

# Freedom of Expression: Code of Practice

**(October 2018; reviewed November 2021)**

1. **Introduction**
   1. Newman University has a proud record of being a multicultural and diverse community in which staff and student learn from and work with each other in a spirit of mutual respect and collaboration. The University promotes the search for knowledge and the questioning of ideas through open debate and investigation.
   2. Newman University acknowledges freedom of expression as an individual right, which is fundamental to the debate and challenge within the University’s academic and research agendas. Within the University’s Strategic Plan (Formation in the University, Page 5) there is a clear reference to Freedom of Expression: ‘*The desire and love for truth – underpinned by a serious ethic based on evidence – courageously engages with what is assumed to be the case, questioning and ratifying but also rejecting and critiquing, constantly striving for ever more adequate viewpoints and hypotheses. This requires a certain intellectual humility between the extremes of arrogance, closed mindedness and personal certainty on the one hand and undue intellectual timidity and cowardice on the other. A community engaged in such questing knowing requires courage and generosity to engage the commonplace and to say what has not been said and, sometimes, what will not immediately be welcomed or heard.*’ Similarly, the Identity of a Catholic University within ‘Ex corde ecclesiae’ states that: *‘It possesses that institutional autonomy necessary to perform its functions effectively and guarantees its members academic freedom, so long as the rights of the individual person and of the community are preserved within the confines of the truth and the common good.’*
   3. This Code of Practice is aligned with the guidance issued by Universities UK, Freedom of speech on campus: right and responsibilities in UK universities: <http://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2011/freedom-of-speech-on-campus.pdf>
   4. The Education Act (No 2) 1986 requires the university to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for its employees, students and visiting speakers. The Council of the University therefore requires all employees and students of the University to tolerate and protect the expression of opinion within the law whether or not these opinions are repugnant to them; this obligation is set out in this Code of Practice. However, whilst the law promotes and protects freedom of speech, it also places limits on those freedoms in order to maintain public order and safety and to ensure that there is no breach of the law. The University recognises that in this context a conflict exists between the laws which promote freedom of expression and those which restrict it and consequently acknowledges that it has a legal responsibility to create a balance between minimising the possibility that extremism or unlawful conduct will arise on campus and ensuring that it meets its legal obligations in relation to secure freedom of speech.
   5. In accordance with the Articles of Government the Vice-Chancellor is responsible inter alia for the organisation, direction and management of the University and for exercising effective supervision and discipline over staff and students within the framework set by the University Council. He/she is authorised to exercise responsibility for implementing this Code within the guidelines set down, delegating responsibility as necessary.
   6. This Code should also be read in conjunction with other policies and procedures (highlighted in Appendix A).
2. **Scope**

2.1 **The Purpose** of this Code of Practice is to:

1. Describe the University’s framework regarding the right to freedom of expression;
2. Manage events on the University’s campus, off-campus and online; and
3. Manage the use of all University premises
   1. **What** is covered by the Code of Practice:
4. The University acknowledges its duty to promote and safeguard freedom of expression for members of the University, visitors to the campus and for visiting speaker(s)/exhibitor(s)
   1. **Who** is covered by the Code of Practice:
5. All employees and those working on behalf of the University (including agency workers and contractors)
6. All student of the University (whether full/part-time, including students enrolled on distance learning programmes and visiting (e.g. Erasmus) students) and including any students studying for a Newman University award under an agreement with a partner organisation
7. All other members of the University and including independent members of Council and its Committees
8. Newman Students’ Union and its affiliated clubs and societies and
9. Any person, organisation or group not failing within any of the above categories who wish to hold an event on hosted by the University (either on their premises, at a venue off-campus or on-line).
10. **Principles of the Code of Practice**
    1. The University is committed to maintaining the rights of freedom of expression and academic freedom within the law.
    2. The University has a duty to maintain safety and good order on its premises and to ensure that the statement of beliefs, points of view and opinion do not lead to the commission of criminal offences or to incitement to breaches of the peace, violence, terrorism, and/or racial/religious hatred.
    3. The University will ensure that the use of University premises is not denied on grounds connected with the beliefs, views, policies, or objectives of an individual or body of individuals, as long as such use is within the law at all times.
    4. Everyone to whom this Code applies is expected to observe the principles of freedom of expression while on University premises or when engaged in off-campus University Events, and to show respect and tolerance towards the expression of views, opinions and beliefs of others, even if they happen to be contrary to their own.
    5. The University has a legal duty to ensure that all students, staff and the community can access activity held on its premises without unlawful discrimination. For this reason, all those that the Code applies to must ensure that discrimination is avoided on the basis of protected characteristics (for example, gender, marital or civil partnership status, pregnancy and maternity, race, colour, nationality, ethnic or national origin, age, disability, religion or belief, sexual orientation, gender reassignment or other inappropriate categorisation).
    6. Excepting the rights of individuals or groups of staff and employees in pursuance of industrial action (which itself is not unlawful), this (industrial action) shall not be construed as being in any way inhibited by the Principles of the Code.
    7. The University will offer no platform to those who are intolerant of the free expression of others both generally and where it includes the denial of the right to hold or express an opposing opinion. This also includes those who have, in the past, engaged in the active prevention of permitting others to speak, such as the interruption - violent or otherwise - of meetings.
    8. The University will pay due regard to the Prevent duty to prevent radicalisation on campus.

