

Guidance for staff and students on the interaction of the University's Dignity and Respect Policy with its obligations regarding academic freedom, freedom of speech, and related rights.

This Guidance for staff and students on the interaction of the University's Dignity and Respect Policy with its obligations regarding academic freedom, freedom of expression, and related rights is supplemental to the University's statement on [our Commitment to Freedom of Expression](#).

It sets out the University's legal obligations in relation to freedom of expression and related rights such as freedom of assembly; and other relevant and equally important obligations such as those under equality law. The Guidance explains what factors the University may consider and balance when there is a tension between the exercise of rights of freedom of expression, and other legal obligations such as ensuring staff and students are not subject to unlawful harassment; and how relevant policies, such as the Dignity and Respect Policy, may apply and be upheld in such circumstances.

Each particular instance where these issues arise will be dealt with on a case-by-case basis with due regard for the facts and context of that particular case. However, this Guidance sets out some of the key factors the University will consider when dealing with these issues, and sources of support and advice for staff and students in relation to them.

1. The University's statement on [our Commitment to Freedom of Expression](#) notes that, in the words of the University's [Dignity and Respect Policy](#), we must 'foster a positive culture for working and studying which supports freedom of thought and expression within the law, and within a framework of respect for the rights of other people.'
2. This reflects the fact that the right to freedom of expression (and the exercise of academic freedom) does not mean that individuals can say or otherwise express whatever they wish, wherever and whenever they wish: exceptionally, there will be circumstances where the University may need to consider imposing certain limited restrictions on freedom of expression – for example, to prevent a breach of criminal law.
3. Staff and students often raise questions about how the Dignity and Respect Policy and other policies, such as the [Policy on Speakers and Events](#), interact with the University's other commitments and obligations in relation to freedom of expression and assembly¹, and the duty to uphold academic freedom².
4. This Guidance seeks to address some common questions, however any decision in this area will be taken on a case-by-case basis with due regard to the particular facts of the particular case. This Guidance is not an exhaustive summary of the law nor the particular issues that may apply in any specific case.

¹ For example, the University's obligations to comply with Articles 9 (Freedom of thought, conscience and religion) 10 (Freedom of expression) and 11 (Freedom of assembly and association) of the Human Rights Act 1998

² As per section 26 of the Further and Higher Education Governance (Scotland) Act 2005 (as amended)

Why does the University have a Dignity and Respect Policy?

5. The University is committed to equality, diversity and inclusion and to promoting a positive culture which celebrates difference, challenges prejudice and ensures fairness.
6. The University does not expect staff or students to agree with any particular views or opinions expressed by others; however, it does expect staff and students to act in a respectful and tolerant manner towards those who hold and express different views from their own, and for staff and students to respect the rights of individuals to express those views freely and without being subject to personal attacks.
7. The University is also subject to a number of legal obligations in relation to equality, for example to prevent discrimination against, or harassment of, its staff and students under the Equality Act 2010 (the “**Equality Act**”). The University must also act in accordance with relevant Human Rights law that may apply to the consequences of freedom of expression being exercised.³
8. The Dignity and Respect Policy is the formal policy which supports the University in meeting these legal obligations. In particular, as an employer, the University is responsible for the prevention of bullying, harassment, discrimination and victimisation and other unacceptable behaviour within the workplace. The Dignity and Respect Policy also applies to the behaviour of students (towards both staff and other students).
9. Where a staff member or student believes a member of the University community has breached the standards of the Dignity and Respect Policy, they should follow the options for resolution set out in that Policy (i.e., informal resolution where possible, or following formal complaint routes where not). Only a formal investigation process can determine whether the Dignity and Respect Policy has been breached, and if so, the consequences for the student or staff member who has breached it.

What are the University’s obligations in relation to freedom of expression and academic freedom?

10. Freedom of expression is a vital component of an open and democratic society, and the individual freedoms of those who are part of it. It is also fundamental to the University’s purpose: that our graduates, and the knowledge we discover with our partners, will make the world a better place.
11. As a public authority, the University also has a legal duty to uphold, within the law, the right to freedom of expression, assembly and association, and thought, conscience and religion, and the right to manifest these beliefs. This duty covers our staff and students, and also external speakers invited to speak at the University.
12. This means that all speakers at the University have the right to be heard if they are exercising their right to lawful speech. The right of staff and students to protest – which

³ For example, the University’s obligations to comply with Article 8 (Right to respect for private and family life) and Article 17 (Prohibition of abuse of rights)

is an equally important and fundamental exercise of the rights outlined above - should not obstruct the ability of others to exercise their human rights in a lawful manner.

