



# Freedom of Speech Code of Practice

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## 1. Policy Statement

The Architectural Association (AA) was founded as a student-focused collective in 1847 as a unique institution dedicated to the independent promotion of ideas. The AA has since its founding been a place to provide a dynamic platform for new voices in the field of architecture and an open environment for discussion. Freedom of speech and academic freedom are at the very heart of the AA, and the AA is committed to continuing to protect them.

The AA is an association rather than a university, and its direction is governed by the consent and participation of members and the School's extensive international network, who create a deep and multi-generational community. The international nature of the AA means that a range of perspectives and experiences are brought to every debate at the AA, whether in the Lecture Hall, unit spaces or on the steps of 36 Bedford Square.

The AA will remain a place of discussion where ideas can be tested and disseminated without fear of control or limitation. The AA is an institution where open and uncensored debate can and must take place; the AA encourages students to learn to think for themselves and to develop their own opinions. It is in this context that views expressed, whether by staff, students or visitors, may be challenging or even deemed offensive to some, but such views are permitted so long as they remain lawful.

The law on freedom of speech and academic freedom is articulated in section 43 of the Education (No.2) Act 1986 which requires higher education institutions to *protect* freedom of speech.

There are different definitions of freedom of speech and academic freedom, but the AA has adopted the below from a Universities UK briefing guidance<sup>1</sup>.

- *Freedom of speech* means everyone has the right to express lawful views and opinions freely, in speech or in writing, without interference.
- *Academic freedom* means protecting the intellectual independence of academics to question and test received views and wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in danger of losing their jobs or privileges or reducing the likelihood of them securing promotion or different roles (at the AA).

All references to 'freedom of speech' within this Code are intended to capture both freedom of speech and academic freedom.

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<sup>1</sup> <https://www.universitiesuk.ac.uk/sites/default/files/field/downloads/2023-09/how-can-unis-prepare-for-the-HE-freedom-of-speech-act.pdf> page 6

The AA is committed to taking all reasonably practical steps to protect freedom of speech. The AA fulfils its obligation through enacting this Code, and by ensuring that all staff, students, consultants and speakers at the AA are aware of it.

The duty to protect freedom of speech it is not an absolute obligation. The AA is legally permitted to restrict freedom of speech where opinions and viewpoints to be expressed are likely to be unlawful and/or if it is not reasonably practicable to hold an event due to other significant risks. The criteria for making such a decision is set out at Section 4.

## 2. Scope and Principles

This Code of Practice (the Code) includes within its policy statement above the values of the AA in respect of freedom of speech. The Code applies to all students, staff, AA Council (Trustees), consultants, AA members and visiting speakers at the AA.

The Code will apply to any activities being undertaken within the AA's teaching, public programme, meetings and other events, either on AA premises or those being organised by or on behalf of the AA. The Code does not apply to staff or students organising events outside of the AA, or when voicing their opinions or viewpoints on personal social media – see AA Media and Social Media Guidelines.

When concerns arise about an opinion or viewpoint being expressed, the starting point will always be that the opinion or viewpoint, even where they offend or are controversial, are lawful and permitted.

### AA Staff and Students

The Code applies to all staff (including consultants) and students when contributing to the life, work and study of the AA, whether this be within its academic provisions, Student Forum, lectures, events or engaging with other AA staff or students on AA premises or as part of their work and study. The Code will also apply when students or staff are producing materials or publications for their work or study at the AA.

The Code will be adhered to by AA trading subsidiaries such as AA Publications in respect of any publications and events held to promote such publications.

Staff and students will enjoy freedom of speech and academic freedom within the AA and will exercise these freedoms in a way that is lawful (see Section 3) and respectful of different views and opinions.

Staff will not be the subject of disciplinary action for expressing or holding opinions or viewpoints, even when they may be controversial. Unless, however, the staff member does so in a way that is considered by the reasonable person to be unlawful as defined below.

Students who express lawful views and opinions will not be the subject of a complaint, unless they do so in a way that is considered by the reasonable person to be unlawful as defined below.

### Student Forum

The AA Student Forum is not a student union as defined by Part 2 of the Education Act 1994. However, the Student Forum being a body made up of AA students will adhere with the Code whenever it is organising or hosting an event including lectures, speeches or debates.

### Speakers at the AA

All those invited to speak at the AA, whether within a seminar, podcast or public lecture, will be bound to comply with this Code. Like staff and students, they will enjoy freedom of speech and academic freedom and will exercise these freedoms in a way that is lawful (see Section 3) and respectful of different views and opinions.

## Members of the AA

Members of the AA who attend events or are invited to participate in an activity at the AA will comply with this Code. Members will enjoy freedom of speech and academic freedom and will exercise these freedoms in a way that is lawful (see Section 3) and respectful of different views and opinion.

## 3. Definitions, and Lawfulness

### Definitions

- ‘Materials’: any material produced by AA staff or students with the intention of teaching, or influencing, others on a particular topic or subject.
- ‘Publications’: any book, magazine, newspaper, or articles or similar produced in the name of AA Inc, or AA Publications and student-led publications.
- ‘Event’: any occasion when a person or people can speak, debate, express an opinion including but not limited to lectures, public programme events, seminars or Units, held on AA premises or in the name of the AA/
- ‘Activities’: includes all of the above.

