



Freedom of Speech Code of Practice

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1 Introduction and Values

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 be 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 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 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 section 43 of the Education (No.2) Act 1986 which required 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 guidance¹.

- *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.



2 Scope and Principles

The Code applies to all students, staff (and consultants), AA Council (Trustees), AA members, and visiting speakers to the AA.

The Code will apply to any activities being undertaken within the AA's teaching, public programme, meetings, publications, teaching materials, and any other activity either on AA premises or organised by, or on behalf of the AA. The Code applies to online events delivered through AA platforms, podcasts, or online forums hosted by the AA. The Code does not apply to staff or students organising events outside of the AA. The AA will not interfere in staff or student's speech on social media so long as the speech is lawful and the speech does not amount to a breach of the AA Code of Behavioural Expectations including but not limited to resulting in harassment or discrimination against another member of staff or student as defined within Appendix 1, or criminal conduct. See also the [Media and Social Media Guidelines](#).

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.

When concerns arise about an opinion or viewpoint being expressed by a staff member, student, Council member or visiting speaker, the starting point will always be that the opinion, or viewpoint, even where it offends or is controversial is lawful and permitted. The threshold for the AA interfering in a student, staff member, AA Council member or visiting speaker's freedom of speech will be very high and this Code of Practice should be applied accordingly.

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 a lecture, 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
- Speech' is the means by which a student, staff, member or visiting speaker expresses their opinion or viewpoint either verbally or in writing.
- 'Activity' or Activities' – includes all of the above.

Lawful vs Unlawful

The presumption will always be that a Speech or Activity is lawful and protected, and that the AA must take reasonable steps to secure freedom of expression in the vast majority of instances. Speech that may be criminal in nature, and therefore unlawful, will not be protected by the AA. Examples of unlawful speech will be:

- 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.

Other Legal Duties

There are a number of different legal duties the AA has to adhere to when considering whether or not a Speech or Activity is lawful. See Appendix 1 below. The AA has to consider whether permitting the Speech or Activity, or taking no action to interfere, would result in the AA being in breach of another legal duty e.g. public sector duty under the Equality Act 2010 and even where there is a potential breach, the AA must consider practical steps to minimise the risk of a breach before interfering in the freedom of speech.

4 Practical Steps the AA will take to secure freedom of speech and academic freedom

The AA in its programme development, pedagogy, teaching, policies, and procedures will always seek to reflect its duties to protect freedom of speech and academic freedom within the law. This will include but not be limited to:

- Processes for programme development, pedagogy, quality and academic assurance and academic assessments;
- Human Resources policies and procedures including appointment and dismissal, and obligations under the Equality Act 2010;
- Implementation of the AA's Prevent duty;
- Implementation of the AA Behavioural Code of Expectations, AA Harassment and Sexual Misconduct Policy, AA Complaints Policy, Staff Grievance and Disciplinary Procedure;
- The School Community will at least once per year be reminded of this Code of Practice and the importance of freedom of speech and academic freedom to the values of the AA.

The AA does not enter into non-disclosure agreements related to complaints about sexual misconduct, bullying, or harassment.



5 Securing Freedom of Speech - Framework for Assessment

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. Students, staff, and members are debating topics and sharing different points of view face to face or online on a daily basis without needing to consider this Code and the AA wants this to continue. It will be rare that questions will arise as to whether Speech is lawful or whether the AA needs to restrict or interfere with a Speech or Activity.

The procedure set out in Appendix 2 explains how decisions are made and who is responsible for making decisions about events held at the AA.

Concerns about an Activity that has already occurred

Where a student or staff member genuinely believes that the actions, speech, or teaching materials of an AA staff member or student that have occurred, were unlawful and the matter is not capable of being resolved informally, the genuinely held belief that an activity was unlawful should be raised as a complaint under the AA Complaints Procedure. The recipient to the complaint, any investigator and final decision maker in the complaint will be obliged to consider the AA's obligations to protect and secure freedom of speech and academic freedom, and the high threshold for any interference in the same as set out in this Code of Practice, in the outcomes to the complaint. A complaint may be dismissed by the recipient of the complaint before investigation if it is evident the speech is lawful.