3.9 Any action by a member of staff or student or an employee, whether individually or in a group which may be thought by the Vice-Chancellor to infringe or be contrary to the code of conduct:

(i) may be liable to such investigation as the Vice-Chancellor may require to establish the prima facie facts;

(ii) and subsequently may lead to an informal or formal disciplinary process, in accordance with the established disciplinary procedures for staff and students, depending upon the seriousness of the alleged offence. Examples of such actions that the University considers as being contrary to Section 43 of the Act and in breach of this Code (not exhaustive) might include:

* any action by members of staff or students individually or collectively to prevent or intimidate a member of staff or a guest lecturer from carrying out their teaching, research or other function in accordance with their contract of employment, or from having access to facilities which they may use as a member of staff or enrolled student;
* any action by members of staff or students individually or collectively to prevent a formally enrolled student from pursuing his or her studies, attending classes and other academic activities connected with his or her course, participating in curricular activities and the social and other activities provided by the University;
* any act designed to prevent the holding or continuance of any course lecture, tutorial or other academic activity or any meeting duly authorised within the provision of this code where disruption, intimidation or threats are uttered or implied;

1. **Definitions / Legal context:**
   1. Universities operate in a complex legal environment and so it is vital that all individuals who are covered by the Code of Practice understand the legal framework and context that governs this area. Examples of some relevant areas of law are given below:
2. **Private Rights:** People are entitled to protection from harassment, defamation and unlawful breach of their human rights, as well as from unfair treatment under equality law. Health and safety law, data-protection and contract law may also be relevant in this context.
3. **Criminal Law:** Hate crimes, harassment, breach of the peace and terrorism all come under criminal law. There is also legislation around public meetings, public processions/assemblies and public order which may be of relevance.
4. **Public law:** Freedom of speech and some duties under the Equality Act are captured under public law.
   1. The Equality Act makes provision for a number of limited exceptions where discriminatory practice is: “a proportionate means of achieving a legitimate aim.” Such exemptions apply mainly to sexual segregation involving competitive sport, communal facilities or separate services. Segregation by gender is permissible during acts of collective religious worship as this is not subject to equality legislation. Advice should be sought from the HR team if a segregated or single sex event is planned.
   2. Article 10 of the Human Rights Act states that everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
   3. Section 43 of the Education (No 2) Act 1986 lays down a number of statutory requirements. These are summarised as follows:

(i) the governing body and management of an institution to ensure “freedom of speech within the law” so far as is “reasonably practicable”;

(ii) the discharge by staff of their teaching, research or other functions and the participation by students in classes and other academic aspects of their courses as well as in the general life of the University shall not be disrupted or prevented because of any views individual staff or students may hold or express;

(iii) the governing body does not deny the use of facilities to individuals or bodies unless the proposed use is thought likely to be contrary to the criminal law, or make it liable to legal penalties under civil law;

(iv) the governing body must issue a code of practice and procedures to give effect to these requirements;

(v) all those individuals and groups concerned with management of the institution have a duty to see that they comply with and implement the code.

Please also refer to Appendix A for related policies and procedures.

1. **Newman Student’s Union (NSU) constitution and use of its facilities**
   1. The Students’ Union will support the requirements of this Code by undertaking the following measures:

(i) the statutory requirement that every individual and body of persons concerned in the government of any such establishment (in the University) shall take such steps as are reasonably practicable to ensure that the requirements of the code of practice are complied with;

(ii) the decision-making processes of the Students’ Union, particularly those relating to general meetings and the Executive have standing orders which comply with the provisions of section 43 of the Act;

(iii) the academic freedom of staff and students, both collectively and individually as referred to in section 3 of this Code is acknowledged fully and the Union’s responsibility in upholding these is affirmed;

1. access to the Union’s facilities will not be denied to formally recognised Students’ Union societies, other student groups or individual students in a manner which contravenes section 43 of the Act;

5.2 The Council requires that the Clerk to the University Council and the General Manager of the Students’ Union shall maintain close liaison for the time being on the implementation of the letting arrangements as they apply to Students’ Union sponsored societies.

**Appendix A: Relevant University Policies and Procedures**

The following is a list of university policies procedures which may be appropriate to refer to when considering the requirements of the Code (all to be hyperlinked):

* Academic and General Regulations
* Code of Practise for Research
* Data Protection Policy
* DBS Policy
* Dignity at Work Policy
* Dignity at Study Policy
* Equality & Diversity Statement
* Equal Opportunities Policy
* External Speakers Policy
* Estates Room Booking Policy
* Fitness to Practise
* Fitness to Study
* Health and Safety Policies, including Risk Assessment
* Referral and Escalation Policy (Prevent)
* Recruitment of Ex-Offenders Policy
* Research Ethics Framework
* Staff Recruitment Policy
* Student Disciplinary Procedure
* Staff Disciplinary Procedure
* Student Alcohol and Substances Policy
* Whistleblowing procedure