### Lawful vs Unlawful

The starting point will be that a viewpoint or opinion is lawful, however, an opinion or viewpoint may be contrary to criminal law and therefore unlawful if it:

- Incites hatred on the grounds of sexual orientation, religion, or race;
- Encourages someone to commit a terrorist act or other criminal offence;
- Encourages support for a terrorist organisation;
- Threatens violence or to kill;
- Intentionally harasses or intimidates.

Anyone who is the victim of a criminal act will be encouraged to report the matter to the police, and the School will do all it can to support any criminal investigation. The AA’s complaint procedure cannot replace a criminal investigation and any criminal investigation would result in the AA’s procedures needing to be paused.

A speech, viewpoint or opinion may also be unlawful under civil law if it is discriminatory against someone due to a protected characteristic as defined by the Equality Act. It may also be unlawful if how the speech, opinion or viewpoint is delivered would constitute harassment under the Equality Act 2010. A viewpoint or opinion that is defamatory may also be considered unlawful. See Section 7 for further details on what constitutes discrimination or harassment.

## 4. If You are Concerned about Lawfulness or Permitting the Activity

Decisions will be made on a day-to-day basis about events, publications and materials to be produced as part of the life of the AA. On rare occasions, questions may arise as to whether holding an event on a controversial topic, or inviting or permitting a certain speaker, or publishing an article will cause some staff or students to feel harassed or threatened, or if doing so might raise anger/tensions between individuals or groups with shared characteristics.

The procedure set out in Appendix 1 explains how decisions are made and who is responsible for making decisions about activities at the AA.

Where a concern is raised either by the decision-maker, students or staff at the AA about a proposed activity and the lawfulness of a viewpoint or opinion that will be expressed, a discussion will first be held with the Company Secretary. The discussion will consider the lawfulness of the viewpoint or opinions that are likely to be expressed, and whether there are other risks that need to be managed. The decision-maker for the event will complete a risk assessment and a discussion may need to be held with the Health and Safety Compliance Officer. If the conclusion of the Company Secretary is that the views or opinions that will be expressed are lawful, and so long as other risks can be adequately managed, the activity will proceed.

Where there are concerns about lawfulness and/or the reasonably practicable ability of the AA to manage significant risks identified, the matter shall be referred to the School Director for their decision. The School Director shall be provided with advice from the Company Secretary on the lawfulness (or external legal advice may be obtained in complex cases), and the decision maker for the activity will provide a risk assessment identifying the risks of the activity, and mitigation measures in place or proposed. The School Director will make a decision as to whether the activity can proceed based on the below criteria:

- Is the viewpoint or opinion that is the cause of concern, more than likely to be expressed during the activity at the AA?
- If so, is the viewpoint or opinion likely to be expressed during the activity, on the balance of probability, considered unlawful either under criminal or civil law?
  - o Yes – the activity will not be able to proceed.
  - o No – the activity will proceed subject to the activity being reasonably practicable given the risks identified.

Is the activity reasonably practicable? This decision will be based on whether:

- The activity risks causing harm to staff or students, or those attending the event, that cannot be reasonably mitigated through measures such as ticketing, additional security or holding the event partly online;
- The activity is more than likely to cause a breach of health and safety legislation;
- The activity would cause the AA to breach its conditions of insurance;
- The activity is more than likely to cause the AA to breach its other legal duties (see below);
- The activity is more than likely to cause significant reputational damage to the AA;
- The activity is more than likely to lead to the AA suffering a financial loss as a result of the activity;
- The activity would more than likely result in a significant number of staff or students resigning from the AA;
- The cost of the mitigation measures are disproportionate to the income of the AA and would not be considered reasonable by an objective person;

Where there are concerns about reputational damage or financial loss to the AA as a result of permitting or not permitting the activity to proceed, the School Director shall discuss the matter with the AA President prior to making their final decision.

The School Director is the final decision-maker in any decision as to whether an activity can proceed or not based on the above criteria. The School Director will provide a short, reasoned statement to the person who raised the concern. The School Director will not be obliged to communicate the reasoning for the decision to any other parties nor to disclose any report written as part of the decision-making process, or legal advice received.

## 5. Making a Complaint

Where a student, member of staff, other member of the AA or invited speaker at the AA has suffered adverse consequences as a result of an activity being held or produced, or not held or produced, by the AA, they are entitled

to bring a complaint under the AA's Complaints Procedure. If the person is not satisfied with the outcome of the complaint, including after upon the conclusion of an appeal, they may raise a complaint with the Office for Students (*insert link when available*).

## 6. Breach of the Code

Where a staff member or consultant is alleged to have acted contrary this Code, then this should be raised as a grievance under the Staff Grievance Procedure.

Where a student or member of the AA is alleged to have acted contrary to this Code, a complaint should be raised under the AA Complaints Procedure.

Members of staff or students who are found to have breached this Code may be the subject of disciplinary action.

