

+ Freedom of speech and academic freedom: activities and events checklist

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This checklist can assist institutions to ensure that the implications of any planned activity (for example, a visiting speaker, public debate, panel discussion, publicity campaign, or diversity event, etc) are understood in relation to the legal framework for free speech and academic freedom and the attention to balance a higher education institution's (HEI's) duties to equality, diversity and inclusion, and to ensure that actions are taken to mitigate risk and reduce the potential for negative outcomes.

Please note that this checklist is intended to serve as guidance only. It is not intended to be comprehensive, nor does it constitute legal advice. Institutions should always seek clarification of their particular legal position from their own independent legal advisers.

Responsibility	Questions to ask	Mitigating action
Protecting and promoting freedom of speech and academic freedom Human Rights Act 1988 Further and Higher Education (Scotland) Act 2005 Education (Academic Tenure) (Northern Ireland) Order 1988 Education (No. 2) Act 1986 Higher Education (Freedom of Speech) Act 2023 Tertiary Education and Research (Wales) Act 2022	What reasonable and practicable steps must be taken by the HEI to promote and ensure free speech/academic freedom? What reasonable and practicable steps must the HEI take to ensure that its premises are not denied to any staff/student/visiting speaker on grounds of identity or beliefs? What is the nature of the event, its location and the identity of the speaker? Has the organiser followed the HE event booking procedure and provided appropriate information about their event to allow due diligence/risk assessment? How does the HEI balance its other legal duties and any risk assessment 'red flags' with its need to show particular regard to the right to freedom of speech and expression? Can any risks be mitigated? If there is a risk of protest can the HEI ensure that it ensures the right to protest safely and without risk to campus safety or the original event?	The HEI has a current Code of Practice on Free Speech which complies with statute and clearly states its obligations. The HEI has a robust event booking procedure that complies with its Code and provides it with sufficient powers to conduct due diligence and risk assessments into event/speaker requests and to place proportionate conditions to mitigate risks or to decline bookings if reasonably practicable steps cannot be taken to ensure free speech. The HEI has policies and procedures in place for students and staff which it can enforce if rights of free speech are unlawfully infringed or exceeded. HEI must monitor high risk events to ensure they proceed without risk and have powers to close or restrict an event in appropriate circumstances. The HEI has policies and procedures in place for managing protest risk which it can enforce if rights of free speech are unlawfully infringed or exceeded, or there is risk to campus security.

Responsibility	Questions to ask	Mitigating action
Protection against incitement to hatred Public Order Act 1986 Public Order (Northern Ireland) Order 1987 Racial and Religious Hatred Act 2006 Criminal Justice (No.2) (Northern Ireland) Order 2004 Criminal Justice (Scotland) Act 2003	Is there a risk that the activity is likely to pose a risk of incitement of violence or incitement of hatred towards people from a particular protected group? Is it likely to cause people to feel intimidated or to fear that violence will be used against them? Can reasonable and practicable steps be taken to avoid the risks or ensure they are sufficiently mitigated? Is there a risk that the activity may involve content or discussion or any publication that is likely to pose a risk of incitement of violence or incitement of hatred towards people from a particular protected group? Is it likely to cause people to feel intimidated or to fear that violence will be used against them? Can reasonable and practicable steps be taken to avoid the risks or ensure they are sufficiently mitigated?	Ensure processes are in place under the HEI's Code and event booking procedures for the effective conduct of due diligence into the event and any speakers invited and an assessment of risks around the event or any speaker invited and the development of proportionate responses under the HEI's Code and other policies. Consult with all key stakeholders as early as possible to identify concerns including the HEI's security team. Consider whether it is reasonably practicable to enable the event to proceed including use of proportionate conditions or mitigations if there are concerns. Consider any risk assessment of campus safety including any protest risk on campus and whether this can be mitigated. Communicate decisions regarding any activity (including any mitigations) clearly and fully to avoid speculation and misunderstanding. Ensure those who are invited to speak at the event understand and agree to comply with the HEI's expectations regarding appropriate conduct/behaviours while on campus and that staff/students are reminded of applicable codes of conduct. If the potential for discrimination or harassment is identified, consult with those groups which might be affected to identify an acceptable approach. Ensure that harassment policies are fit for purpose and used appropriately. Develop mechanisms for supporting staff and students who may feel vulnerable.

