



*Students' Union

Code of Practice Freedom of Speech

Contents	Page
1. Status and Scope	3 – 4
2. Scope and General Principles of the Code	4 – 6
3. Defining 'Reasonably Practicable' steps to secure freedom of speech and academic freedom	6 - 7
4. Union's Values and their relationship to free speech and academic	7
5. Governance	7 – 8
6. Complaints	9 – 11
7. Events	11 – 12
8. Training and Inductions	12 – 13

Purpose

The University of Sunderland Students' Union (USSU) is fully committed to securing and promoting freedom of speech for all, within the law. The Higher Education (Freedom of Speech) Act 2023 ("the Act") places a legal duty on the USSU to secure lawful freedom of speech and academic freedom.

Sunderland Students' Union registers over 50 diverse student groups, some of which invite the participation of those outside our membership in their activities. We are a students' rights organisation and invite partners to contribute to our campaigning efforts. Sunderland Students' Union acknowledges our collective responsibility to freedom of speech within the law, which complements our safeguarding responsibilities.

1. Status and Scope

- 1.1. USSU Board of Trustees is fully committed to securing and promoting freedom of speech for all within the law, taking 'reasonably practicable' (see Section 3) steps to secure lawful freedom of speech for:

- (a) USSU staff and members
- (b) University staff and students
- (c) Visiting speakers

- 1.1.2. This includes securing that –

- (a) the use of USSU's premises, digital platforms, and communications, where University (and/or USSU) approval is required, is not denied to any individual in relation to their lawful ideas or opinions, or a body based on their mission or policy objectives.
- (b) the conditions placed on those in (a) using University premises, digital platforms and communications is not based on expressing specific ideas, opinions and objectives.

- 1.2. Further to the requirements of the Act, the Board of Trustees has sought to issue an updated Code of Practice. The information contained in this document is the Code of Practice. As well as being required to set out USSU's values as they relate to and support freedom of speech, it also includes procedures, and signposts to more detailed information, on securing lawful free speech in terms of meetings, events and activities held on-campus. On this basis, the Code is a core reference point for USSU's key principle for upholding free speech and academic freedom for the convenience of staff, students, members of the public, the OfS and other stakeholders. The Code signposts to more detailed policies and practices for upholding free speech and academic freedom at USSU, which are integrated into existing USSU policy and procedures.

- 1.3. This Code of Practice applies to:

- 1.3.1. All USSU staff, regardless of whether they are:

- a. Full or part-time
- b. On a permanent or fixed term contract

- 1.3.2. It applies to all members of USSU as defined within our Articles of Association (Section 8 –10).

2. all visiting speakers and any other persons within USSU premises, or digital channels and communications hosted by USSU.
- 1.4. This Code is to be considered for all aspects of USSU business, all USSU premises and our students and staff operating in online environments hosted by USSU.
- 1.5. This Code will be published online, and USSU will share this Code of Practice with members at the point they join and at least once a year via email/university intranet thereafter.
- 1.6. Where a breach of this Code of Practice and an offence takes place at an event, USSU may take steps to assist the police to secure identification of the persons committing offences with a view to appropriate action being taken against them.
- 1.7. Any matters arising in connection with this Code of Practice may be reported to the Board of Trustees.
- 1.8. The USSU is not subject to regulation by the OfS, based on amendments to the Act. However, the Students' Union is still expected to maintain a Code of Practice which sets out the ways in which it safeguards freedom of speech, and to work in close partnership with the University to fulfil its obligations under the Act, to the OfS and other bodies.