## 7. Other Legal Duties

### European Convention of Human Rights Convention: Article 10 – Freedom of Expression

'1. 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. This Article shall not prevent States from requiring the licensing of broadcasting, television, or cinema enterprises.

2. 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.'

### Equality Act 2010

The Equality Act makes it unlawful to discriminate against someone upon the basis of a protected characteristic. Protected characteristics are sex, race, religion or belief, age, disability, pregnancy and maternity, gender reassignment, sexual orientation, marriage or civil partnership.

Restriction on freedom of speech will most often be considered discrimination on the grounds of 'belief'.

'Belief' under the Equality Act has been widely interpreted by the Courts to include both religious and philosophical beliefs, as well as a lack of belief. It is important to note that for a belief to be a protected characteristic it must be genuinely held, and more than just an opinion. It must be serious, cogent and apply to an important aspect of human life or behaviour and be worthy of respect in a democratic society and not affect another person's fundamental rights.

The Courts have held that there is a distinction between the absolute right to hold a protected belief and the right to express that protected belief. The right to express the belief can be restricted in order to protect the rights of others, eg the right not to be harassed.

There can be occasions where the belief is legitimate, but how a viewpoint or opinion is expressed or delivered eg its manifestation, can be harassing, and where that harassment results from a protected characteristic, a breach of the Equality Act could be claimed. Section 26 of the Equality Act defines harassment as:

'A person (A) harasses another (B) if:

(a) A engages in unwanted conduct related to a relevant protected characteristic, and

- (b) the conduct has the purpose or effect of:
- (i) violating B's dignity, or
  - (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.'

This is a very short overview of the most relevant parts of the Equality Act and its potential application in respect of this Code. Further information on the Equality Act and its relation to freedom of speech in Higher Education can be found at [Freedom of Expression guidance for Higher Education providers and students](#).

It is important to highlight that being offended, even if deeply offended by a viewpoint of opinion, is not harassment. The AA will not consider complaints about restrictions of freedom of speech that merely arise due to someone being offended by the viewpoint or opinion.

## Charity Law

The AA's charitable purpose is 'to promote and afford facilities for the study of architecture for the public benefit.' The AA has a legal duty to ensure its activities and use of its resources further its charitable purposes for the public benefit. Whilst charity law does not prohibit individual freedom of speech, the law does prohibit the AA and those speaking for it to undertake political campaigning or political activities such as making political statements other than those that support the delivery of the AA's charitable purposes (the study of architecture). The AA, or those speaking on its behalf, are not therefore able to make political statements or be utilised as vehicles to support a political campaign or political party. Such action can put at risk the charitable status of the AA and its individuals could find themselves subject to disciplinary action.

## Counter Terrorism and Security Act 2015 (Prevent Duty)

Introduced a statutory duty for higher education institutions to have 'due regard to the need to prevent individuals from being drawn into terrorism'. This means that institutions now have a statutory duty to engage with the government's Prevent agenda. The AA has adopted its [Prevent Duty Policy](#) to support its compliance with this duty, and the governance guidance can be found [here](#).

Related Policies that should be considered alongside this Code:

- [Code of Behavioural Expectations](#)
- [Dignity at Work and Study Policy](#)
- [Equality and Diversity Policy](#)
- [Prevent Guidance](#)
- [Social Media policy](#)
- [Complaints Procedure](#)

## 8. Appendix 1 – Events and Publications – Decision-Making Procedure

### Public Programme Events

The Senior Public Programme Coordinator or the person to whom they delegate approves each event that constitutes the AA Public Programme, this person is the 'decision-maker' for public programme. Proposals for public programme events are sent in on a rolling basis to the Senior Public Programme Coordinator, and the final list of events and speakers are agreed with the School Director each term.

The Senior Public Programme Coordinator ensures that all speakers provide a biography, description and title for their talk that is reviewed in advance and used to promote the talk online on the AA's website, social media or on a printed poster.

## Bookshop Events

The AA Bookshop will host book launch events on a regular basis and the decision to permit a launch event is the responsibility of the Bookshop Manager. All bookshop events are reviewed by the Senior Public Programme Coordinator or the person to whom they delegate prior to the event being advertised.

## Visiting Schools

The Head of the Visiting School approves all proposals and topics for the holding of Visiting Schools across the world and will make these decisions in knowledge of this Code. Each Visiting School has a head who will set out an agenda and information on any sponsors and information of local link/organisations that will inform the decision making of the Head of the Visiting School. The Head of the Visiting School will be made aware of this Code.

## Health and Safety, and Risk Assessments

The decision-maker for an event will consider the health and safety risks and will discuss them, and the appropriate risk assessment, with the Health and Safety Compliance Officer. For further information see the AA [Health and Safety Policy and Procedure](#)

## Security

When an event will present heightened security risks, the organiser shall liaise with the Security Supervisor about the requirements for every event, who is involved and other logistics such as timing, setup and estimated number of attendees. Occasionally, the AA ticket the event to ask guests to book places in advance. For ticketed events, attendees are required to show their ID card at the door. Each ticket is numbered and is non-transferable to another person.