South Gloucestershire and Stroud College

Freedom of Speech and Expression Code of Practice (Including guest lecturers, external speakers and other College campus users)

If you would like this document in an alternate format

Please contact the Human Resources Department

Prepared by:	Gavin Murray
Job Title/Role:	Deputy Principal
Ref. No.: **Q/P 134**	**Date of this version:** 06th June 2023 **Review date:** 01st July 2024 **Upload to College website**: YES **Upload to e-Campus: YES**
Approved by	College Executive
Date:	06/10/21

Impact Assessment

Completed by:		
Gavin Murray	Deputy Principal	14/06/2023
I have read the guidance document: Completing a Policy Impact Assessment?		✓
If this policy has been up-dated, please tick to confirm that the initial impact screening has also been reviewed:		✓

EQUALITY AND DIVERSITY IMPACT ASSESSMENT	
Characteristic	**This policy seeks to:**
Age	No appreciable impact
Disability	Use available resources to identify and address any issues of inequality as a result of disability. Supporting learners both academically and pastorally in order that they should be successful.
Faith or Belief	Support all staff and learners seeking to observe any recognised mainstream faith or belief
Gender	Promote the inclusion of learners into non-traditional areas of study and work towards minimising gender stereotyping
Race or Ethnicity	Ensure that staff and learners are equipped to recognise racial and ethnic diversity and to challenge racial and ethnic discrimination
Orientation	Treat the College's LGBTQQIAAP community with equal dignity and fairness
Gender reassignment	Oppose sexism and be committed to taking positive action to identify and remove sexism from College life
Economic disadvantage	No appreciable impact
Rural isolation	No appreciable impact
Marriage	No appreciable impact
Pregnancy & maternity	No appreciable impact
Carers & care leavers	Use available resources to identify and address any issues of inequality as a result of being in care or a care leaver. Supporting learners both academically and pastorally in order to be successful.
Vulnerable persons	Use available resources to identify and address any issues of inequality as a result of being a vulnerable person. Supporting learners both academically and pastorally in order to be successful.

Please identify any sections of the policy that specifically seek to maximise opportunities to improve diversity within any of the Academy Trust's stakeholder groups:	Sections: 3, 4, 5 and 8

Is there any possibility that this policy could operate in a discriminatory way?	☐	✖	If you have ticked yes (red), which characteristic will be most affected? Choose an item.

If yes please confirm that the Policy has been sent for a full Equality & Diversity Impact Assessment, and note the date:	☐	Click or tap to enter a date.

MAPPING OF FUNDAMENTAL RIGHTS	
Which United Nations Convention on the Rights of the Child (UNCRC), Right does this policy most protect:	Art. 12 Respect for personal views Art. 13 Freedom of expression Art. 14 Freedom of thought, belief & religion Art. 15 Freedom of association Atr. 16 Right to privacy Art. 17 Access to information
Which Human Right (HRA) does this policy most protect:	Art. 9 Freedom of thought, conscience and religion Art. 10 Freedom of expression Art. 11 Freedom of assembly and association

DATA PROTECTION & PRIVACY BY DESIGN SCREENING	
Tick to confirm that you have considered any data protection issues as part of the design and implementation of this policy; and, that implementing this policy will not result in the collection, storage or processing of personal data outside of official Academy Trust systems:	✓
Tick to indicated that this policy has or requires a Data Privacy Impact Assessment:	✓

ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT ASSESSMENT		
Does this policy relate directly or indirectly to any legal, regulatory environmental or sustainability standard(s)?	Yes ☐	No ☒
If so, please list them:		
Will any aspects of this policy result in:		
Reduced miles travelled or provide / improve / promote alternatives to car-based transport (e.g. public transport, walking and cycling car sharing, the use of low emission vehicles, community transport, environmentally friendly fuels and/or technologies)	Yes ☐	No ☒
Reduced waste, environmental hazards and/or toxic materials for example by reducing PVC, photocopier and printer use, air pollution, noise pollution, mining or deforestation? Or increase the amount of College waste that is recycled or composted?	Yes ☐	No ☒
Reduced water consumption?	Yes ☐	No ☒
Reduced instances of single use plastic?	Yes ☐	No ☒
Reduced use of natural resources such as raw materials and energy to promote a circular economy?	Yes ☐	No ☒
Improved resource efficiency of new or refurbished buildings (water, energy, density, use of existing buildings, designing for a longer lifespan)?	Yes ☐	No ☒
Will this policy improve green space or access to green space?	Yes ☐	No ☒
Please list the sections of this policy which specifically target an improved environment:		

