

Code of Practice on Freedom of Speech and Expression

Version No	Purpose/Change	Lead	Review Date
1.0	Introduction of policy	SDE	Jul 22

1. Introduction

- 1.1 Wilberforce College recognises and endorses that freedom of speech [and expression] within the law has fundamental importance for institutions as places of education, learning and the disinterested pursuit of truth. In particular, institutions are obliged under section 43 of the Education (No.2) Act 1986 to take reasonable measures to protect freedom of lawful speech.
- 1.2 In addition, a principle of freedom of lawful expression is enshrined in Article 10 of the European Convention on Human Rights.
- 1.3 Wilberforce College is also required under Article 15 of the Instruments and 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 Wilberforce College. Institutions have a responsibility, so far as is reasonably practicable, to protect and advance the principle of academic freedom.
- 1.4 This Code of Practice sets out the rights and obligations inherent within the principles of freedom of speech and expression and academic freedom and the Code shall be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law.
- 1.5 The Code of Practice covers freedom of speech [and expression] in whatever form that may take including (but not limited to) speeches, debates, meetings, demonstrations, written publications and through the use of social media.
- 1.6 The Code's rights and obligations shall apply to:
- 1.6.1 Wilberforce College, including members of the Governing Body;
 - 1.6.2 all persons (whether academic staff or otherwise) working for Wilberforce College [whether for payment or otherwise];
 - 1.6.3 all duly enrolled students of Wilberforce College (whether full or part-time);
 - 1.6.4 all students studying with Wilberforce College (whether full or part-time) under an agreement with a partner organisation of Wilberforce College (e.g. a college or school) even if not enrolled as students at Wilberforce College;
 - 1.6.5 all persons invited to speak and/or express views (whether in person or otherwise including through the use of social media) and/or otherwise take part in activities which take place on or are planned or proposed or due to

take place on Wilberforce College's premises or through its ICT systems in accordance with the provisions of section 3 of this Code. Activities will be risk assessed in line with the College's general responsibility in accordance with the Prevent Duty Guidance.

1.7 References in the Code to "Wilberforce College's premises" and/or "Wilberforce College's facilities" include premises and/or facilities which are owned by Wilberforce College, premises and/or facilities which Wilberforce College does not own but over which it exercises some degree of control, and premises and/or facilities occupied or controlled by Wilberforce College's students' union whether or not Wilberforce College owns or has control of such premises and/or facilities.

1.8 References in the Code to any institutional employee includes reference to their nominee.

2. **Freedom of Speech and Expression**

2.1 Wilberforce College shall take such steps as are reasonably practicable to ensure that freedom of speech and expression within the law is secured for every person to whom this Code's rights apply.

2.2 Every person to whom this Code's obligations apply shall assist Wilberforce College in upholding this Code of Practice.

2.3 Wilberforce College will not suppress freedom of speech and expression, however abhorrent certain expressions may be to the majority of the members of Wilberforce College, provided that:

2.3.1 such speech and expressions do not go beyond the articulation of points of view, are within the law and do not constitute incitement to riot, insurrection, racial hatred, religious hatred, sexual harassment or other activities which are likely to cause a breach of the peace or public disorder, significantly increase the risk of an individual being drawn into terrorism or otherwise be unlawful; and

2.3.2 by allowing such views to be expressed, and by allowing the activity to take place in the format proposed Wilberforce College would not be failing in its wider legal duties, in particular to have due regard in carrying out its functions to the need to:

2.3.2.1 eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

2.3.2.2 advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

2.3.2.3 foster good relations between persons who share a relevant protected characteristic and persons who do not share it; and

2.3.2.4 prevent people being drawn into terrorism.

2.4 Wilberforce College shall ensure, so far as is reasonably practicable, that the use of its premises and facilities is not denied to any individual or body of persons on any ground connected with:

- 2.4.1 the beliefs or views of such individual or any member of such body; or
- 2.4.2 the policy or objectives of such body.

2.5 Every person to whom this Code's obligations apply shall refrain from organising or engaging in or otherwise being associated with any conduct (other than by lawful, reasonable and peaceful persuasion) intended to prevent the enjoyment of rights under this Code of Practice.

2.6 Wilberforce College shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the obligations under this Code of Practice are complied with.

3. **The Holding of Activities**

3.1 References in the Code to "activities" include (but are not limited to) meetings, demonstrations, events and publications through whatever media (including social media) which take place or are proposed or planned or due to take place on Wilberforce College's premises or through its ICT systems.