2. Scope and General Principles of the Code

- 2.1. The University of Sunderland Students' Union (USSU) is committed to ensuring that freedom of speech, within the law, is protected and promoted. 'Freedom of speech' is defined as the freedom to express ideas, opinions or information by means of speech, writing, or images (including in electronic form). Freedom of expression and association are also protected by law.
- 2.2. The holding and expression of lawful views which are unorthodox, unpopular, controversial, or even offensive should not prevent the right to hold or express those views. The principle of freedom of speech requires that the University community, and any visiting speakers, have the freedom to express such views without risk to their safety.
- 2.3. It is important to note however that USSU can only protect freedom of speech which is lawful. Lawful speech does not include incitement to racial or religious hatred, threatening or abusive words or behaviour leading to harassment of any kind, or speech which could cause a breach of the peace or likely to cause a public order offence. This also applies to examples relating to other protected characteristics as listed by the Equality Act 2010.
- 2.4. In UK law, there must be an objective test of what is reasonable for free speech or academic freedom to be limited or qualified, and this is likely to happen only in exceptional circumstances. Circumstances might include where the exercise of free speech constitutes harassment, based on the definition of s26 of the Equality Act 2010. Decisions taken on behalf of the USSU will therefore adopt a case-by-case, context-sensitive approach in considering the relationship between its equality, diversity and

inclusion ethos and obligations and the satisfaction of academic freedom and free speech obligations, which seek to balance the lawful rights of all parties and individuals. More information will be contained in the University's relevant equality, diversity and inclusion policies and practices.

- 2.5. The University has a duty under the [Counter Terrorism and Security Act 2015](#) and subsequent government guidance to 'have due regard to the need to prevent people from being drawn into terrorism', known as the 'Prevent Duty'. Counter-terrorism law forbids the University or any of its members to have any association with, circulate materials or information about, or provide a platform to, members or [associates of proscribed](#) organisations or individuals, as they are banned as terrorist bodies in UK law. Whilst USSU is not directly subject to the Prevent Duty, it is bound to the University's requirements as a higher education body in that regard.
- 2.6. USSU believes it has a duty to ensure that all reasonably practical steps are taken in order to secure freedom of speech within the law for our student members, staff and its constituent institutions and visiting speakers.
- 2.7. USSU will work with the University of Sunderland to ensure that all reasonably practicable steps are taken to secure free speech on campus. The key considerations to be weighed up include the following;
 - (a) whether taking the step, or not taking it, would secure or restrict freedom of speech
 - (b) the practical cost of time, money, personnel, resources of taking the step, or of not taking it; and
 - (c) financial constraints
- 2.8. An example of the above might be, that if a student group wished to host an event that might have directly opposing views in the same room, it would be reasonably practicable to work with the University to ensure that impartial chairs are hosting, and the relevant security are funded to ensure that the event can go ahead.
- 2.9. The right to academic freedom is specific to academic staff in universities and other higher education providers and is an essential principle of critical and intellectual enquiry as a cornerstone of UK higher education.
- 2.10. As set out above, the University is duty bound to ensure that academic staff have the intellectual independence and freedom within the law to question and test received wisdom, and to put forward new ideas, including controversial or unpopular opinions, without placing themselves in jeopardy of adverse consequences. Adverse consequences refer to suffering some form of harm or obstacle at the point of applying for, recruitment to or promotion into an academic staff appointment, on the basis of them holding lawful views and opinions. Academic freedom extends to academics' ability to freely express their views and opinions, even if those views are controversial, offensive and unpopular in the areas of their research, teaching, wider professional expertise and competence, and on topics and subject matters more broadly.
- 2.11. Within an academic community, opposition to any new ideas or controversial or unpopular opinions should be, reasoned and raised constructively, allowing for debate and refutation. Such opposition should not be denied the opportunity to be heard,

provided that this does not disrupt or interfere with meetings, events, or academic activities by other staff, students or external parties such as visitors.

3. Defining ‘Reasonably Practicable’ steps to secure freedom of speech and academic freedom

3.1. In order to apply this Code of Practice, USSU will take ‘reasonably practicable’ steps to promote and protect free speech and academic freedom for staff, students and visitors. This includes taking positive steps, including steps not to action, where this would have consequences for an individual who had exercised free speech or academic freedom.

3.2. The key considerations to be weighed up include the following:

- (a) whether taking the step, or not taking it, would secure or restrict freedom of speech;
- (b) the practical costs of time, money, personnel, resources of taking the step, or of not taking it; and
- (c) financial constraints.

