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# ***Freedom of Speech - Code of Practice***



*Collective Acting Studio – August 2024*



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## Freedom of Speech Code of Practice

### Introduction: Values in Relation to Free Speech and Academic Freedom

Collective is committed to upholding the principle of freedom of speech and expression within the law and academic freedom in its teaching and delivery. It will ensure that free and open discussion can take place, and that a diversity of views can be tolerated, including views that may be regarded as controversial and / or provocative or unpopular. A key aim of the Studio is to actively promote an environment where academic freedom and freedom of speech is secured within the law and that all student, academic staff and employees have the freedom to question and test received wisdom without placing themselves in jeopardy of losing their jobs, or any privileges, they may have at the Studio.

This does not mean that the right to freedom of speech or academic freedom is unfettered, as it may be limited by law to protect the reputation or rights of others, protect national security and public safety, for the prevention of disorder or crime, and to prevent disclosure of information received in confidence.

Collective will always aim to expose our students, staff and stakeholders to a diverse range of views and perspectives. We place extremely high importance on securing the freedom of our students and academic staff to discuss, debate, research and teach any lawful ideas and views, no matter how unpopular or controversial. We are clear that this freedom applies to all subjects, disciplines and political positions. It encompasses both individual expression and the collective activities and debate that are essential to university life.

While we expect all our staff, students and visitors to engage in discussion and debate in a civil and respectful manner, we defend their right to express any lawful view, even if this may cause offense. At the same time, Collective has no institutional position on political, moral or ideological questions. Our role is to facilitate the exchange of ideas and to equip our students with critical thinking skills, not to tell them what views to hold. We aim to foster an environment of open-mindedness, tolerance and diversity of thought, underpinned by a shared commitment to freedom of speech and academic freedom within the law. We encourage the expression of a wide range of views and beliefs among our community. In upholding freedom of speech, Collective will act proportionately and only restrict speech where it is unlawful or would prevent the Institution from functioning effectively. Any such restrictions will be limited to what is necessary and will be explained clearly. Unlawful speech, such as speech causing harassment or inciting violence, is never acceptable and is not protected by the right to freedom of expression. Collective will not tolerate such speech and will take appropriate action under our disciplinary procedures. These values guide the implementation of this Code of Practice. By upholding freedom of speech and academic freedom as core tenets, while not shying away from controversial or challenging ideas, we aim to create an intellectually vibrant environment for learning, research and debate to flourish. This diversity of thought and perspective is vital to our mission.



Collective's approach to Academic Freedom is outlined in this [statement](#).

Collective recognises its duty under the Higher Education and Research Act 2017 (HERA), as amended by the Higher Education (Freedom of Speech) Act 2023, to take reasonably practicable steps to secure freedom of speech within the law for members, students, staff and visiting speakers. This includes, in relation to academic staff, securing their academic freedom. This Code of Practice sets out how Collective will fulfil this duty.

The Studio will not restrict speech that is within the law. Lawful freedom of speech includes the right to express views that may be controversial, provocative or unpopular. However, the Studio will not permit unlawful speech, including speech that amounts to unlawful harassment or discrimination under the Equality Act 2010.

Collective will have particular regard to the importance of freedom of speech when considering the practical costs and financial constraints of steps to secure it. The Studio will take all reasonably practicable steps to secure freedom of speech within the law, even where there may be significant costs involved.

### Scope

This Code of Practice, applies to all Collective students, staff and employees. It is based on UK legislation, as outlined below under 'Legal Principles'.

It also applies to:

- 1) All visiting speakers and industry guests at Collective.
- 2) All events and meetings which take place using Collective premises and/or facilities.
- 3) All freelance teachers.

This policy does not remove the obligation on employees to act at all times in accordance with the Studio's various staff policies. In particular, staff are reminded of the provisions of the Staff Handbook, the Equality, Inclusion and Diversity Statement, and the Acceptable Use of IT Policy.

