

# Freedom of Speech Policy and Code of Practice

Formal Review Cycle:	<b>Annual</b>		
Latest Formal Review (month/year):	<b>2018-06</b>	Next Formal Review Due (month/year):	<b>2019-06</b>
Policy Owner:	<b>Principal</b>		
Impact Assessed by:	RAB	Impact Assessment Date:	2018-06-12

**APPROVAL REQUIRED:**

SMT Y/N	<b>Y</b>	SMT Date approved:	<b>2018-06</b>		
Governor Y/N	<b>Y</b>	Committee:	<b>Compliance</b>	Governor Date approved:	<b>2018-07-11</b>

**PUBLICATION:**

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## **Policy description:**

This policy is Craven College's response to the requirement of the Education (No 2) Act 1986 (the "Act") that the governing body of further education institutions should issue a code of practice setting out the procedures to be followed by students and employees of the establishment in connection with the organisation of meetings and other activities which are to be held on College premises, and the conduct required of such persons in connection with any such meeting or activity.

The requirements of this policy apply to all staff of the College, all students registered at the College and the Governors of the College.

## **Supporting documentation:**

- College Charter
- Risk Assessment

## **Links to other policies:**

- Bullying and Harassment Policy
- Community Cohesion Strategy
- Lettings Policy for External Organisations
- Prevent Strategy and Action Plan
- Single Equality Scheme
- Social and Electronic Media Policy
- Staff Disciplinary and Dismissal Procedure
- Student Disciplinary Policy
- Visitor Policy and Guidelines

## **1.0 CONTEXT**

This policy is Craven College's response to the requirement of the Education (No 2) Act 1986 (the "Act") that the governing body of further education institutions should issue a code of practice setting out the procedures to be followed by students and employees of the establishment in connection with the organisation of meetings and other activities which are to be held on College premises and the conduct required of such persons in connection with any such meeting or activity.

Craven College recognises and affirms its commitment to freedom of speech and expression within the law. The College must however take account of its other legal obligations beyond those imposed by the Act. For example, a speaker who incites violence, racial hatred or breach of the peace would be acting contrary to public order legislation and would therefore not be regarded as lawful within the remit of this policy. Speakers must respect the rights and freedom of others as protected by the law and must not, for example, make statements that are actionable for defamation.

### **1.1 Additional Requirements of the Act**

- The Education (No 2) Act 1986 (the "Act") requires every individual and body of persons concerned in the government of any further education institution to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for students and employees of the institution and for visiting speakers.
- There is also the requirement that, so far as is reasonably practicable, the use of College premises shall not be denied to any individual or body of persons on grounds connected with the beliefs or views of that individual or any member of that body, or with the policy and objectives of that body.
- Every individual and body of persons concerned in the governance of the College is required to take such steps as are reasonably practicable, including where appropriate disciplinary measures, to ensure compliance with the Act and this policy.
- Clear guidance is required to students, staff, governors and external agencies as to how the College manages freedom of speech as part of its Prevent Duty Guidance and in line with the Counter-Terrorism and Security Act 2015.

## 1.2 Code of Practice on Freedom of Speech

Code of Practice issued under section 43 of the Education (No 2) Act 1986:

- This Code applies to all governors, students, and employees of the College, in respect of all College premises. Outdoor as well as indoor meetings and other events on College premises are included.
- An intentional or reckless breach of this Code of Practice is an offence under the policies of the College and may be the subject of disciplinary action.
- Where the acts of individuals involve alleged breaches of criminal law, the College will assist the prosecuting authorities in implementing the due process of law and any internal disciplinary proceedings may be deferred or suspended pending the outcome of criminal proceedings.

## 2.0 CRAVEN COLLEGE POLICY AND CODE OF PRACTICE

Freedom of speech has fundamental importance for colleges as places of education, learning and the disinterested pursuit of truth. The College is also required under Article 11 of its Articles of Government to have regard to the need to ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions without placing themselves at risk of losing their jobs or any privileges they may have at the College. Colleges have a responsibility, so far as is reasonably practicable, to protect and advance the principle of academic freedom.

Members, students and employees of the College must conduct themselves so as to ensure that freedom of speech within the law is secured for members, students, and employees of the College and for visiting speakers. The freedom protected by this Code of Practice is confined to the exercise of freedom of speech within the law. The College believes that a culture of free, open and robust discussion can be achieved only if all concerned avoid needlessly offensive or provocative action and language.

