



Freedom of Speech Policy 2021-22

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1. Context

- 1.1 Free speech is fundamental to the role and purpose of higher education institutions in the UK and NMITE is committed to ensuring that the principle of freedom of speech is protected for all its members, students, staff and visitors, within the confines of the law (Section 43 of the Education (No.2) Act 1986). The ability to express controversial and often conflicting points of view, and to be challenged about them, without fear of reprisal or denigration is fundamental to the advancement of learning and creativity.
- 1.2 All members of NMITE and its visitors have the right to exercise freedom of speech on the strict proviso that they remain respectful of the diversity of views in the wider community, ensure a welcoming and secure environment for all, and remain within the bounds of the law.

2. General principles

- 2.1 NMITE will put in place mechanisms to ensure freedom of speech within the law.
- 2.2 In accordance with the Education (No.2) Act 1986 s.43(2), so far as is reasonably practicable, and within the bounds of the law, no premises controlled by NMITE shall be denied to any individual or body of persons wishing to use them for meetings on any grounds connected with:
 - i. the beliefs or views of that individual or of that body; or
 - ii. the policy or objectives of that body.



3. Definition of an event for this Policy:

- 3.1 An event refers to any gathering of staff, students, or visitors in relation to the core purpose and activities of NMITE, and/or, for any purpose which is not part of NMITE's academic curriculum or official business.
- 3.2 Such gatherings include, but are not limited to:
 - meetings, talks, debates or workshops arranged internally or externally;
 - demonstrations and marches.
- 3.3 The principles set out in this Policy will apply to all the following:
 - i. events taking place on any property which NMITE owns, holds a lease or habitually uses by licence or permission;
 - ii. events taking place outside of such property as listed in (c (i)) above which are organised, affiliated, funded or branded in NMITE's name - including events organised by individuals, groups or societies using NMITE's name and/or resources.
 - iii. the NMITE name and/or brand can only be used in any event with the express permission of the NMITE Senior Leadership Team.
 - iv. events taking place online, via mobile technology, or via other audio-visual technology which are organised, affiliated, funded or branded in NMITE's name - including those organised by individuals, groups or societies or online communities using the NMITE name and/or resources. (Please note: these include but are not limited to: webinars, online discussion forums and social networking.)

4. Supporting Freedom of Speech within UK Law

- 4.1 NMITE is required to take such steps as are reasonably practicable to ensure that freedom of speech is secured within the law.
- 4.2 Freedom of speech is not therefore an absolute right, and there is no requirement to provide a platform for speech which amounts to a breach of the law, for example: speech which is defamatory or in contempt of court, or which constitutes an incitement to violence or terrorism (or glorification or encouragement of acts of terrorism) or incitement to religious or racial hatred, or harassment under the Equality Act 2010 (or other legislation as amended from time to time).
- 4.3 As with all providers of higher education in the UK, NMITE also has a statutory duty under the Counter Terrorism and Security Act 2015 s.26(1), when exercising its functions to have due regard to the need to prevent people from being drawn into terrorism (the "Prevent Duty").
- 4.4 NMITE prioritises its obligations under law and will not tolerate any unlawful acts against its people, community, property or the organisation itself, whether through speech or physical action.



For example, anybody who engages in any conduct outlined in point 4.1 above, will be deemed to have transgressed the bounds of lawful speech. Equally, assemblies of persons, even if directed to lawful purposes, cease to be lawful if they cause serious public disorder or breach of the peace.

- 4.5 NMITE reserves the right to take advice from external bodies on the appropriate and reasonable assessment and mitigation of risks related to any visitors.

5. Equality and Diversity

- 5.1 Open debate and challenge are encouraged at NMITE, within the context of ensuring a working, learning and living environment where everybody is treated fairly and with dignity, respect and tolerance. It is therefore of paramount importance that individuals remain mindful of their obligation to respect the rights and dignity of others when articulating views and/or engaging in debate.