This policy does not remove the obligation on students to act at all times in accordance with the relevant student policies, in particular those outlined in, the Student Handbook, and the Anti-Bullying and Harassment Policy.

All of these policies are available on the [Policies and Procedures](#) page of our website.



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.

Collective Acting Studio does not take a formal position on political or international disputes. Instead, it endeavours to provide a platform to facilitate discourse on contemporary issues by encouraging critical debate, where the views of all parties are exchanged and challenged within the law.

### Associated Documents

The following three documents work together as a set:

- Academic Freedom and Freedom of Speech Statement
- Freedom of Speech - Code of Practice
- External Events Procedure (to cover external guests, speakers, performances and events)

These documents are available on the [Policies and Procedures](#) page of our website.

### Duties and Responsibilities

- The Studio is bound by a statutory duty to secure freedom of speech and academic freedom within the law. The Studio operates with a presumption in favour of freedom of speech. It shall be the duty of all those subject to this policy to assist the Studio in upholding this principle.
- Those under a duty to observe and uphold the principle of freedom of speech within the Studio shall do so at all times while working for or on behalf of the Studio or who are otherwise representing the Studio whether on, or off, Studio-controlled premises.
- Staff of the Studio should bring this policy to the attention of any outside organisations who are providing speakers or who are responsible for organising meetings.
- Such organisations/speakers are expected to uphold the principles of this policy, respect the Studio's values, and be sensitive to the diversity of the student community - which is key part of Collective's mission.
- The Student Senate shall bring this policy to the attention of the members of its societies at regular intervals and where necessary the Studio will take steps to



ensure that they comply with it. For the avoidance of doubt this policy applies to all activities run or endorsed by the Student Union at Collective.

- The Safeguarding and Prevent Steering Group will also oversee the implementation of this policy.

### Legal Principles

This policy is governed by the following principles:

#### The Higher Education and Research Act 2017

The Higher Education & Research Act 2017 (HERA), as amended by the Higher Education (Freedom of Speech) Act 2023, requires all registered higher education providers, including Collective, to:

- Take reasonably practicable steps to secure freedom of speech within the law for students, members, staff and visiting speakers. This includes, in relation to academic staff, securing their academic freedom 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 privileges.
- Maintain a code of practice setting out the procedures to be followed by students, members and staff in connection with meetings and other activities, the conduct required, and the criteria for making decisions about security costs for events. The Office for Students (OfS) regulates compliance with these duties and can impose sanctions for breaches. The OfS operates a free speech complaints scheme where individuals can seek redress.

All registered HE providers are also required to comply with the ongoing conditions of registration set by the OfS in its Regulatory Framework. Conditions E1 and E2 require the governing documents of HE providers to uphold the Public Interest Governance Principles that apply to them (Condition E1), and to have in place adequate and effective management and governance arrangements to operate in accordance with their governing documents and to deliver the Public Interest Governance Principles in practice.

Two Public Interest Governance Principles are relevant:

"I. Academic freedom: Academic staff at an English higher education provider 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 in jeopardy of losing their jobs or privileges they may have at the provider".

### [The Education Reform Act 1988](#)

The Education Reform Act 1988 (section 202, reinforced by the Higher Education and Research Act 2017) makes clear 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 in jeopardy of losing their jobs or privileges they may have at their institutions.

### [The Equality Act 2010](#)

The Equality Act 2010 requires the Studio, in the exercise of its functions, to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations between different groups.

The Act prohibits direct discrimination, where someone is treated less favourably because of a protected characteristic, and indirect discrimination, where a policy or practice has a disproportionate negative impact on a group with a protected characteristic without justification.

Speech that amounts to unlawful discrimination is not protected.

The Act also prohibits harassment related to protected characteristics. Harassment is defined as unwanted conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. In deciding if conduct has this effect, the perception of the person experiencing it, the circumstances, and whether it is reasonable to have that effect must be taken into account.

Therefore, the person's subjective perception is not the only consideration.