This Policy and Code of Practice applies to events to which visiting speakers are invited and to the letting of College premises to external organisations.

### 2.1 Organisation of Meetings

- All meetings taking place on College premises are private unless the public is expressly invited to attend.
- Students and employees of the College have freedom of speech within the law, as do visiting speakers.
- Where meetings are organised by students, speakers should normally come from a club, society or organisation recognised by the College. Invitations should not be sent out by individual student/s without consultation with the Student Services Manager. The Student Services Manager must inform the Vice Principal – Curriculum and Quality of any invitation issued.
- Where meetings are organised by staff, speakers must come at the invitation of a department of the College, a trade union or of a member or members of staff individually. The member/s of staff must inform the Student Services Manager and the Vice Principal – Curriculum and Quality of any invitation issued.
- In the case of meetings organised by the College, speakers must come at the invitation of the Principal.
- Where a meeting is organised by more than one individual or a collective body, the organisers should appoint one person as the "Organiser" to simplify communication and liaison.
- The individual or the Organiser must give the Student Services Manager 2 weeks' written notice of the meeting to include:
  - Proposed date, time and place
  - The purpose / subject of the meeting
  - The name of the speaker
  - The organisation represented by the speaker (where relevant)
  - Whether the meeting is private or will be open to the public

- The Information is required at least 10 working days in advance (although the Student Services Manager may, at their discretion, agree to receive information closer to the time of the meeting than this). The Student Services Manager may cancel any meeting or event where the required information has not been provided ten working days in advance.
- The Student Services Manager will respond in writing within 5 working days of receiving the notice.
- Where permission is granted, the Student Services Manager may attach any conditions s/he considers necessary to meet the College's legal obligations in order to protect freedom of speech, any other legal obligation or any other College requirements or rule eg:
  - Tickets must be issued if the meeting is open to the public
  - "Stewards" must be provided and the Student Services Manager must be satisfied as to their suitability
  - Specified members of College management or staff should attend
  - The admission or exclusion of representatives of the media
- Any conditions set by the Student Services Manager must be complied with by the Organiser / organisers.
- The Student Services Manager has discretion to consult with the police and, if then deemed appropriate, to attach further conditions.
- The Student Services Manager may, at their discretion, refuse permission for a meeting, or later withdraw permission previously given.
- The Student Services Manager will not seek to curtail or cancel a meeting or event unless in their considered opinion the meeting or event infringes on the legitimate rights and freedoms of others or poses a significant risk to health and safety or there is some other substantial and lawful ground for the curtailment or cancellation. S/he will consult as necessary with the Principal, and where necessary with the Director of Governance and police about forthcoming meetings and events. In any case where serious disruption may be anticipated which may not be effectively addressed by any conditions specified, the Student Services Manager shall have power, having taken into consideration any advice received from the Director of Governance and / or police, to order or to advise the cancellation, postponement, or relocation of the meeting.
- The Organiser / organisers may appeal to the Principal against the whole or part of the Student Services Manager' decision within five days of receiving that decision. The Principal's ruling will be final and will be communicated to the Organiser / organisers within five days of receiving full details of the appeal.
- Where a meeting proceeds, the organisers are under a duty to see that nothing in their preparations for it, or their conduct of it, infringes the law.
- Any other member of the College or member of staff who has concerns about a prospective meeting or event should bring his or her concerns promptly to the attention of the Student Services Manager and they shall together take such reasonable steps as are warranted.
- It is the ongoing duty of any person involved in organising a meeting or other activity, and also the duty of any person responsible for processing the booking of rooms in the College, to inform the Student Services Manager as soon as there are reasonable grounds to believe that:
  1. The activity may be disrupted, for example, by reason of:
    - the status of the speaker; or
    - the nature of any of the subjects to be discussed; or
    - the views or beliefs (whether or not related to the activity) of any person attending; or
    - the coincidence of the activity with another activity
  2. The personal safety or property of any person attending may be at risk by reason of their involvement in the activity; or
  3. Intimidation, duress, or harassment might be applied to any person in an attempt to prevent their attending the activity; or
  4. The activity might be picketed.
- A record must be kept of all meetings approved, disallowed or cancelled and reported to the Vice Principal with supporting information (eg reason disallowed) on request and at the end of the academic year.