Will any aspects of this policy result in:		
The promotion of healthy working lives (including health and safety at work, work-life/home-life balance and family friendly practices)?	Yes ☐	No ☒
Greater employment opportunities for local people?	Yes ☐	No ☒
The promotion of ethical purchasing of goods or services for example by increasing transparency of modern slavery in our supply chain?	Yes ☐	No ☒
Greater support for the local economy through the use of local suppliers, SMEs or engagement with third sector or community groups?	Yes ü	No ☐
The promotion of better health, increased community resilience, social cohesion, reduced social isolation or support for sustainable development?	Yes ü	No ☐
Mitigation of the likely effects of climate change (e.g. identifying proactive and community support for vulnerable groups; contingency planning for flood/snow, heatwaves and other weather extremes)?	Yes ☐	No ☒
The promotion of better awareness of sustainability, healthy behaviours, mental wellbeing, living independently or self-management?	Yes ☐	No ☒
Please list the sections of this policy which specifically target improved sustainability:		

What is the *estimated* carbon impact of this policy (in terms of tCO2e)	**Increased (+tCO2e)** ☐	**Decreased (-tCO2e)** ☐	**Net Zero CO2 R**

Mandatory initial impact screening completed by:	Gavin Murray, Deputy Principal
Date	14/06/2022
Initial impact screening supported by (Please list each individual)	SGS Inclusion Committee

Freedom of Speech and Expression Code of Practice

1. Introduction

1.1. The purpose of this policy is to outline the College's position on freedom of expression, including academic freedom.

2. Statement

2.1. This Policy recognises that freedom of expression (including freedom of speech and academic freedom) forms a fundamental part of our democracy and that UK citizens enjoy the right to express their opinions and ideas.

2.2. Article 10 of the Human Rights Act 1998 establishes that every person has the right to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

2.3. Section 43 of the Education (No.2) Act 1986 also lays upon educational establishments the responsibility to "take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers".

2.4. Part A1 of the Higher Education (Freedom of Speech) Act 2023 confirms that higher education providers must have particular regard to the importance of freedom of speech and take reasonably practicable steps to safeguard the right to free speech.

2.5. For the avoidance of doubt: The College has adopted the widest possible definition of freedom of expression, and this definition extends to anything done or said within the law.

2.6. As an institution of further and higher learning, South Gloucestershire and Stroud College will encourage free through and free expression. We will not censor or marginalise any group and we want learners and staff to feel safe and free to express themselves, to challenge prevailing orthodoxies, query the positions and views of others, and put forward views that may be understood by others as radical.

Education should not be intended to make people comfortable, it is meant to make them think. Therefore, staff are expected to provide the conditions within which hard thought, and therefore strong disagreement, independent judgment, and the questioning of stubborn assumptions, can flourish.

However, there is no place for violence, intimidation or criminality on any College campus or within any College learning environment, including the online environment.

Nor does the College permit individuals to cover their faces with hoods or face coverings, including ski-masks, full face masks, snoods or scarves whilst they are on campus.

The right to free expression is not an absolute right. It carries with it duties and responsibilities, and is subject to formalities, conditions, restrictions and penalties, established by this policy.

3. Objective

3.1. The College does not function in a vacuum, and wider conflicts and disputes, for example involving ethnicity or religious faith, may sometimes find expression on campus amongst the student body or other constituencies. The challenge for the College is to identify when the pursuit of freedom of ideas and expression crosses a threshold and becomes unlawful or poses and unacceptable risk to the health, safety or welfare of employees, students or visitors.

3.2. The College will take all reasonably necessary steps, including where appropriate the initiation of disciplinary measures, to uphold its statutory duty to secure freedom of speech. In addition to freedom of thought, freedom of expression and freedom of assembly and association, as enshrined within the law.

3.3. In order to maintain well-being, health and safety, academic standards, scholarship, personal integrity and communal life, essential to the College's Mission; all those who join the College or use its services are expected to take personal responsibility for what they say and what they do. Participation in College activities is governed by policy and contract, the College's Student Charter, Learner and Staff Codes of Conduct.

3.4. The College expects that all learners, staff, governors, the Students' Union, visiting speakers and those using or hiring the College's facilities to demonstrate sensitivity to the diversity of the College community and to show others kindness and respect.

4. Principles

4.1. Personal expression on College campuses, including through speech, should always be intended to inform, rather than to offend. However, the right to free speech will not be restricted simply because it may be offensive or insulting to others. In essence, education depends upon the freedom to express, debate, challenge and even ridicule opposing viewpoints.