The Act requires Collective to have due regard to the need to foster good relations between people with different protected characteristics, including different religions or beliefs. Facilitating debate and discussion between groups, while securing freedom of speech, may be part of discharging this duty.

Collective recognises that context is relevant in determining if speech amounts to unlawful harassment. Exposure to course material or speakers' views that some may find offensive is unlikely to constitute harassment. Speech within an academic context expressing any viewpoint is very unlikely to amount to unlawful harassment except in the most exceptional circumstances. Collective will secure such speech where reasonably practicable.

## [The Equality Act 2010](#)

The Equality Act 2010 requires the Studio, in the exercise of its functions, to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations between different groups.

## [Human Rights Act 1998](#)

HEPs which are public authorities under the Human Rights Act 1998 (HRA) are required to act compatibly with the Convention rights, as set out in Schedule 1 to the HRA, including Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 10 (freedom of expression) and Article 11 (freedom of assembly and association). Any interference with these rights, such as stopping an event going ahead, must be prescribed by law and necessary in a democratic society, which means that it must be proportionate. Action is 'proportionate' when there is a sufficiently important objective and the action taken is rationally connected to that objective, the action is no more than necessary to address the problem concerned and a fair balance has been achieved. This offers protection to students, staff and visiting speakers alike. A person affected by a HEP's failure to comply with this duty can challenge it by, for example, judicial review proceedings and may be entitled to damages under the HRA in an appropriate case (though this is rare in this context).

## [Limitations upon speech in higher education](#)

Whilst freedom of speech is a human right, it is not absolute and is subject to restrictions in certain circumstances. Significantly, the right to free speech in higher education under section 43 applies only to "free speech within the law" – that is, to speech that is lawful.

When considering their duties regarding freedom of speech and academic freedom, HEPs must also consider their other legal duties, in particular their duties under the Equality Act

2010, which includes the Public Sector Equality Duty. However, HEPs should be clear that lawful speech must only be limited in certain circumstances.

The legal duties on HEPs in relation to freedom of speech and academic freedom do not cover unlawful speech. There are a range of circumstances in which speech may be in breach of criminal law, including:

- speech causing fear or provocation of violence
- acts intended or likely to stir up hatred on grounds of race, religion or sexual orientation;



- speech amounting to a terrorism related offence; and
- causing a person harassment, alarm, or distress, where this would constitute an offence under the Public Order Act 1981.

There are also circumstances in which speech may be found to be unlawful in respect of civil law, including defamatory speech

### Prevent Duty

“In their 2018 report, the JCHR found that the fear of being reported for organising or attending an event, combined with the increased levels of bureaucracy following the introduction of the Prevent Duty, was reported to be having a chilling effect on freedom of speech.”

Government is clear that the Prevent Duty should not be used to suppress lawful free speech, rather it requires HEPs, when exercising their functions, to have due regard to the need to prevent people from being drawn into terrorism. There is no prescription from government (or the OfS) in regard to what action HEPs should take once they have had due regard. The legislation imposing the Prevent Duty in relation to higher education specifically requires that HEPs must have particular regard to the duty to ensure freedom of speech and to the importance of academic freedom. The Prevent Duty should not be used to shut down or discourage lawful speech, either directly or by the creation of unnecessarily bureaucratic processes that go beyond what is required by the Duty which may be co-opted by those who wish to suppress lawful free speech.

In balancing its responsibilities in terms of both ensuring freedom of speech and academic freedom, and also protecting student and staff welfare, the Studio will act reasonably and proportionately and in accordance with its values, policies and the law.

The Studio’s Equality and Diversity Statement sets out the Studio’s commitment to promoting equality, diversity and human rights, and to sustaining an environment which is

free from all forms of unfair treatment, discrimination and harassment for all those who study, work and engage with the institution.

### Procedures and Required Conduct

#### Approach to Events

Collective will facilitate the organisation of speaker events by staff, students and student societies, in line with the procedures set out below.