3.3. In taking reasonably practicable steps, USSU will be risk-based, in proportion to the level of risk involved in relation to the arrangement, activity or event. This includes recognising that what is reasonably practicable for the University as a larger organisation, may not be the case for USSU as a smaller entity with lesser resources. Partnership operates between both organisations to support each other in taking reasonably practicable steps, including the resourcing implications of doing so.

3.4. Apart from exceptional cases, use of USSU premises will not require the individual or body to bear some or all the security costs relating to their use of the premises.

3.4.1. What counts as exceptional will be decided by USSU. Factors that are likely to make a case exceptional are, for example:

- (a) A risk assessment indicates additional security precautions are required, and the costs of those precautions are over £500.
- (b) Private security is required.
- (c) The police have notified the University that there is a security risk and made recommendations as to additional precautions to take.
- (d) Impartial Chairs being required for events to be carried out neutrally and safely.

4. Union’s Values and Their Relationship to Free Speech and Academic Freedom

4.1. The University of Sunderland Students’ Union’s (USSU) Strategic Plan 2022-25 is built on a mission to shape students’ lives for the future. Our purpose is centred around our five key principles that shape how we work: with **passion, integrity, empowerment, success and inclusivity**.

4.2. USSU actively promotes freedom of speech through investing in our diverse student groups, student voice, campaigns and through advocating in the student interest for a campus community which recognises and dismantles the barriers that prevent students from exercising their right to speak.

5. Governance

- 5.1. USSU has legal and moral responsibility for ensuring that all the Students' Union's objectives further our excellent reputation, our charitable obligations and strategic goals. On a day-to-day basis, the Trustees have delegated responsibility for the implementation of this policy to the Chief Executive Officer.
- 5.2. USSU has a responsibility to support the University of Sunderland in meeting the expectations of its own freedom of speech policies, where these activities take place on campus.
- 5.3. USSU is regulated by the Charity Commission which takes a risk-based approach to managing complex activities and highlights a variety of considerations for Trustees when making decisions about events and initiatives that should take place. Also to note, the Charity Commission is the Students' Union's primary regulator. Equally, it will be the responsibility of USSU operational activity to report to the Board of Trustees on how efforts to promote free speech on campus has occurred.
- 5.4. USSU is governed by [Articles of Association](#) and [Byelaws](#). These documents provide a framework for USSU's operations, outlining the rules, responsibilities, and procedures that guides our governance and activities.
 - (a) Articles of Association is a formal document that establishes the creation of USSU and defines our purpose, structure and the fundamental principles governing our operations.
 - (b) Byelaws provide a more detailed overview of rules and regulations that govern the day- to-day operations of USSU. Typically covering aspects such as officer elections, conducts of meetings, financial management, and the roles and responsibilities of various committees and representatives within USSU.
- 5.5. Section 22 of the [Education Act 1994](#) requires governing bodies of universities to take such steps as are reasonably practicable to secure that any Students' Union at the University operates in a fair and democratic manner and is accountable for its finances. The University and USSU hold a [Code of Practice](#) which has been published by the Board of Governors of the University of Sunderland in accordance with the requirements of S22(3) of the Act which states that the Board of Governors shall prepare and issue and, where necessary, revise a Code of Practice setting out details of arrangements made to secure observance of the requirements under the Act relating to Students' Unions.
- 5.6. The USSU Code of Practice reflects similar practices to that of University of Sunderland to ensure consistency in approach to response to the legislation, however USSU reserves the right to independently challenge the institution if it believes that an incorrect judgement around freedom of speech and academic freedom has been made.
- 5.7. USSU has legal and moral responsibility for ensuring that all the Students' Union's objectives further our excellent reputation and our strategic goals. On a day-to-day basis, the Trustees have delegated responsibility for the implementation of this policy to the Chief Executive Officer.
- 5.8. We actively seek to facilitate student-led events where speakers are invited to broaden the scope of discussion and debate and contribute to the academic and non-academic development of our members.

