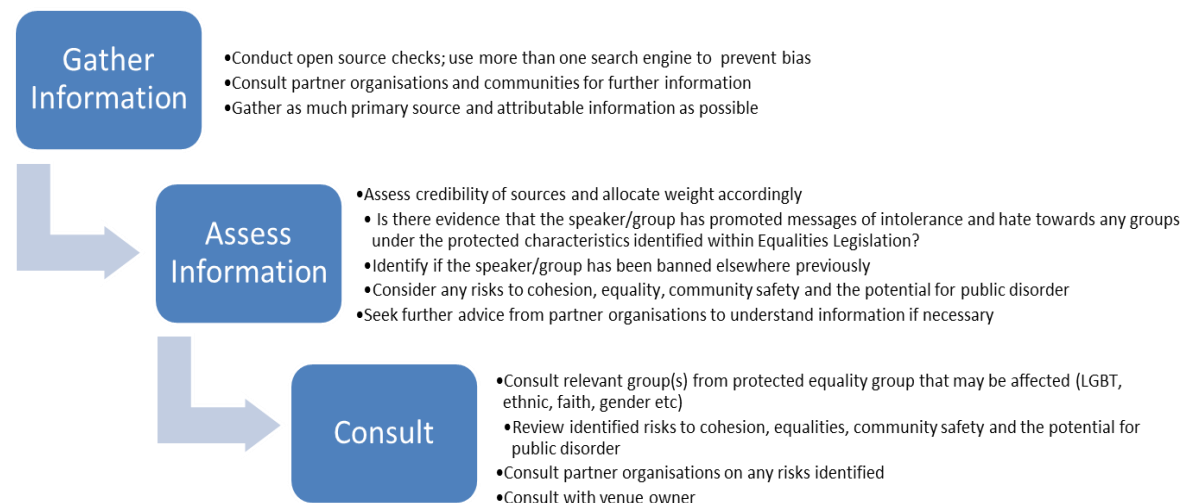
group please give the title of the course(s) of students. If an open event, please provide a copy of any advertising materials with this form			
Will any literature, publications or other materials (e.g. CDs/DVDs) be distributed or available to attendees? If yes please provide a copy of any such literature, publications or other materials	YES (Please provide details)		NO
THREAT OF DISRUPTION			
Do you have any reasons to believe that the event would be disrupted?	YES	NO	<i>We will not refuse permission on the grounds that the speaker may be considered controversial, but we do need to consider what measures may be necessary to protect the speaker's freedom of expression and the safety of those attending and the wider College community.</i>
Are you or anyone else involved in organising the event aware of any reason why any part of the student body or the wider community would take issue with the speaker and potentially protest?	YES	NO	
Organiser's Signature:			Date:
Please print name:			
Head of Department Signature:			Date:
Please print name:			
APPROVAL			
Request to be reviewed by the Head of Safeguarding or the Vice Principal Student Experience			
Signature			
Date			
Name & Title			
Request Approved/Not Approved (delete as appropriate).			
Reasons for Non Approval:			

Appendix 3: Guidance on Due Diligence Checks

Consider:

- What does the individual, group or organisation want to say within the school?
- Does the activity appear to promote extremist ideological, political or religious belief?
- Does the activity or organisation appear to breach the Equality Act 2010 duty, either by discriminating against individuals with protected characteristics or by not complying with the public duty.

Checks would include looking at more than one internet search engine, discussion with local community groups and when necessary discussion with partner agencies



The Terrorism Act 2000 makes it a criminal offence to:

- belong, or profess to belong, to a proscribed organisation
(Section 11 of the Act);
- invite support for a proscribed organisation (and the support is not, or is not restricted to the provision of money or other property) (section 12(1));

To check to see if an agency is listed on the government proscribed list please check:

<https://www.gov.uk/government/publications/proscribed-terror-groups-or-organisations--2>

If an individual, group or organisation is or has a history of speaking in favour of racism, religious hatred, sexism, homophobia, anti-democracy (this list is not exhaustive), then allowing them to use the school's facilities to promote any of these views would almost certainly be in breach of policy.

Once you have enough information the Head of Safeguarding & Senior Leadership Team will have to balance the evidence (use a pros and cons list) and make a decision on the evidence as to whether the activity promotes extremist ideological, political or religious belief and/or breaches the Equality Act 2010.

Policy Details

Senior Leadership Responsibility	Assistant Principal Student Experience
Policy Author	Jane Belcher
Role	Head of Safeguarding
Date of original version	September 2015
Roles Responsible for Reviewing	Assistant Principal Student Experience Head of Safeguarding
Issue date of current version	March 2020
Date to be reviewed	July 2022