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Premises will not be withheld based on the views, ideas, policies or objectives of the speaker(s) or organisers. The content of the event is not a valid reason to deny a venue.

Where an event is expected to be controversial or high-risk, Collective will put in place appropriate mitigations to allow it to go ahead. This could include security provisions, ticketing, or a chair or panel to provide balance. Only in extreme situations where the event cannot be managed safely and legally will it be cancelled.

Collective will not cancel events in response to protests or pressure, if the event is lawful. Peaceful protest will be facilitated but must not prevent the event from proceeding.

Visiting speakers have the same right to lawful free speech as students and staff. They will not be prohibited from speaking because of their views.

This Code sets out the procedures to be followed by staff and students in connection with the organisation of meetings and other activities, and the conduct required. The scope of this section covers:

- All teaching, learning and research activities
- All speaker events and meetings taking place on Collective premises or under the Collective brand, including events organised by student societies
- Use of all Collective resources and facilities, including IT and online platforms
- Staff and student disciplinary, complaints and investigation processes
- Decision-making by committees relating to free speech issues
- Decision-makers must act compatibly with Collective's statutory free speech duties in making any decision or policy that could impact freedom of speech.

### Procedures for Organising Events

- The presumption is that events will go ahead and cancellation is a last resort
- Procedures are clearly accessible on the Collective website
- Approval processes should be as efficient as possible
- A single point of contact will be provided to event organisers for any queries
- A named individual will be responsible for deciding how events can proceed
- Security requirements will be proportionate and not unduly onerous
- A process will be in place for assessing risks and mitigations to allow events to go ahead where possible, with a named owner responsible
- Events will not be cancelled based on the lawful views to be expressed, even if these views are controversial or objectionable to some

### Appropriate Conduct for Events

- Everyone has the right to express lawful views and opinions
- Collective will seek to expose students and staff to the widest possible range of



- views and ideas, including those considered objectionable or offensive, provided
- they are lawful
- If a speaker expresses unlawful views, it is the speaker who is culpable
- Peaceful protest is itself a form of freedom of expression, but protest must not shut down debate or infringe others' legal right to speak
- Use of Collective premises will not be denied to any individual or body based on their
- opinions, ideas, policies or objectives

### Costs of Security

- Costs of security will not be imposed on event organisers except in exceptional
- circumstances based on clear, objective and viewpoint-neutral criteria (see below)

Criteria for charging for security costs:

1. Security costs will not be charged except where total costs exceed £500. This threshold has been set based on analysis of typical event security costs at Collective.
2. Where security costs do exceed the £500 threshold, the excess amount above £500 may be charged to the event organiser. The decision to charge will be based solely on the level of costs incurred and not on the content of the event, the identity of the speaker(s) or any actual or anticipated reaction to the event.
3. Event organisers will be provided with a clear written breakdown of the estimated security costs and the reasons in advance. There will be a process to appeal the cost calculation to an independent reviewer. The breakdown will be provided in sufficient time to allow for an appeal before the event.
4. The above sections on procedures and conduct apply not just to events but to all activities relating to Collective's teaching, learning, research and wider academic life, whether on or off premises.
5. This Code expressly requires decision-makers to act compatibly with statutory free speech duties in making any decision or policy that could impact freedom of speech.
6. The Code will be reviewed annually to ensure it remains appropriate and effective in securing freedom of speech.

### Codes of Conduct

Collective's various staff and student policies and codes of conduct will not restrict legally protected free speech. In particular:

- Rules on bullying, harassment, discrimination etc will specify that they only cover unlawful acts, not the mere expression of viewpoints some may find objectionable.
- IT and social media policies will only restrict access or sanction expression where this is unlawful or poses an operational risk, not because views are controversial or offensive.



- Requirements to adhere to Collective "values" will not be framed or enforced in a way that constrains the lawful expression of diverse views.
- Any regulation of on-campus protests, demonstrations, leafletting etc will be politically neutral and not unnecessarily onerous.