- 5.9. It is expected that staff, when working for USSU, remain impartial in their approach to day-to-day work and operations. As an organisation which supports a wide range of student activity, some of which may be classed as political campaigning, student members do not have to remain impartial and USSU may support them to undertake student-led activity, e.g. by booking rooms, providing campaign training, or facilitating policy. Staff will remain impartial, and students are treated equally regardless of their views and beliefs.
- 5.10. Sabbatical Officers are trustees of USSU and are elected via a cross-campus ballot for both the Sunderland and London campuses. To note, all members, regardless of background, are able to participate in the democratic process of elections and it is USSU's responsibility to ensure that this is facilitated appropriately.
- 5.11. As a Students' Union, we will maintain appropriate records and record all decisions that could directly or indirectly (and positively or negatively) affect free speech within the law, and the reason for making those decisions.

6. Complaints

- 6.1. USSU takes all forms of complaints seriously, and 'free speech complaints', which include those from staff, students or members of the public relating to free speech and academic freedom are no exception.
- 6.2. Free speech complaints may be made by:
- (a) an enrolled student;
 - (b) a staff member or;
 - (c) a member of the public (including external speaker who may or may not have spoken at an event at one of the University's campuses) about an enrolled student or students or current staff member(s), or external individuals or bodies, such as those the University has authorised to speak on-campus or virtually through an event organised by the University.
- 6.3. A complaint may be made in relation to alleged 'adverse consequences' faced by the person making the complaint, or another person they have witnessed, who may have faced harm or detriment, due to action or inaction in the exercise of free speech or academic freedom at the University. The adverse consequences alleged to have arisen may not be financial in nature, but may relate to matters including reputation, or the conduct and behaviour of the USSU members(s), staff member(s) being complained about.
- 6.4. USSU operates its own policy procedures for dealing with free speech complaints made to USSU in relation to students acting as members of USSU, its officers, staff or actions taken or not taken in its name. Such complaints may require joint working and liaison with the University.
- 6.5. There are several grounds which will not be accepted for a free speech complaint to the University:
- (a) Complaints based solely on the subject matter of lawful free speech and academic freedom which has offended, caused upset, distress or hurt, as this is not a legitimate or valid basis for a complaint in its own right;

- (b) Where the person making the complaint has already referred the matter to the police or it is being dealt with by a court or tribunal and/or legal action is being taken against USSU. In such cases, USSU will suspend any investigation into the complaint until such time that the legal outcome has been reached. USSU may pick up the investigation at that stage;
- (c) Where the complaint is malicious, trivial, not within good faith or unfounded. The making of such complaints by a student or staff member may trigger the relevant University disciplinary or general misconduct policy.

6.6. USSU's existing policies for channelling student and staff free speech complaints will be used, and are listed below:

Dignity at Work Policy	Members of staff may make complaints under any one of the following staff policies: • Grievance • Dignity at Work • Disciplinary • Whistleblowing The process outlined in each of the policies will be followed in each case. For further details or advice on any of the policies listed above, the relevant HR colleague can be contacted.
Whistleblowing Policy	The Public Interest Disclosure Act 1998 (the Act) came into force on 2 July 1999 and gave legal protection to employees against being dismissed or victimised by their employers in consequence of reporting malpractices. If any staff member would prefer to raise a protected disclosure, please refer to the Whistleblowing policy.
Complaints Process	USSU Bye Laws 900 Complaint Procedure
General complaints from members of the public may enter USSU through a range of avenues, including to the Chief Executive's, Union Elected Officer, to a Head of a Service. They will be responded to by the relevant Union Service or Department.	

6.7. USSU commits to completing the complaints process, which includes early resolution or formal investigations, panel meetings, appeals and review of the complaint in as short a time frame as is possible. Where a complaint is judged to have a basis to enter a formal stage of a USSU policy, there will be a robust enquiry into the facts and hearing from those making, and those subject of, the allegations.

6.8. The USSU complaint process allows right to appeal, the complainant should contact USSU's Chief Executive Officer via yoursu@sunderland.ac.uk. This must be done within 5 working days of the complainant receiving the response to their formal complaint. The appeal will be heard by USSU's Chief Executive Officer or their designate who will investigate the complaint and responses given to the complainant.

