



DERBY COLLEGE GROUP STATEMENT

Freedom of Speech and Expression Policy

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| Policy Number: | HRS-021 |
| SLT Executive Owner: | Deputy CEO |
| Owning Strategy / Department: | HR Strategy / Human Resources |
| Approval Board / Committee / Group: | FRC and Corporation |
| User Group: | All employees of Derby College |
| Relevant To: | As above |
| Implementation Date: | 2022 |
| Approval Date: | June 2025 |
| Next Review Period Start Date: | October 2025 |
| Expiry Date: | September 2028 |

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| Date: | September 2025 |
| Ref: | |
| Originator: | Director of Human Resources |
| Area: | Human Resources |

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POLICY - PROCEDURES - GUIDELINES - RELATED DOCUMENTS

Policy Accountability and Implementation

Policy Title: Freedom of Speech and Expression Code of Practice Statement
 Policy Author / Reviewers: Deputy CEO
 Policy Implementation: Managers in conjunction with Human Resources Team
 Policy Monitoring and Compliance: Director of Human Resources
 Policy Review Timeline: Three yearly

Policy Classification and Publication

Classification

- Not Classified (NA)

Publication

- Intranet – Policy portal

Empowering/related legislative and/or authoritative references:

N/A

Impact Assessment reference: N/A

Periodic Policy Review / Change History

Note: Please make it clear if change/review relates to procedures, guidelines and associated documents only or it is a rational for a new or substantive policy review

| Version | Reviewed / Modified by: | Change History | Advisory committee / groups or specialists | Review / Meeting Date/s |
|---------|-------------------------|---|--|--|
| | | Currently under Review. Expiry extended to June 2024. Needs CPP and Corporation approval | | June 2024 |
| | Director of HR | Minor changes to reflect job title changes | LT, JGC, FRC | June 2025 |
| | Director of HR | Changes introduced as a result of new guidance related to The Higher Education (Freedom of Speech) Act 2023 | JGC, FRC, FRC Corporation | December 2025 4 Dec 2025 11 Dec 2025 |
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1. Introduction

- 1.1 Derby College Group (DCG) 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, DCG is obliged under section 43 of the Education (No. 2) Act 1986 and The Higher Education (Freedom of Speech) Act 2023 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 DCG shall have regard to the need to ensure that academic employees 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 DCG. DCG has 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 DCG, including members of the Governing Body;
 - 1.6.2 all persons (whether academic employees or otherwise) working for DCG whether for payment or otherwise, including, employees, workers, self-employed contractors and volunteers
 - 1.6.3 all duly enrolled students of DCG (whether full or part-time);
 - 1.6.4 all students studying with DCG (whether full or part-time) under an agreement with a partner organisation of DCG (e.g. a college or school) even if not enrolled as students at DCG;
 - 1.6.5 the students' union and any societies, clubs or associations which normally operate *on DCG's premises*; and
 - 1.6.6 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 DCG's premises or through its IT systems in accordance with the provisions of section 3 of this Code.
- 1.7 References in the Code to "DCG's premises" and/or "DCG's facilities" include premises and/or facilities which are owned by DCG, premises and/or facilities which DCG does not own but over which it exercises some degree of control, and premises and/or facilities occupied or controlled by DCG's students' union whether or not DCG owns or has control of such premises and/or facilities.
- 1.8 References in the Code to any DCG employee (e.g. the Deputy CEO and the Deputy

CEO) includes reference to their nominee.

2. Freedom of Speech and Expression

2.1 DCG 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 DCG in upholding this Code of Practice.

2.3 DCG and individuals subject to this Code shall not restrict speech that is within the law except as prescribed by law and only if any such restriction is necessary and proportionate as required by the European Convention on Human Rights.

2.4 The three-step framework for assessing compliance is:

Step 1: Is the speech within the law? Only unlawful speech may be restricted.

Step 2: If lawful, are there reasonably practicable steps to secure the speech? If yes, those steps must be taken without restricting the speech.

Step 3: If no reasonably practicable steps exist, are any restrictions prescribed by law and proportionate?

2.5 Speech or expression that might be controversial, offensive, or unpopular is protected so long as it remains lawful. DCG will not suppress such lawful expression.