All such policies will reference this Code and state that it takes precedence. They will be interpreted and applied by staff in a way that protects legal free speech to the fullest extent.

### Publication and Format of the Code

This Code of Practice is published prominently on the Collective website here. It will be fully accessible to students, staff, applicants and the public without any password requirements. A clear summary of the Code's key points will be:

- Emailed to all students and staff annually
- Included in all student and staff handbooks
- Referenced in any other policy that could impact free speech, with a statement that the Code takes precedence
- Included in prospectuses and application information

The Code applies to all activities relating to Collective's educational provision, meetings and wider academic life, whether on or off premises. It covers staff and student disciplinary, complaints and appeals processes and decision-making by any committees with a potential free speech impact.

### Training and Induction

All staff involved in making decisions or enforcing policies in the following areas will receive mandatory training on the legal freedom of speech requirements and how they apply to their role:

- Admissions, hiring, promotions and disciplinary processes
- Student and staff codes of conduct
- Bullying, harassment and discrimination policies
- Events approval and external speakers
- Equality, diversity and inclusion
- IT, social media and Prevent policies
- Teaching, learning and research

Training will ensure staff understand this Code of Practice, relevant legislation, the OfS complaints scheme and how to apply them in their roles.

All students and staff will receive information on freedom of speech and academic freedom and their rights under this Code as part of their induction. This will cover:



- The core provisions of the Code of Practice
- Their legal free speech rights and how to exercise them
- The right to complain to the OfS

Updates and reminders will be provided as needed, at least annually. Training and induction will remain politically neutral. There will be no requirement to commit to any particular views or ideas, beyond supporting lawful free speech.

## Admissions, Appointments, Employment and Governance

### Admissions

Collective will not deny any person admission as a student based on their lawful views, opinions or beliefs.

Offers of admission will not be conditional on expressing or rejecting any particular viewpoints.

Collective will not accept funding for studentships that is conditional on the recipient holding particular views, as this could restrict their freedom of speech. Due diligence will be conducted on studentship agreements to uphold free speech.

### Appointments and Employment

Collective will not consider a person's lawful speech or positions when deciding on their appointment to an academic post or on their continued employment. This applies to recruitment, performance management, promotion and redundancy decisions.

Applicants and staff will not be required to demonstrate commitment to any particular set of beliefs or values as a condition of employment, in a way that penalises lawful free speech.

Records will be kept of all formal decisions, clearly showing that free speech was secured.

Managers involved in recruitment, promotions and staff management will receive specific training on upholding academic freedom in employment.

### Research

Academics and students have the right to freely pursue research on any lawful topic, using any lawful methodology. Collective will not restrict or discourage any line of academic inquiry because of its controversial nature or implications.



Research will be assessed on its merits, not on any criteria relating to the personal views, opinions or beliefs of the researcher(s).

Collective will defend researchers against attempts to suppress research that yields controversial findings or perspectives. Support will not be denied to a research project because its conclusions are unpopular or inconvenient.

### Teaching

Collective protects the right of academics to freely select teaching content, methodologies and assessment, within the bounds of the law, academic standards and course validation requirements.

Students are entitled to be exposed to a diverse range of sources, theories and perspectives as part of a rounded higher education. Collective will not mandate or ban the use of any lawful material.

Teachers cannot be required to endorse or oppose any particular views or opinions in their teaching. They have the academic freedom to present material neutrally or critically, as they see fit.

Collective will not censor or punish academics for presenting challenging or controversial perspectives in class, provided this is done in a pedagogically appropriate manner and does not amount to unlawful harassment or discrimination.

Reasonable adjustments can be made for students with particular sensitivities, such as content warnings or alternative assessment topics, but this must not amount to limiting the free speech of others.