3.2 Wilberforce College has the responsibility to take reasonable steps to maintain good order on its premises. It has the right and the power to regulate and, if necessary, to impose conditions or restrictions upon activities which take place or are planned or proposed or due to take place on its premises or through its ICT systems. The organisation and holding of any such activities, and the arrangements therefore, must comply with this Code of Practice.

3.3 Any person to whom this Code's rights apply must submit a request, in writing, to Wilberforce College's lead for safeguarding and Prevent for permission for an activity to take place where it is reasonably foreseeable that the activity may be attended by large groups or will raise issues which may be controversial in some way. Any such request should be submitted to the lead for safeguarding and Prevent not less than 10 days before the proposed date of the activity and must contain details of the proposed subject matter and the purpose and format of the activity, including seating arrangements, the name and identity of any speakers or authors and the proposed timing and location of the activity.

3.4 Within 10 of working days of receiving a written request pursuant to paragraph 3.3 above the lead for safeguarding and Prevent shall issue a written decision in reply which shall either grant or withhold permission for the activity to take place on the College's premises or through its ICT systems. Permission granted under this Code may be subject to such conditions or restrictions (for example, as to security precautions, payment of charges, limits on numbers of people to be admitted, seating arrangements or form of publication) as the lead for safeguarding and Prevent reasonably sees fit.

3.5 Wilberforce College will not unreasonably refuse to allow activities to take place on its premises or through its ICT systems. The expression of controversial views which do not breach the law or risk a breach of the law will not of itself constitute reasonable

grounds for withholding permission for an activity. Reasonable grounds for refusal would include (but are not limited to) the fact that, if the activity were to take place, a risk would arise that, within the premises of Wilberforce College and/or the scope of its ICT systems there would be:

- 3.5.1 incitement to commit a criminal act;
- 3.5.2 the unlawful expression of views;
- 3.5.3 support of an organisation whose aims and objectives are illegal;
- 3.5.4 the foreseeability that an individual might be drawn into terrorism; and/or
- 3.5.5 a breach of the peace.

3.6 In determining whether permission for an activity to take place on Wilberforce College's premises and/or through its ICT system might reasonably be refused, consideration may be given by the lead for safeguarding and Prevent (as is appropriate in the circumstances) to:

- 3.6.1 the safety of persons attending the activity or otherwise foreseeably affected by the activity and/or on Wilberforce College premises who might foreseeably be put at risk;
- 3.6.2 the security of Wilberforce College's premises; and
- 3.6.3 the good name and reputation of Wilberforce College.

3.7 An appeal against a decision of the lead for safeguarding and Prevent may be made, in writing, to the Principal. The Principal's decision will be final and binding, and may also impose such conditions or restrictions on the activity taking place as it reasonably sees fit.

4. **Practical Measures**

4.1 Wilberforce College shall permit the use of its premises and ICT systems only by organisers or other individuals otherwise involved in an activity or proposed activity who undertake in writing to comply with all lawful instructions and conditions issued by Wilberforce College in relation to (but not limited to) the location, arrangements, form and conduct of such activities, including adequate stewarding, chairing and provision of adequate control over entry.

4.2 In cases in which it is reasonable to assume that there is a possibility of disruption arising from the taking place of an activity, Wilberforce College may consult with the police. If the activity is a public one the police may be prepared to be present throughout the event to minimise any disruption.

4.3 Any organisers or other individuals otherwise involved with an activity to take place on Wilberforce College's premises or through its ICT systems shall be responsible for any costs involved in organising and holding such activities and for ensuring, as far as reasonably possible, that nothing in the organisation and holding or arrangements of such activities infringes the law or any College rule, regulation or procedure in any way.

5. **Sanctions and Penalties**

5.1 Any member of the Governing Body who breaches this Code may be removed from office under clause 6 of Wilberforce College's Standing Orders.

- 5.2 Where those responsible for the breach are students or staff of Wilberforce College action may be taken against them under the relevant disciplinary procedure.
- 5.3 Where those responsible for the breach are students or staff of a partner organisation of Wilberforce College a senior manager shall consider whether to inform the partner organisation with a view to that partner organisation taking action (whether as well as or instead of) under its relevant disciplinary procedure.
- 5.4 Where a breach of this Code of Practice takes place at an activity or as a result of an activity taking place, Wilberforce College may take steps to assist the police to secure identification of the persons suspected of committing offences with a view to appropriate action being taken against them.

6. Review and Amendment of Code

Wilberforce College acknowledges its duty under subsection 3 of section 43 of the Education (No. 2) Act 1986 to issue and keep up to date a Code of Practice on freedom of speech. With this end in view the Governing Body will receive a report on the operation of the Code, together with any recommendations for revision of it, at intervals not exceeding 3 years.