It is important to highlight that being offended, even if deeply offended by a viewpoint of opinion, is not harassment or discrimination. When considering whether there has been a breach of the Code of Behavioural Expectations, the default assumption is that speech is within the lawful unless restricted by legislation. The AA will not permit staff grievance or student complaint procedures to be utilised to restrict directly, or indirectly, freedom of speech or academic freedom.

Concerns about a proposed Activity

Where there are concerns that a proposed event, speech, or publication might be unlawful, raises genuine safety concerns or permitting the activity would risk the AA being in breach of another legal or regulatory duty, the concern may be referred to the Head of Legal and Company Secretary for consideration in the first instance. The concern may be raised by a member of staff, student or the person who has been invited to speak at the AA.

A discussion should first be held with the Company Secretary about the proposed activity, and the Company Secretary will undertake an informal assessment based on the below 3 steps framework and seek to reach a mutually agreeable solution with the interested parties without restricting or interfering with the Activity or Speech. The informal assessment and any agreed outcomes will be recorded in writing and held for 6 years after the decision.

If the Company Secretary cannot reach a mutually agreeable solution with all parties involved and/or there is potential need to restrict or interfere with freedom of speech or academic freedom, the Company Secretary will escalate the matter to the School Director. The School Director will undertake a formal assessment following the 3-step assessment framework set out below. The School Director will be the final decision maker on whether to permit the Activity, the practical steps to be taken and a decision to restrict freedom of speech.

- 1) Is the proposed Speech or Activity lawful? If it is lawful, move to step 2. If the Speech or Activity is unlawful consider whether a student, or staff member should be referred for disciplinary action, or receive additional training. A visiting speaker will not be permitted to speak at the AA if their proposed Speech is unlawful.



2) Are there any reasonably practical steps to secure the Speech or Activity?

Examples of reasonable practical steps can include additional security arrangements, ticketing, allocating a different room, holding an event online or hybrid format, or pre-warning to students attending a seminar where controversial topics are to be discussed, and sending out reminders to all staff and students of this Code of Practice and the Code of Behavioural Expectations. In deciding what reasonable steps can be taken the School Director may consider whether taking a step would affect the essential functions of the AA e.g. teaching, learning or the administrative functions and the resources and facilities available to students. Another factor the School Director can consider is whether an Activity risks the physical safety of individuals for whom the AA has some oversight or responsibility.

Where reasonable steps can be taken to enable the Speech and any related Activity to proceed, then it will proceed.

If there are no reasonable steps that can be taken that will mitigate the safety concerns, or risk that the AA would be in breach of another legal duty if the Speech or Activity proceed to step 3.

Factors that the School Director cannot consider in making their decision will be: -

- Reputational risk to the AA;
- Whether the opinion to be expressed is controversial or offensive;
- Whether AA members, donors, staff, or students of the AA approve;

3) Is interfering in the Speech or Activity prescribed by law or proportionate under the European Convention on Human Rights? Prescribed by law may be an obligation to prevent harassment or discrimination under the Equality Act. And in assessing proportionality, the School Director will consider: -

- a. whether the objective of the measure is sufficiently important to justify the limitation of a protected right,
- b. whether the measure is rationally connected to the objective,
- c. whether a less intrusive measure could have been used without unacceptably compromising the achievement of the objective, and
- d. whether, balancing the severity of the measure's effects on the rights of the persons to whom it applies against the importance of the objective, to the extent that the measure will contribute to its achievement, the former outweighs the latter.

The School Director may obtain legal advice in respect of their decision to permit or restrict Speech, or to decipher whether the Speech is unlawful or the AA's interaction with the AA's other legal duties. The School Director will normally consult with the President of the AA Council where there are no practical reasonable steps identified to secure the Speech or Activity and there remains a genuine safety risk, or impact on essential functions of the School. The School Director will maintain written record of their 3-step assessment and their final outcome with summary of explanation for the outcome and conclusion reached. The outcome and summary of explanation will be shared with the person who is directly impacted by the outcome e.g. the visiting speaker or author of a publication. The person who raised the concern may be told the outcome but not necessarily the explanation.

The person whose freedom of speech or academic freedom has been limited due to the assessment decision of the School Director may appeal the decision in accordance with the Appeal Procedure (Third Stage) of the AA Complaints Procedure. Upon the basis one of the grounds of appeal within the Complaints Procedure has been provided, the appeal will be considered and concluded by one member of AA Council. The appeal will be paper-based only.

