

# CODE OF PRACTICE ON FREEDOM OF SPEECH AND EXPRESSION

## Policy Document Purpose Statement

This document sets out the code of practice on freedom of speech and expression in further and higher education at The Cornwall College Group. This framework has been based on the Evershed Sutherland’s document *“Legal framework of freedom of speech within universities and colleges”* including guidance on the Counter Terrorism and Security Act 2015.

## Application

The objective of this document is to provide a framework to freedom of speech and expression for The Cornwall College Group

## Interpretation

Further guidance on the use or interpretation of this policy may be obtained from the Group Deputy Principal Curriculum and Quality or their nominee.

## Legislator / Regulatory Compliance

Compliance with relevant current Health and Safety legislation, Data Protection Act and other legislation / regulations named within the body of the document.

## Publication Restrictions

Nil

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# CODE OF PRACTICE ON FREEDOM OF SPEECH AND EXPRESSION IN FURTHER AND HIGHER EDUCATION INSTITUTIONS

## 1. Introduction

- 1.1. The Cornwall College Group (TCCG) 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. TCCG is also required under clause 15 of the Instrument and Articles 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 TCCG. 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. TCCG, including members of the Governing Body;
  - 1.6.2. all persons (whether academic staff or otherwise) working for TCCG [whether for payment or otherwise];
  - 1.6.3. all duly enrolled students of TCCG (whether full or part-time);
  - 1.6.4. all students studying with TCCG (whether full or part-time) under an agreement with a partner organisation of TCCG (e.g. a college or school) [even if not enrolled as students at TCCG];
  - 1.6.5. [consider whether any other individuals should be covered, e.g. alumni/alumnae, members of the Institution other than staff and current students if the Institution's constitution provides for membership, etc;]
  - 1.6.6. the students' union and any societies, clubs or associations which normally operate *on* TCCG's premises; and
  - 1.6.7. 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 TCCG's premises or through its ICT systems in accordance with the provisions of section 3 of this Code.
- 1.7. References in the Code to "TCCG's premises" and/or "TCCG's facilities" include premises and/or facilities which are owned by TCCG, premises and/or facilities which TCCG does not own but

over which *it exercises* some degree of control, and premises and/or facilities occupied or controlled by TCCG's students' union whether or *not TCCG* owns or has control of such premises and/or facilities.

- 1.8. References in the Code to any institutional employee (e.g. *Deputy Group Principal Curriculum and Quality and the Principal and CEO*) includes reference to their nominee.

## 2. Freedom of Speech and Expression

- 2.1. TCCG 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 TCCG in upholding this Code of Practice.
- 2.3. Every person to whom this Code's obligations apply shall assist TCCG in upholding this Code of Practice.
- 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 harm or a breach of the peace or public disorder, significantly increase the risk of an individual being drawn into terrorism or otherwise be unlawful; and...
- by allowing such views to be expressed, and by allowing the activity to take place in the format proposed, TCCG would not be failing in its wider legal duties, in particular to have due regard in carrying out its functions to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it; and
  - prevent people being drawn into terrorism.
- 2.4. TCCG 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. TCCG 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 TCCG’s premises or through its ICT systems.
- 3.2. TCCG 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 the Deputy Group Principal Curriculum and Quality or their nominee of TCCG for permission for an activity to take place where it is reasonably foreseeable (in the reasonable opinion of the Deputy Group Principal Curriculum and Quality or their nominee that the activity may be attended by 2 or more people and/or will raise issues which may be controversial in some way. Any such request should be submitted to Deputy Group Principal Curriculum and Quality or their nominee not less than 20 working 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. Any organisers of any activity shall, if there is any doubt as to whether the activity may, in the reasonable opinion of the Deputy Group Principal Curriculum and Quality or their nominee, be controversial, consult the Deputy Group Principal Curriculum and Quality or their nominee at the very earliest opportunity so that the correct procedures may be followed.
- 3.5. Within 10 working days of receiving a written request pursuant to paragraph 3.3 above the Deputy Group Principal Curriculum and Quality or their nominee shall issue a written decision in reply which shall either grant or withhold permission for the activity to take place on TCCG 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 Deputy Group Principal Curriculum and Quality or their nominee reasonably sees fit.
- 3.6. TCCG 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 TCCG and/or the scope of its ICT systems there would be:
  - 3.6.1. incitement to commit a criminal act;
  - 3.6.2. the unlawful expression of views;
  - 3.6.3. support of an organisation whose aims and objectives are illegal;
  - 3.6.4. the foreseeability that an individual might be drawn into terrorism; and/or
  - 3.6.5. a breach of the peace.
- 3.7. In determining whether permission for an activity to take place on TCCG’s premises and/or through its ICT system might reasonably be refused, consideration may be given by the Deputy Group Principal Curriculum and Quality or their nominee (as is appropriate in the circumstances) to:

- 3.7.1. the safety of persons attending the activity or otherwise foreseeably affected by the activity and/or on TCCG premises who might foreseeably be put at risk;
  - 3.7.2. the security of TCCG's premises; and
  - 3.7.3. the good name and reputation of TCCG.
- 3.8. A request for an appeal against a decision of the Deputy Group Principal Curriculum and Quality or their nominee may be made, in writing, to the Clerk to the Governing Body who will establish a panel of 3 Governors, within 10 working days, of the issue of the Deputy Group Principal Curriculum and Quality or their nominee's decision. [The decision of the panel of the Governing Body shall be final and binding. The Governing Body panel also impose such conditions or restrictions on the activity taking place as it reasonably sees fit.

#### **4. Practical Measures**

- 4.1. TCCG 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 TCCG 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, TCCG 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 [the Institution]'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 TCCG rule, regulation or procedure in any way.

#### **5. Statutory Obligations**

- 5.1. Any member of the Governing Body who breaches this Code may be removed from office under clause 9 of TCCG's Instrument and Articles.
- 5.2. Where those responsible for the breach are students or staff of TCCG 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 TCCG the Deputy Group Principal Curriculum and Quality or their nominee 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, TCCG 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**

- 6.1. TCCG 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 by the Deputy Group

Principal Curriculum and Quality or their nominee, together with any recommendations for revision of it, at intervals not exceeding 3 years.

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## **7. Related Documents**

- Safeguarding Policy
- External Speakers Policy
- Staff Code of Conduct