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Freedom of Speech and Freedom of Expression
Policy and Code of Practice
Metanoia Institute

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Related policies
• Student Code of Conduct • Student Disciplinary Procedure • Fitness to Practice Policy (students) • Fitness to Study Policy • Code of Ethics and Conduct (with reference to PSRB requirements) • Code of Conduct for Trustees • Staff Disciplinary Procedure and Staff Handbook • External Speaker Policy • Safeguarding Policy • Prevent Statement • Documents and procedures relating to teaching and learning and programme design and review should also ensure they align with this Policy and Code of Practice.
External Reference
Communications Act 2003 Counter-Terrorism and Security Act 2015 Section 43 of the Education Act 1986 Education Reform Act 1988 Equality Act 2010 (including the public sector equality duty) Education Act 1994 (not currently applicable as no Students Union) Higher Education and Research Act 2017 (HERA) Higher Education (Freedom of Speech) Act 2023 Human Rights Act 1998 Charities Act 2011 Malicious Communications Act 1988

Online Safety Act 2023

Protection from Harassment Act 1997

Public Order Act 2023

Public Order Act 1986

Terrorism Act 2000

Terrorism Act 2006

The Prevent Duty – The Counter-Terrorism and Security Act 2015

Equality and Human Rights Commission Freedom of Expression: A Guide for Higher Education Providers

Regulatory Advice 24: Guidance related to freedom of speech (OfS)

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1. Legal Framework and Principles

1.1. Providers of Higher Education (HE) have a duty to secure freedom of speech and freedom of expression within the law.

1.2. The right to free speech is protected by law. Article 10 of the Human Rights Act (1998) states that: "*Everyone has the right to freedom of expression. This right includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers."*

1.3. The Metanoia institute has due regard to this requirement and the specific legal responsibilities of higher education providers, as set out in the Higher Education (Freedom of Speech Act) 2023, which makes provision in relation to the promotion of freedom of speech and academic freedom in higher education institutions, along with Section 43 of the Education (No 2) Act 1986, which places a legal duty on providers to promote and protect freedom of speech on campus, taking '**reasonably practicable steps**' to secure freedom of speech within the law for students, staff, academics and visiting speakers.

1.4. As a Registered Charity, Metanoia is bound by the requirements of Charity Law (mainly the Charities Act 2011).

1.5. It also has due regard to the requirements of the Equality Act 2010, relevant terrorism and security legislation (see list at the beginning of the policy), when applying this policy and associated procedures.

1.6. The Metanoia Institute is committed to securing freedom of speech and academic freedom within the law, actively promoting free speech and thus ensuring that our students and staff can discuss and debate ideas freely and that academic staff have the freedom within the law to question and test received wisdom without placing themselves in jeopardy of losing their jobs or any privileges they may have at Metanoia *(see fuller statement on Academic Freedom below)*.

1.7. Our approach to ensuring freedom of speech within the law is based on the following principles[1]:

- Everyone has the right to free speech within the law.
- Higher Education Providers should always work to widen debate and challenge and never to narrow it.
- Metanoia promotes a culture of tolerance of differing views and perspectives and accepts that, in a free and open environment of academic debate, ideas may be robustly contested and challenged.
- Metanoia accepts the need to balance the right to freedom of speech against the need reasonably to protect the rights of others and the need, when balancing rights, to ensure that this is done in a way that is **proportionate**.
- Peaceful protest is a protected form of expression but should not be allowed to shut down debate or infringe the rights of others.
- Freedom of expression should not be abused for the purpose of unchallenged hatred or bigotry, and debate should always remain respectful.

[1] See guidance produced by the EHRC on Freedom of Expression for a list on which these principles are based: https://www.equalityhumanrights.com/sites/default/files/freedom-of-expression-guide-for-higher-education-providers-and-students-unions-england-and-wales.pdf

2. Scope

2.1 This Policy and Code of Practice (also referred to as 'Policy' of 'Code') and its obligations shall apply to:

- 2.1.1 Metanoia Institute (which shall include all bodies or persons having authority to determine any matter relevant to this policy).
- 2.1.2 All staff and employees of Metanoia Institute (whether academic staff or otherwise).
- 2.1.3 All members of the Board of Trustees
- 2.1.4 All enrolled students at the Metanoia Institute (whether full or part-time and including any student association or student representatives
- 2.1.5 All visiting speakers to Metanoia and any other person in attendance at any meeting or event which has been duly authorised to take place by Metanoia Institute or using its facilities or premises.
- 2.1.6 All meetings and events (including lectures, seminars, committee meetings, conferences whether physical, remotely and digitally live streamed or recorded) and any other activities (referred to as "events") proposed, planned or due to take place at Metanoia Institute or using its facilities or premises or endorsed by it whether including an external speaker or not, together with all events which are Institute-organised, funded or branded including events organised by individual, groups and societies using Metanoia Institute's name or resources.