4.2. The College will not act to censor or cancel any expression of thought or opinion simply because it is offensive to others.

4.3. However, the College will not tolerate or allow any of the following, and any of the following **will** result in disciplinary action being taken:

4.3.1. Any expression, statement or speech that discriminates against or harasses, or incites hatred or violence against, other persons and/or groups, particularly by reference to their race, ethnicity, nationality, immigration status, religious belief, gender or sexual orientation.

4.3.2. Any expression, statement or speech that interferes with another person or group(s) right to respect for their private and family life, or unjustifiably defames, slanders or degrades them.

4.3.3. Any expression, statement or speech that unjustifiably invades substantial privacy or confidentiality interests, or that is otherwise directly incompatible with the functioning of the College.

4.3.4. Any expression, statement or speech which uses threatening, abusive or insulting words or behaviour, either intending to stir up hatred or unrest or where hatred or unrest is likely to be stirred up. This includes for example, making inflammatory public speeches or posting racist comments on social media websites.

4.3.5. Any expression, statement, speech or event intended to raise or gather funds for any external organisation or cause without express permission of the College Principalship.

5. Decolonising the curriculum

5.1. As an independent body, South Gloucestershire and Stroud College has established its own definition of decolonising the curriculum, as targeted through our Diversity, Equity, Inclusion and Belonging Policy. We will decolonise our curriculum not by 'taking bits out' or ignoring established fact or received wisdom but by adding context to the curriculum to enliven and enrich those established facts and received wisdom.

6. The Equality Act 2010

6.1. Obligations, contained within the Equality Act 2010, do not generally apply to anything done in connection with the content of the curriculum. This means that there will be no restriction to the range or breadth of issues, ideas and materials that can be used within curriculum content or syllabi. Teachers, lecturers, trainers and assessors are free to expose learners to thoughts and ideas of all kinds, however controversial, so long as they are relevant to the content of the curriculum. Even if the content of the curriculum causes offence to those with certain protected characteristics, this will not make it unlawful unless the curriculum content is delivered in a way which results in harassment or subjects' learners to discrimination or other detriment.

7. Implementation – General

7.1. This Code of Practice applies to all meetings and events (including lectures, seminars, committee meetings, conferences and musical and theatrical performances whether live streamed or recorded) and any other activity or events proposed, planned or due to take place on any College premises, wherever situated.

The term 'premises' is deemed to mean all SGS property, owned or leased, including buildings, grounds, gardens, courtyards and other open spaces including any spaces designated solely for student use.

7.2. Any learner, staff member, governor or College stakeholder who believes that an activity, event, expression or speech (including the publication or distribution of written material, public performances or broadcast) may pose a risk under this policy, is required to seek permission, in the first instance, from the Assistant Principal for their Curriculum Area. No advertising of any such event is permitted until a decision is reached on its compliance with this policy.

7.3. **The default position is that permission should be granted**, unless:

The views or ideas to be put forward (or the manner of their expression) would infringe the legally recognised rights of others, or breach legal provisions on non-discrimination.

Permission will not be granted for any event or activity which

- constitutes a criminal offence
- constitutes a threat to public order or to the health and safety of individuals, or
- incites others to commit criminal acts.

7.4. The key test is whether the views or ideas to be put forward (or the proposed activity or event) is more likely than not to give rise to an environment in which people will experience – or could reasonably fear – harassment, intimidation, verbal abuse or violence, with particular reference to the protected characteristics under the Equality Act 2010.

7.5. Where the risk posed by a planned expression, speech or event is unclear, the Assistant Principal will refer the matter, to the Principal and the Designated Safeguard Lead. If it is decided that the planned expression, speech or event does comply with this policy, it must be allowed go ahead. However, the College reserves the right to establish conditions and may require additional safeguards, such as the use of 'trigger warnings' to let people know that subjects are due to come up with content that some of them may find distressing or difficult, extra security or the appointment for a strong and well-informed moderator with the power to intervene or close the event down if there is a breach of this Code of Practice. They may

also require the organisers to record the event, so there is no dispute afterwards about what was said and by whom. Where there are additional costs associated with establishing conditions or additional safeguards those costs will be met from the appropriate College (including, if appropriate, the Student's Union) Budget.

7.6.   The College will work with staff, the Student's Union, students and third-party organisations, such as the Police, in order to meet its legal obligations, in order to ensure campus safety and security, and to ensure that staff and students are able to work unhindered by hostility, offensive conduct or intimidation in the legally understood meaning of these terms.