5.2

6. Safety and Security

- 6.1 NMITE is committed to ensuring a welcoming and secure environment for its staff, students and visitors, however, where there is in any doubt about the personal safety of any person present at an event, it is obliged to exercise caution and ensure that an appropriate assessment of the risks is carried out. Therefore, NMITE reserves the right to impose conditions on an event in order to mitigate any identified risks, or to refuse permission for the event to proceed should it determine that any identified risks cannot be appropriately and reasonably mitigated.
- 6.2 Any event where there is a strong likelihood that the speaker or attendees may not be able to enter or leave the building safely and/or have the freedom within the law to deliver the speech will also be deemed to fall within the requirements of this Policy.
- 6.3 Encouragement of terrorism and inviting support for a proscribed terrorist organisation are both criminal offences.
- 6.4 Further, statutory Guidance published under the legislation imposing the Prevent Duty states that when deciding whether to host a particular speaker, NMITE's Senior Leadership Team will consider carefully whether the views being expressed, or likely to be expressed, constitute extremist views that risk drawing people into terrorism or are shared by terrorist groups. Legal advice will also be sought as appropriate to ensure that NMITE are upholding the right to freedom of speech whilst also discharging their obligations under the Prevent Duty.
- 6.5 Should such concerns arise, the statutory Guidance states that NMITE should be "entirely convinced that such risks can be mitigated" (Prevent Duty Guidance: for higher education institutions in England and Wales (2015), paragraphs 10 & 11), for example, through such views being challenged by speakers with opposing views as



part of the same event. Therefore, in such instances where there is any doubt that such risks cannot be fully mitigated, the statutory Guidance states that caution should be exercised, and the event should not be permitted to proceed.

- 6.6 The duties under Section 43 of the Education (No.2) Act 1986, the Charities Acts and the Counter Terrorism and Security Act 2015, apply to any authorised meetings or gatherings held on NMITE property.
- 6.7 According to the statutory Guidance and for the purposes of this Policy “extremism” is defined as meaning vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty, mutual respect, and tolerance of different faiths and beliefs. It also includes the call for the death of members of the armed forces.

7. Supporting Policies and Procedures

- 7.1 This Policy is supported by the following policies and procedures to enable all members of NMITE and its visitors to exercise freedom of speech whilst being respectful of the diversity of views in the wider community, ensuring a welcoming and secure environment for all, and remaining within the bounds of the law:
 - i. Equality and Diversity – NMITE requires all members of its community and its visitors to behave in a way that respects the rights and dignity of others, and to value differences in others and the contribution they make to the working, learning and living environment. The NMITE Equal Opportunities and Dignity at Work Policy sets out the responsibilities of individual members of the NMITE community in this regard and outlines the procedures for dealing with potential breaches of the policy.
 - ii. Academic Freedom – please refer to the Academic Freedom Policy Statement. (insert hyperlink)
 - iii. External Speakers – In order to ensure that the exercise of free speech remains within the law, the duties under the Education (No.2) Act 1986, the Human Rights Act 1998 and the Prevent Duty, require NMITE to conduct a risk assessment in respect of the following:
 - events on campus,
 - external speakers invited to speak on NMITE premises and/or at NMITE organised, affiliated, branded or funded events off campus.
- 7.2 Prior to arranging an event and/or inviting any external speaker, the person organising the event is required to contact NMITE to give notice of the intended activity in order that the necessary risk assessment can be undertaken. A minimum of 20 working days is required for this. Please refer to NMITE’s Prevent Strategy for further details.



8. Breaches of this Policy

Any breach of this Policy will be subject to disciplinary action under the relevant NMITE procedure.

9. Review of this Policy

- 9.1 The Education (No. 2) Act 1986 (Section 43(3)) requires that higher education institutions issue and keep up to date a Policy on Freedom of Speech.
- 9.2 To meet this requirement NMITE will review this Policy on an annual basis in accordance with NMITE's Policy Framework.