Responsibility	Questions to ask	Mitigating action
Promoting good relations and protection against unlawful discrimination and harassment or cause risk to public safety or order on campus Public Order Act 1986 Northern Ireland Act 1998 Equality Act 2010 Serious Organised Crime and Police Act 2005 Protection of Freedoms Act 2012 Protection from Harassment Act 1997 Criminal Law (Consolidation) (Scotland) Act 1995 Protection from Harassment (NI) Order 1997 Crime and Disorder Act 1998	Is the activity likely to unlawfully discriminate against one or more protected groups, or lead to an environment that is intimidating, hostile, degrading or offensive? Is it likely to cause affected staff/students or others to feel intimidated or to fear that violence will be used against them? Is the activity likely to cause public disorder on campus (including risk of protest)? Is there likely to be a threat to public safety as a result of the activity? Have the views of students/staff/others been consulted and concerns addressed? How does the activity contribute to the promotion of good relations between individuals or groups? Does the activity pose any risk to good relations? If so, what is the risk and who might be affected?	Ensure processes are in place under the HEI's Code and event booking procedures for the effective conduct of due diligence into the event and any speakers invited and an assessment of risks around the event or any speaker invited and the development of proportionate responses under the HEI's Code and other policies. Consult with all key stakeholders as early as possible to identify concerns including the HEI's security team. Consider whether it is reasonably practicable to enable the event to proceed including use of proportionate conditions or mitigations if there are concerns. Consider any risk assessment of campus safety including any protest risk on campus and whether this can be mitigated. Communicate decisions regarding any activity (including any mitigations) clearly and fully to avoid speculation and misunderstanding. Ensure that those who are invited to speak at the event understand and agree to comply with the HEI's expectations regarding appropriate conduct/behaviours while on campus and that staff/students are reminded of applicable codes of conduct. If the potential for unlawful discrimination or harassment is identified, consult with the organisers and those groups which might be affected to identify an acceptable approach. Ensure that codes of conduct and harassment policies are fit for purpose and used fairly, proportionately and appropriately. Develop mechanisms for supporting people who may feel vulnerable. In exceptional circumstances the HEI may request an organiser fund additional security costs. Emphasise the collective responsibility for good relations. Create opportunities for dialogue between groups with a focus on what is shared between them rather than what is different.

Responsibility	Questions to ask	Mitigating action
Terrorism Concerns/Prevent Public Order Act 1986 Terrorism Act 2000 Terrorism Act 2006 Counter Terrorism and Security Act 2015	Is there a risk that the activity is likely to pose a risk of radicalising staff/students/others which cannot be mitigated? Is there a risk that the activity may involve content or discussion or any publication that encourages terrorism (including glorifying the commission or preparation of acts of terrorism or inviting support or funding for such acts or a proscribed terrorist organisation) which cannot be mitigated?	Ensure processes are in place under the HEI's Code and event booking procedures for the effective conduct of due diligence into the event and any speakers invited and an assessment of risks around the event or any speaker invited and the development of proportionate responses under the HEI's Code or Prevent Policy. Consult with all key stakeholders as early as possible to identify concerns including the HEI's Prevent Coordinator. Consider whether it is reasonably practicable to enable the event to proceed including use of proportionate conditions or mitigations if there are concerns. Consider any risk assessment of campus safety including any protest risk on campus and whether this can be mitigated. Communicate decisions regarding any activity (including any mitigations) clearly and fully to avoid speculation and misunderstanding. Ensure that codes of conduct and harassment policies are fit for purpose and used fairly and proportionately appropriately. Develop mechanisms to support people who may feel vulnerable. In exceptional circumstances the HEI may request an organiser fund additional security costs. Ensure that those who are invited to speak at the event understand and agree to comply with the HEI's expectations regarding appropriate conduct/behaviours while on campus and that staff/students are reminded of applicable codes of conduct.

Contact us

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