- 6.9. Independent Person – once the right of appeal has been exercised and the USSU's complaints procedure has been exhausted, the complainant will have the right to submit an appeal to the University. The University shall appoint an independent person to consider the appeal, on procedural grounds only. The independent person will investigate the complaint and inform the complainant, the University and USSU of their findings/recommendations.
- 6.10. Once USSU has concluded its internal complaints procedures, it will issue confirmation to the student(s) or staff member(s) known as a 'Completion of Procedures' or equivalent. This marks the end of USSU's procedures.

7. Events

- 7.1. USSU will enable the holding of all lawful events wherever practicable to do so, within the Law. As set out in 1.1, the use of University premises cannot be denied to an individual based on their ideas or opinions, or a body based on its policy or objectives, or the ideas or opinions of a member of the body. For the purposes of the Act, premises occupied by USSU are deemed to be University premises.
- 7.1.1. USSU will ensure that use of our premises is not to be denied, and the terms of their use is not affected by:
- (a) An individual's idea or opinions.
 - (b) Membership to a society or body.
 - (c) The policy, objectives, ideas or opinions of any members of a society or body.
- 7.2. USSU will support students to develop and share opinions that may be controversial, challenging or unpopular. Although students are not required to respect other students' opinions, USSU expects every person taking part in our activity, including student group activity, to behave respectfully. Anyone who books and uses USSU/University premises is expected to adhere to the following rules:
- (a) Exit the premises when their booking slot ends.
 - (b) Clean up the space after use, returning it to its original position.
 - (c) Allow everyone to safely enter and exit the building (not blocking entrances/exits).
 - (d) Display the following behaviours towards visiting speakers:
 - I. Always treat them with respect.
 - II. Do not prevent them for speaking or drown them out.
 - III. Do not physically attack or intimidate them.
- 7.3. An 'external speaker' is any person or organisation that is not a member of USSU or the University of Sunderland, who is invited to speak at or contribute to any USSU or student group event, regardless of whether this takes place on or off-campus, or remotely by digital means, including the playing of pre-recorded speeches. USSU is required by law to account for all student group events, regardless of location. In relation to activity organised by student groups – there is no legal or moral difference between USSU and our many diverse student groups. When a student group invites a guest speaker or shares a publication, USSU is formally the body that has issued the invitation or published the document and is accountable to regulators on that basis. This policy covers all student group activity, and the Head of Student Engagement and

Insight is the lead for procedures as they relate to USSU student groups (for example societies, course representatives, and buddies).

- 7.4. For more detailed information, please refer to the [University Events and External Speakers Policy](#).
- 7.5. Student-led USSU societies who wish to use USSU premises for an activity or meeting can book spaces by registering their event [on the SU website](#). Any other students, individuals or external organisations, including University of Sunderland staff, must request to book via the following links:
Your SU @ CitySpace: <https://form.jotform.com/222444750167051>
Your SU @ Riverside: <https://form.jotform.com/240144732180346>
- 7.6. Students that fall outside of USSU registration, individuals or external organisations, including University of Sunderland staff, are responsible for following the University's internal event procedures as outlined [here](#).

8. Training and Inductions

- 8.1. The University of Sunderland Students' Union (USSU) will offer training for student leaders, to be completed as part of their induction to their roles within USSU. This will ensure that student leaders have a clear understanding of the principles of freedom of speech, and of lawful speech, and how this relates to their own rights.
- 8.2. It will be determined which staff in key roles will receive appropriate and proportionate training to support their understanding and interpretation of the Code, and how it applies in practice in their area of activity and beyond. Staff will be given information on how to support students and respond to issues within the context of USSU.
- 8.3. This Code will be brought to the attention of new members of the Board of Trustees at time of appointment. Alongside awareness building, the Board will receive a report on the operation of this Code of Practice, together with any recommendations for its revisions, at regular intervals not exceeding three years.
- 8.4. All colleagues who may be involved in decision making on matters which could be relevant to this Code will receive relevant training. For example, those involved in the events and external speakers' process.