2.6 DCG's commitment to freedom of speech is subject to its wider legal duties, including under the Equality Act 2010 and the Prevent duty, requiring it to:

(a) eliminate discrimination, harassment, victimisation and any other prohibited conduct ;

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

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

(d) prevent people being drawn into terrorism.

2.7 DCG 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:

2.7.1 the beliefs or views of such individual or any member of such body; or

2.7.2 the policy or objectives of such body.

2.8 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.

- 2.9 DCG 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 DCG’s premises or through its IT systems.

- 3.2 DCG 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 IT systems. The organisation and holding of any such activities, and the arrangements therefore, must comply with this Code of Practice.

- 3.3 In order to comply with the Counter Terrorism and Security Act 2015, which imposes a duty on Further Education Colleges to have due regard to the need to prevent people from being drawn into terrorism, a risk assessment⁽¹⁾ must be completed by any employee who is responsible for organising an external event or visiting speakers. ⁽¹⁾*DCG Safeguarding Policy for Events and Visiting Speakers Risk Assessment Form and Process flowchart documents.*

- 3.4 Any person to whom this Code's rights apply must submit a request, in writing, to the Deputy CEO of DCG for permission for an activity to take place where it is reasonably foreseeable (in the reasonable opinion of the Deputy CEO) that the activity will raise issues which may be controversial in some way. Any such request should be submitted to the Deputy CEO not less than 28 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.

- 3.5 Any organisers of any activity shall, if there is any doubt as to whether the activity may, in the reasonable opinion of the Deputy CEO be controversial, consult the Deputy CEO at the very earliest opportunity so that the correct procedures may be followed.

- 3.6 Within five working days of receiving a written request pursuant to paragraph 3.4 above the Deputy CEO shall issue a written decision in reply which shall either grant or withhold permission for the activity to take place on the DCG’s premises or through its IT 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 CEO reasonably sees fit.

- 3.7 DCG will not unreasonably refuse to allow activities to take place on its premises or through its IT 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 DCG and/or the scope of its IT systems there would be:

- 3.7.1 incitement to commit a criminal act;

- 3.7.2 the unlawful expression of views;
 - 3.7.3 support of an organisation whose aims and objectives are illegal;
 - 3.7.4 the foreseeability that an individual might be drawn into terrorism and/or
 - 3.7.5 a breach of the peace.
- 3.8 In determining whether permission for an activity to take place on DCG's premises and/or through its IT system might reasonably be refused, consideration may be given by the Deputy CEO (as is appropriate in the circumstances) to:
- 3.8.1 the safety of persons attending the activity or otherwise foreseeably affected by the activity and/or on DCG's premises who might foreseeably be put at risk;
 - 3.8.2 the security of DCG's premises; and
 - 3.8.3 the good name and reputation of DCG.
- 3.9 A request for an appeal against a decision of the Deputy CEO may be made, in writing, to the Deputy CEO within five working days of the issue of the Deputy CEO's decision. The decision of the Deputy CEO shall be final and binding. The Deputy CEO may also impose such conditions or restrictions on the activity taking place as it reasonably sees fit.

4. Practical Measures

- 4.1 DCG shall permit the use of its premises and IT 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 DCG 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. Any individual using the IT systems of DCG will agree to be bound by DCG's Information Technology Staff Acceptable Use Policy.
- 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, DCG 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 DCG's premises or through its IT 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 DCG rule, regulation or procedure in any way.

5. Sanctions and Penalties

- 5.1 Any breach of the provisions of this Code by employees, students or governors will be punishable under the applicable Disciplinary Procedures.
- 5.2 Where those responsible for the breach are students or employees of a partner organisation of DCG the Deputy CEO 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.

- 5.3 Where a breach of this Code of Practice takes place at an activity or as a result of an activity taking place, DCG 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

DCG 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 CEO, together with any recommendations for revision of it, at intervals not exceeding 3 years.

Previous Version: June 2020

Reviewed: September 2022 (no changes required from previous version)

Reference: Evershed Sutherland LLP Legal Framework for Freedom of Speech and Expression in Universities and Colleges (including guidance on the Counter Terrorism and Security Act 2015).

Approved: Deputy CEO 10.10.2022