## 2.2 Conduct at meetings

- It is the duty of every member, student, and employee of the College not to impede any person entitled to be present from entering or leaving a place where the right to freedom of speech is being or is to be exercised. This duty is subject only to such conditions as may have been specified in accordance with the terms of this Policy or any limitations imposed or directions given by the police or other relevant public authority.
- Nothing in this Code shall be taken to prohibit the exercise of the right to protest by peaceful means, provided always that such protest is conducted lawfully within the general principles and other requirements of this policy and code and other policies of the College.
- No articles or objects may be taken inside the building where a meeting is taking place, or taken or used elsewhere on College premises, in circumstances where the presence or use of those articles or objects is likely to lead to injury or damage.
- The responsibility for conducting a meeting rests with the appointed chairperson. This calls for a close liaison and consultation beforehand between the chairperson and the Organiser / organisers, especially if the Student Services Manager has attached any conditions to permission to use College premises.
- At the meeting, the chairperson has a duty to keep order and, so far as possible, to secure that both the speaker and the audience act in accordance with the law. The chairperson should issue warnings of unlawful conduct, such as when the use of violence is threatened or takes place, and where such conduct continues, should require the offenders to withdraw or be removed by the stewards. The chairperson may call upon the help of any College or external personnel whose presence the Student Services Manager has made a condition of holding the meeting.
- However, if the chairperson has made all reasonable efforts to keep order but the meeting goes or continues out of control, the chairperson must send a member of College staff present to seek help from the Duty Principal.
- The organisers and those in attendance at any meeting or event must comply with any reasonable instructions given during the course of a meeting or event by the Student Services Manager, by any other College officer or person authorised to act on behalf of the College in the proper discharge of his or her duties, or by police.
- College premises used for meetings must be left clean and tidy. In default, the organisers may be charged for any additional cleaning and for any repairs which are necessary. Payment in advance, or evidence of ability to pay, may be required before a meeting takes place.

## 2.3 External bookings / Lettings

All bookings or lettings to external organisations must follow the guidance as set out in the College's Lettings Policy for External Organisations Policy which can be found on the Staff Intranet. A record must be kept and reported to the Vice Principal on request and at the end of the academic year.

## 2.4 Other legal requirements

The College is mindful of its pro-active duties under equality legislation. The right to freedom of speech is constrained by laws protecting others from discrimination, victimisation and harassment, protecting national security and public safety, preventing of disorder or crime, protecting the reputation and rights of others, and preventing the disclosure of information received in confidence. Reference to such legislation and guidance can be found in Appendix one.

## 2.5 Sanctions

- Failure to observe the requirements of this policy or of any conditions laid down by the Principal or his / her authorised representative / Student Services Manager 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.
- If any actions involve breaches of the criminal or civil law, the College will assist the prosecuting authorities as appropriate.

- Where a breach of this Code of Practice takes place at a meeting or demonstration, steps will be taken by the College and/or the police to secure identification of the persons committing offences and for appropriate action to be taken against them.

## **2.6 Conclusion**

- All meetings for which the use of College premises is granted or withheld under this Policy will be reported to the Board of Governors.
- The Policy will be reviewed annually by the Principal. The Board of Governors will review the Policy at least every three years.

## Appendix one

### Relevant legislation and sources of information

Legislation in this area is characterised by three key themes:

Protection of the special status of Higher Education Institutions:

Education Act 1986

Education (No. 2) Act 1986

Education Reform Act 1988

Anti-discrimination legislation and proactive equalities legislation:

Human Rights Act 1998 (incorporating the European Convention on Human Rights)

Employment Equality (Sexual Orientation) Regulations 2003

Employment Equality (Religion or Belief) Regulations 2003

Race Relations Act 1976

Race Relations (Amendment) Act 2000

Sex Discrimination Act 1976

Disability Discrimination Act 1995, as amended

Equality Act 2006

Equality Act 2010

Prevent Duty 2015

Racial and Religious Hatred Act 2006

Provisions that qualify rights:

Public Order Act 1986

Crime and Disorder Act 1998

Protection from Harassment Act 1997

<http://www.preventforfeandtraining.org.uk/lm-guidance-materials>