7.7.   All planned events, including guest lecturers and external speakers require a named Lead Organiser who will be responsible for all booking and control arrangements (including chaperoning and supervision of externals), conduct of the events including stewarding and moderating, chairing, monitoring and entry.

7.8.   If it is decided that an event or other planned expression or speech poses too great a risk under this policy, the College may deny access to its campuses or otherwise ban or shut down the event. Before doing so the College may decide to consult with learners, staff or other groups before coming to decision, or to take legal advice. But the decision of the Principal will be final and will not be subject to appeal.

7.9.   Other reasonable grounds for refusal of permission, under this Code of Practice, would include: support for an organisation whose aims are illegal (e.g. an organisation prohibited under law)

7.10. Under the Counter-Terrorism and Security Act 2015 the Governing Body of the College is required to take such steps as are reasonably practicable to ensure due regard to the need to prevent people from being drawn into terrorism. Therefore, the College will not authorise any event or invite any person or group to speak at the College if that person, group or organisation is officially categorised as extremist or listed on the Home Office's list of prescribed terrorist organisations. Or if there is a reasonable belief that the person, group or organisation may contravene the Prevent Duty and/or it's associated formal guidance.

7.11. Where it is appropriate and legal to do so, the College may share data with third party organisations, but solely for the purpose of upholding this Code of Conduct.

7.12. Where a breach of this Code of Practice takes place at any activity or event, the College will take steps to assist the police to secure identification of the persons committing offences with a view to appropriate action being taken against them.

8.   Freedom of assembly and association

8.1. The College acknowledges the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join groups and unions. However, for well-being, health and safety reasons the College reserves the right to disburse crowds or gatherings where there is a risk of disorder or crime or for the protection of the rights and freedoms of others.

8.2. Persons or groups, wishing to stage a gathering or assembly on or around College Campuses must seek permission at least 1 month in advance from the College Principal; and the College reserves the right to establish conditions and may require the organisers to put in place safeguards, such as extra security or additional health and safety measures.

8.3. Should learners, staff, governors or other College stakeholders object to an event that is allowed to take place, they will be allowed the right to peaceful protest for one hour prior to the event taking place. They will not be permitted to interfere with the running of the event.

8.4. This policy does not affect the conduct of lawfully organised picketing.

9. Responsibilities

9.1. **All College stakeholders** will have regard to the objectives and principles of this Code of Practice and as such are encouraged to talk with others in order to fully understand the College's approach to guarding freedom of expression and assembly; and all College stakeholders should respond sensitively to any issues or concerns raised regarding this policy.

9.2. Faculty and School staff are responsible for ensuring that learners, staff and external persons and groups, to whom this policy is relevant, are made aware of it and the rights and obligations it creates.

And:

At least once annually, during induction activities, **all tutors must bring to the attention of their learners**, information relating to freedom of speech, as is relevant to them and the activities of the Student's Union.

9.3. Should an external speaker not be approved through this process, the College's Designated Safeguarding lead may consider sharing information with other educational establishments in order that they can have prior knowledge. should the same speaker be part of an event they may be hosting.

9.4. If an external speaker is not approved through this process, because of a concern related to or linked with the Prevent Duty, the College's Designated Safeguarding lead will advise the Regional Prevent Co-ordinator, who will then advise the FE and HEI network accordingly.

10. Complaints

10.1. Any learner, staff member, governor or other College stakeholder may make a complaint using the College's Complaints Policy. Where complaints regarding freedom of expression are upheld, the College will take all reasonably practicable steps (including disciplinary measures) to secure compliance with this policy on freedom of speech and to meet the Governing Body's duties under section 43 of the Education Act 1986 and Part 1A of the Higher Education (Freedom of Speech) Act 2023.

10.2. Complainants who are dissatisfied with the outcome of a complaint to the College regarding free speech, will be supported by the College to avail themselves of any available Free Speech Complaints Scheme, provided by the Office for Students.

11. Reporting requirements

11.1. Records of proposed events and external speakers, which are referred to the College Principalship, and any consideration relating to their suitability, will be stored securely and confidentially for 5 years, in line with the SGS Data Privacy and Protection Policy.

12. Hire of Premises by External Organisation

12.1. The Vice Principal - Corporate & Community or another senior member of staff, designated for such purposes, will decide on the letting or hiring of College premises to external organisations. When doing so, due regard will be had to this Code of Practice and the factors set out above.