### Free Speech Complaints Scheme

Collective will make all students, staff and visitors aware of the Office for Students' Free Speech Complaints Scheme at least once a year. Information about the scheme will be included prominently in:

- Staff and student induction materials
- This Code of Practice and related free speech and event policies
- Disciplinary, complaints, appeals and grievance processes
- Application information for academic posts

The following text will be used:



"The Office for Students (OfS) operates a complaints scheme for free speech and academic freedom concerns. Under the scheme, the OfS can review complaints from students, staff, speakers and applicants for academic posts who believe their right to lawful free speech has been restricted by a university or college. More information is available at [this](#) link."

Collective will not invite or encourage complaints about speech that is lawful, even if this speech is controversial or causes offense.

There will be a fair, transparent and efficient process for handling complaints or allegations that do relate to potentially unlawful speech, such as harassment:

- All complaints will be triaged rapidly and any that are clearly unfounded or vexatious will be rejected.
- Investigations will be timely, proportionate and follow clear procedures. Undue delays create a "chilling effect".
- Complaints will be judged objectively against the law and Collective policies, not the subjective feelings of complainants.
- Action will only be taken against speech that is actually unlawful, not merely offensive or controversial.
- There will be a clear route of appeal with an independent decisionmaker.

Collective will not pursue any disciplinary action, or even informal sanctions, against students or staff because of their legally protected speech. Only where speech violates the law or poses a clear threat to safety or operations will action be considered.

### Governance

Collective's governing body has ultimate oversight of the implementation of this Code and our legal duties on free speech and academic freedom. The Board will receive an annual report on free speech related activity, complaints and issues.

A designated member of Executive has operational responsibility for free speech and is the strategic lead for ensuring compliance with the legal duties. They will report to the Board. The Safeguarding and Prevent Steering Group will monitor free speech in the context of its remit and the interplay with other legal duties relating to security, safety and equality. It will liaise with the strategic lead as needed.

All committees that make decisions with potential free speech impacts will operate under clear terms of reference that mandate consideration of free speech. These include committees dealing with:

- Teaching, learning and research
- Equality, diversity and inclusion
- Bullying and harassment

- Safeguarding and Prevent
- Complaints, conduct and discipline
- Events and external speakers
- Admissions and recruitment

All such committees will record in their minutes how free speech and academic freedom have been secured in their decisions. Authority to make decisions on significant free speech issues will be clearly designated to specific bodies and postholders.

By taking these steps and ensuring clear lines of accountability, Collective will build a governance framework that promotes and protects freedom of speech and academic freedom across all our activities.

## Glossary of Terms

**Code of Practice** - This formal published document setting out Collective's policies and procedures for securing freedom of speech and academic freedom as required under law.

**Academic Freedom** - The legal right of academic staff to freely teach, discuss, research and publish on any topic and viewpoint within the law, without interference, disadvantage or fear of losing their job or privileges.

**Constituent Institution** - Any school, department or other distinct academic unit that forms part of Collective's structure.

**Free Speech (or Freedom of Expression)** - The right to express any opinions, ideas or information through any medium, as protected under Article 10 of the European Convention on Human Rights. Only speech that is unlawful falls outside the definition.

**Harassment** - Unwanted conduct related to a protected characteristic that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. Must be serious and judged objectively - merely causing subjective offense is not enough.

**Hate Speech** - Speech that expresses prejudice against a particular group, especially on the basis of race, religion or sexual orientation. Only hate speech that is also threatening or incites violence or hatred is unlawful.

**Prevent Duty** - The legal duty on universities to have due regard to the need to prevent people from being drawn into terrorism, while also having particular regard to the duty to ensure freedom of speech and academic freedom.

**Protected Characteristics** - The personal characteristics protected from discrimination under the Equality Act 2010 - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.



Unlawful Speech - Speech that is directly prohibited by law, such as speech inciting violence or hatred on protected grounds, speech causing harassment, malicious communications or breach of confidentiality.

These are the key definitions that will help students, staff and the wider public understand the technical and legal terminology used in our free speech Code and procedures. By clarifying our terms in this way, everyone can have a shared understanding of their rights, responsibilities and our policies for upholding freedom of speech and academic freedom.