The School Director may decide as a result of their assessment that there has been a breach of the Code of Behavioural Expectations and refer a staff member or student for disciplinary action under the relevant procedures.



Any alleged breach of the Code of Behavioural as the result of a student or staff member exercising their freedom of speech or academic freedom will be considered in line with the AA's duty to secure freedom of speech and this Code. The AA will not take disciplinary action against a member of staff or student whose Speech is within the law although it may sometimes be necessary for an investigation to occur in line with the Complaints Procedure (allegation against a Student or AA Council Member) or Staff Grievance procedure to decipher the position regarding whether the Speech is within the law.

6 Monitoring and Reporting

Council will receive a report annually on outcomes from assessments undertaken by the School Director under this Code of Practice and any resulting appeals, so as to provide an ability for trends to be identified and actions taken where necessary.

Appendix 1- 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.

A restriction of an employee or student's 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 e.g. not to be harassed.

There can be occasions where the belief is legitimate, but how a viewpoint or opinion is expressed or delivered e.g. its manifestation, can be harassment, 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](#).

The AA as a higher education provider has a public sector duty that in the exercise of its functions e.g. administering this Code of Practice, it must have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Equality Act 2010
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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.

Harassment (Protection from Harassment Act 1997)

The concept of harassment in this Act is linked to a course of conduct which amounts to harassment. The conduct must comprise of two or more incidents. Harassment includes causing distress or alarm to an individual, however the conduct must be oppressive rather than just offensive and must be sufficiently seriousness to also amount to a criminal offence.

Section 1 of the Protection from Harassment Act states that the course of conduct is prohibited if the person whose course of conduct is in question knows or ought to know that it amounts to harassment of another; and that 'the person whose course of conduct is in question ought to know that it amounts to or involves harassment of another if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other.' This introduces an element of objectivity into the test.

The AA is no obliged to secure speech that it reasonably believes to amount to harassment under this Act.

Public Order Act 1986

It is an offence under Section 4 of the Public Order Act 1986 if a person—

- a) uses towards another person threatening, abusive or insulting words or behaviour, or
- b) distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting,

with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked.

It is an offence under Section 4A of the Public Order Act 1986 if, with intent to cause a person harassment, alarm or distress, a person—

- 4) uses threatening, abusive, or insulting words or behaviour, or disorderly behaviour, or



a) displays any writing, sign or other visible representation which is threatening, abusive or insulting, thereby causing that or another person harassment, alarm, or distress.

It is a defence for the accused to prove:

- a) that he was inside a dwelling and had no reason to believe that the words or behaviour used, or the writing, sign or other visible representation displayed, would be heard or seen by a person outside that or any other dwelling, or
- b) that his conduct was reasonable.

This is not an exhaustive list of offences under the Act but provides an overview of the types of offences and the defence. It is not enough to be insulted or even to personally feel distressed, there needs to be evidence that an objective person in the same situation would suffer the same alarm or distress as a result of the alleged offence. The AA will not have a duty to secure speech that in its reasonable belief would be unlawful under the Public Order Act.

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.

Terrorism Act 2000

The Terrorism Act 2000 prohibits (among other things¹³) speech that:

- a) invites support for a proscribed organisation, and the support is not, or is not restricted to, the provision of money or other property; or
- b) expresses an opinion or belief that is supportive of a proscribed organisation, and in doing so is reckless as to whether a person to whom the expression is directed will be encouraged to support a proscribed organisation.

Speech that is prohibited by the Terrorism Act is not within the law. The AA will not secure speech it reasonably believes to be contrary to the Terrorism Act

Counter Terrorism and Security Act 2015 (Prevent Duty)

Higher education institutions must have "due regard to the need to prevent individuals from being drawn into terrorism" and this will apply in exercising its obligations to secure and protection freedom of speech. 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](#)
- [Harassment and Sexual Misconduct Policy](#)
- [Dignity at Work and Study Policy](#)
- [Equality and Diversity Policy](#)
- [Prevent Guidance](#)



- [Media and Social Media Guidelines](#)
- [Complaints Procedure](#)

8 Appendix 2 - Events and Publications – Decision Making Procedure

Public Programme Events

The Head of Public Programmes 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 Head of Public Programme, and the final list of events and speakers are agreed with the School Director each term.

The Head of Public Programme 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 via our 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 Head of Public Programme 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.docx](#)

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, set up 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.