2.2 This Policy does not remove the obligation on employees to always act in accordance with Metanoia's various staff policies.

2.3 This Policy does not remove the obligation on students to always act in accordance with the relevant student policies, in particular student codes of conduct, disciplinary and other policies.

2.4 Nothing in this Policy shall be deemed to affect the rights of any person taking any steps pursuant to lawful industrial action or peaceful protest.

3. Freedom of Expression and Assembly

3.1. Freedom of expression and freedom of assembly are fundamental rights protected under the Human Rights Act 1998 by Article 10 and 11 of the European Convention on Human Rights respectively. They are also fundamental rights under common law. Protection under Article 10 extends to the expression of views that may shock, disturb, or offend the deeply held beliefs of others.

3.2. The right to freedom of expression and freedom of assembly are qualified (rather than absolute) rights, which means that the rights of the individual must be balanced against the interests of society. These rights operate in the context of the law and the values of a democratic society. Freedom of expression can be limited by law if necessary, for example, to prevent crime, for national security or public safety, or to prevent unlawful discrimination and harassment.

3.3. In particular, freedom of expression and freedom of assembly do not protect statements that constitute unlawful harassment or incite violence or hatred against other persons and groups, particularly by reference to race (including language, national origin or immigration status), religion or belief (including philosophical belief), sex or sexual orientation, age, disability or gender reassignment ('hate speech') or seek to commit offences against public order.

3.4. Metanoia will only seek to restrict the right to Freedom of Expression as a last resort, acting within the law, and if the interests of wider society and the Metanoia Community cannot be protected in a less restrictive way.
3.5. Metanoia will ensure that there is no hindrance beyond the requirements of the law placed on a member of Metanoia's right to freedom of speech through any relevant policy or procedure.
3.6. It shall be contrary to this Policy to seek to prevent freedom of speech within the law in accordance with this Policy.
3.7. It shall be contrary to this Policy for any person or body to whom it applies to take any action other than by reasonable and peaceful persuasion or peaceful protest to prevent any student or group of students from attending any lecture, tutorial or other academic activity required by, or properly associated with, the course on which they are enrolled because of the lawful views held or expressed or which are reasonably likely to be expressed as part of that academic activity.
3.8. It shall be contrary to this Policy for any person or body to which it applies to take any action other than by reasonable and peaceful persuasion or peaceful protest to prevent the holding of or continuance of any lecture, tutorial or other academic activity because of the lawful views held or expressed or which are reasonably likely to be expressed by the academic concerned.

4. Statement on Academic Freedom and the Rights and Obligations of the Academic Community

4.1. The duty to secure freedom of speech includes securing academic freedom.
4.2. The Higer Education (Freedom of Speech) Act 2023 defines academic freedom in relation to academic staff at a registered higher education provider as their 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 being adversely affected in any of the following ways:
    - loss of their jobs or privileges at the provider;
    - the likelihood of their securing promotion or different jobs at the provider being reduced.

4.3. Academic freedom is framed by broader civil liberties and human rights.
4.4. Metanoia's academic community has the right to academic freedom, including freedom of thought, conscience, religion, opinion, expression, association, and assembly.
4.5. Academic freedom also requires the collegiate engagement of the academic community in institutional governance, strategic planning, and operational decision-making. Metanoia is committed to its academic community playing the pre-eminent role in determining the curriculum, assessment standards and research priorities. The academic community is therefore appropriately represented on committees. Metanoia will work to engage with processes of full consultation with the academic community on relevant academic matters.
4.6. The right to academic freedom is subject to the responsibilities and obligations of the academic community exerting that right. Specific responsibilities and obligations include:

- respecting the democratic rights and freedoms of other academic staff, students, visitors, and wider society. This includes ensuring that the right to academic freedom is balanced with the need to ensure that speech is lawful.
- that in presenting particular perspectives to students, staff, and external audiences that such viewpoints have some grounding in scholarship, evidence, and a wider context and are subject to robust debate, including accommodating contrary perspectives
- and opinions.
- that in presenting research it is in line with the professional norms of the academic and disciplinary community, including standards of ethics, procedure, evidence, and argument.
- that research cannot be conducted in isolation from lawful conduct and enquiry,
- that research is subject to Metanoia's ethical procedures and that where research involves access to sensitive material, including extremism-related material for research purposes is approved as a bona fide academic activity.
- That the exercise of academic freedom does not undermine individuals' or groups rights to privacy and family life or make them subject to discrimination.

5. Duties and Responsibilities

5.1. All members of the Metanoia community have a duty to observe and uphold the principle of freedom of speech and shall do so at all times while working for or on behalf of Metanoia or who are otherwise representing Metanoia whether on or off Institute-controlled premises.

5.2. The Institute will ensure that this policy and code are made available to staff on the Institute Website, and will provide guidance and training as appropriate to staff and students in relation to application of this policy and code of practice across the Institute, including in teaching.