12.2. The Vice Principal - Corporate & Community or another senior member of staff, designated for such purposes, may impose conditions or restrictions deemed reasonably necessary to ensure compliance with this policy **and** will make clear on every occasion that the hirers are responsible for fulfilling their duties under Section 43 of the Education (No.2) Act 1986 and the Higher Education (Freedom of Speech) Act 2023.

13. Sanctions and Penalties

13.1. Breach of this Code by a governor or co-optee of the Board may be removed from office under Board's Articles of Government and Code of Conduct for Corporation Members.

13.2. Where those responsible for the breach are students or staff of the College action may be taken against them under the relevant disciplinary procedure.

13.3. Where those responsible for the breach are students or staff of a partner organisation, the College Principal shall inform the partner organisation with a view to that partner organisation acting under its relevant disciplinary procedure.

14. Related Guidance, Strategies and Legislation

- SGS Inclusion Policy
- SGS Learner Charter and Code of Conduct (updated annually)
- SGS Staff Code of Conduct
- [SGS Safeguarding Learners & Child Protection Policy & Procedure](#)
- SGS IT Policy, Code of Practice and Acceptable use Policy
- SGS Complaints Policy (Learners)
- SGS Grievance Policy (Staff)
- SGS Data Privacy and Protection Policy
- [Freedom of expression: a guide for higher education providers and students' unions in England and Wales](#)
- Articles 9, 10 and 11 of the European Convention on Human Rights (ECHR)
- Human Rights Act 1998
- Public Order Act 1986 (as amended)
- Education Act (1986) (as amended)
- The Terrorism Acts of 2000 and 2006
- Counter-Terrorism and Security Act 2015
- Higher Education (Freedom of Speech) Act 2023.
- The Chicago Principles

15. Legal provisions placing limitations on freedom of expression in England and Wales

Crime and Disorder Act 1998
- racially or religiously aggravated offences (sections 29-32)

Offences Against the Person Act 1861
- threat to kill (section 16)

Public Meeting Act 1908
- endeavour to break up a public meeting (section 1)

Public Order Act 1986:
- fear or provocation of violence (section 4)
- intentional harassment, alarm or distress (section 4A)
- harassment, alarm or distress (without intent) (section 5)
- acts intended or likely to stir up hatred on the grounds of race (sections 18-23); religion (sections 29B-29F); or sexual orientation (sections 29B-29F)

Serious Crime Act 2007:
- encouraging or assisting the commission of an offence (sections 44-46)

Terrorism Act 2000:

- incitement to commit acts of terrorism overseas (section 59)
- inviting or encouraging support for a proscribed organisation (section 12)

Terrorism Act 2006:
- encouragement of terrorism (section 1) including the glorification of the commission or preparation of terrorism (sub-section 1(3))
- dissemination of terrorist publications (section 2)
- encouragement of terrorism and dissemination of terrorist publications via the internet (section 3)

Application to stage an event, speech or other activity on College premises or via online streaming through the College's systems. Note: this form is only required when planning events, speeches or other activity which may pose a risk to freedom of speech or to the rights and freedoms of others.

Please note that the freedom to debate and discuss the merits of competing ideas does not, of course, mean that individuals may say whatever they wish, wherever they wish. The College may restrict expression that violates the law, which falsely defames a specific individual that constitutes a genuine threat or harassment, that unjustifiably invades personal privacy or confidentiality, or that is otherwise directly incompatible with the functioning of the College.

Title:		
Planned date:		
Lead Organiser:		
Chair/moderator:		
Envisaged size (Number of people invited or likely to take part). Please also identify any specific group (including vulnerable groups) that may take part.		
Speakers (please list all known speakers and identify any know affiliations with external organisations)	Name	Known affiliations
Outline of the planned event, speech or activity – **You must include reference to your aims and objectives including the educational reason for the activity:**		
Please outline any planned safeguards or other measure to support the event should it be approved:		

Question 1: Has the speaker previously been prevented from speaking at SGS College or another college or similar establishment? or have they previously been known to express views that may be in breach of this policy?	Yes ☐	No ☐
Question 2: Does the proposed title or theme of the event present a potential risk that views/opinions expressed by speaker(s) may be in breach of this policy?	Yes ☐	No ☐
Question 3: Is the proposed speaker/theme likely to attract attendance from individuals or groups that have previously been known to express views that may be in breach of this policy?	Yes ☐	No ☐
Question 4: Is the speaker know to be associate with or a member of any prescribed group?	Yes ☐	No ☐

Event approved:		Yes ☐		No ☐
Reasons for not granting approval:				
Required conditions (if approval has been granted):				
Signed (Lead Organiser):				
Signed (College Principalship):				
Date (for document retention purposes):				