13. However, all speakers at the University who wish to address controversial or emotive topics should expect their views to be subject to robust debate and challenge. When protecting the right to freedom of expression and academic freedom on campus, the University will ensure that different voices can be heard, , for example by ensuring that events are chaired in compliance with the University's Dignity and Respect Policy.
14. Restrictions to these rights are only permitted where such restrictions are lawful, necessary and proportionate. This means that restrictions can only be placed on the exercise of these rights by the University in specific circumstances set out in the Human Rights Act, for example to prevent crime.
15. It is important to note that the law protects speech which may offend, shock or disturb others⁴. The expression of controversial views which do not breach the law will not constitute reasonable grounds for withholding permission for an event at the University. However, speech may (depending on the context in which it is made) lose legal protection where it is used to incite hatred, violence or discrimination against others, or unlawfully harass an individual. This will generally be a case by case issue and determined with reference to the relevant legislation and case law. Further information on the University's process for determining these issues is set out in paragraphs 21 and 24 below.
16. The University also has a legal duty to uphold, as far as reasonable, the academic freedom of those involved in teaching or research at the University. In this context, academic freedom means the freedom (within the law, i.e. subject to similar restrictions as apply to other forms of speech) of these individuals to:
 - (a) hold and express opinions;
 - (b) question and test established ideas or received wisdom;
 - (c) develop and advance new ideas or innovative proposals; and
 - (d) present controversial or unpopular points of view,

without placing their employment at the University at risk, and without undue interference from the University in their academic work.

What are the University's legal obligations in relation to equality issues?

17. The Equality Act prohibits harassment related to certain protected characteristics:
 - a. age;
 - b. disability;
 - c. gender reassignment;
 - d. marriage and civil partnership;
 - e. pregnancy and maternity;
 - f. race;
 - g. religion or belief;
 - h. sex; and
 - i. sexual orientation.

⁴ *Handyside v. The United Kingdom* (5493/72)

18. Harassment consists of engaging in unwanted conduct related to a protected characteristic, which has the purpose *or* effect of violating a person's dignity, or subjecting them to an intimidating, hostile, degrading, humiliating or offensive environment.
19. Where harassment is not purposeful, but may nevertheless have the *effect* of violating a person's dignity, or subjecting them to an intimidating, hostile, degrading, humiliating or offensive environment, the University must consider the specific context in which the speech is made.
20. It may be the manner and form in which views are expressed, rather than the opinions themselves, which takes otherwise lawful speech into the realm of unlawful harassment. In general, the Equality Act's provisions on harassment will not apply to course materials, discussions, or the views of speakers that students come across as part of their learning experience at University.
21. In practice, it can be difficult to define the boundary between lawful speech and unlawful harassment, and speech will not be harassment solely because someone perceives it as such or finds it shocking, offensive or disturbing. In cases where a speaker may be expressing controversial views, the University Compliance Group will carefully consider this issue under the Policy on Speakers and Events to ensure that the event can proceed lawfully (which may include consideration of whether potential speech or other aspects of a planned event may breach the law) and safely.

The Public Sector Equality Duty

22. The University is also subject under the Equality Act to the Public Sector Equality Duty.
23. This duty means that the University must consider the need to **(a)** eliminate discrimination, harassment, victimisation and other behaviour that is prohibited by the Equality Act, **(b)** advance equal opportunities between people who share a relevant protected characteristic and people who do not, and **(c)** encourage good relations between people who share a relevant protected characteristic and people who do not, including the need to tackle prejudice and promote understanding.
24. For example, where the University is hosting a discussion on a controversial topic, it may introduce additional measures relating to the Public Sector Equality Duty, such as requiring a balanced panel and/or reminding all speakers and attendees to comply with the Dignity and Respect Policy. Where a student or staff member is considering organising an event that may be controversial (e.g., where it is reasonably likely that the event or speaker may attract protest, or the topic is on a controversial or divisive topic), such events must be submitted to the University Compliance Group under the Policy on Speakers and Events to ensure that they can proceed safely and lawfully.

If you have a concern or are seeking advice or support

25. If you feel a speaker has breached, or an event will result in conduct that breaches, relevant University policies such as the Dignity and Respect Policy, or you are seeking more advice and support in relation to an event:

- a. staff can seek support from a manager, HR advisor or Trade Union representative.
 - b. Students may wish to seek support from The Advice Place at: https://www.eusa.ed.ac.uk/support_and_advice/the_advice_place/, or an independent member of staff such as Personal Tutor, Lecturer, or Warden.
- 26.** Additionally, the University has a network of trained Dignity and Respect Advisors (DRAs) who can provide advice and appropriate support to staff when they believe they have identified, or been accused of behaviour contrary to this policy. Information on contacting a DRA can be found at: <https://www.edweb.ed.ac.uk/equality-diversity/respect>
- 27.** If you wish to complain about the conduct of a student or member of staff in relation to these issues, you can follow the complaints process at <https://www.ed.ac.uk/students/academic-life/complaints>