5.3. Students and staff must be signposted to this document at least once a year.

5.4. Staff (and students where relevant) should bring this Policy to the attention of any outside organisations who are providing speakers or are responsible for organising meetings. Such organisations/speakers are expected to uphold the principles of this Policy

5.5. It shall be the duty of any person engaged in the organisation of any guest lecture, masterclass, or other similar event under this Policy to ensure proper security and organisation (including stewarding and chairing of that meeting or like event) for the purpose of upholding the duty to ensure freedom of speech within the law and complying with the provisions of this Policy.

5.6. Student representatives and those involved in the organisation of student-led events and networks shall bring this Policy to the attention of the members and attendees of such events or networks and take steps to ensure that they comply with it.

5.7. This means that any organiser or other person invited to address an event, other than members of any audience at that event, is obliged to comply with the obligations to ensure freedom of speech under the Education (No.2) Act 1986 (Section 43) and this Policy.

5.8. The Executive will oversee the implementation of this Policy and ensure reporting as relevant through the Institute's committee and governance structures.

5.9. The Board of Trustees has authorised the CEO to act on its behalf to ensure, as far as is reasonably practicable, that all members of the Institute (staff, employees and

students) and all visiting speakers and attendees at meetings and events comply with the provisions of this policy, and related policies and procedures.

5.10. The Head of Governance and Compliance has delegated responsibility as operational lead in this respect, ensuring effective record keeping and reporting.

6. Procedures to Be Followed by Staff and Students, including External Speakers and Events

6.1. A crucial part of our approach to promoting freedom of speech within the law is the way in which we encourage a culture of open debate through inviting external speakers to discuss important and sometimes challenging issues.

6.2. To support and promote external speakers and associated events, the Institute has developed an External Speaker Policy.

6.3. The Institute will always seek to allow a speaker to speak and an event to go ahead, occasionally with mitigation We will apply the OfS three step process to check that:

- Step 1: Relevant Speech is within the law
- Step 2: Whether any 'reasonably practicable steps' could be taken to secure the speech?
- Step 3: Are any restrictions 'prescribed by law' and proportionate under the ECHR?

6.4. Where speech meets the definitions of illegal speech, within the law, Metanoia will take appropriate action.

6.5. The Institute works closely with staff and students to ensure that we have robust, fair and transparent arrangements in place to manage speaker events within the expectations of the law and regulation that take place on its premises.

6.6. The approach applied under 6.3 above will apply whether or not the event taking place is a formal part of teaching on a programme, or a fully external event.

6.7. The institute will ensure that any Institute activities (including but not limited to student or staff panels, teaching sessions, or governance activities such as committee meetings) are managed in a way that is compatible with the statutory free speech duties.

7. Examples of illegal speech

7.1. The following are regarded by the Institute as examples of illegal speech:

- Speech that encourages or supports violence against specific groups or individuals.
- Speech that encourages support for or participation in terrorism as defined by the Terrorism Act 2001.
- Speech that encourages or supports any other form of criminal activity.

7.2. Speech that may cause offence to individuals or specific groups and is not illegal speech as defined above, while not necessarily reflecting the views or values of the Institute, will be permitted, although under certain circumstances only with appropriate mitigation.

7.3. The Institute recognises that its legal duties must be balanced against one another, for example the equality duty and duties to protect members of the Metanoia community from harassment and misconduct. ,

7.4. We will ensure that any decision taken relating to limiting speech is subject to a reasonableness test (See the External Speaker Policy and Section 6 above for more information on this.

7.5. While we will, as part of our duty of care to our students and staff, offer support to those who have been negatively impacted by the free expression of controversial or challenging ideas or views, we will not seek to prevent or sanction speech that is within the law.
7.6. A helpful guide on legal definitions and frameworks can be found in the OfS Regulatory Advice 24: Guidance related to freedom of speech.

8. Breach of the Policy

8.1. Any breach of this Policy may result in disciplinary action under the relevant disciplinary procedure of the Metanoia Institute, or other appropriate sanction.
8.2. Where breaches of the law occur, the institute shall, where appropriate, assist prosecution authorities to implement the processes of the law and may suspend any internal process pending the outcome of any such legal process.

9. Complaints and concerns

9.1. Students with complaints relating to free speech should escalate these through the Student Complaints Policy. The relevant team will then triage the concerns through the appropriate procedures.
9.2. Staff with concerns and complaints relating to free speech should make use of the Staff Grievance Policy and procedures. The People and Culture team will engage with staff to ensure escalation through the most appropriate procedure.

10. Monitoring and Review:

10.1. The Institute's Head of Governance and Compliance is responsible for monitoring the effectiveness of this policy and supporting procedures and will conduct reviews at appropriate intervals.
10.2. The EDI Committee and Executive will receive regular annual reports on Freedom of Speech matters and Executive will report to the Board of Trustees by exception on any serious concerns or cancelled events.
10.3. If you wish to raise a concern about this document, please contact governance@metanoia.ac.uk