

EXTERNAL SPEAKERS AND PERFORMERS POLICY

Introduction

This policy and procedure has been agreed with and approved by Sheffield Hallam University ("SHU") under SHU's Freedom of Speech Code of Practice ("[Code of Practice](#)"). It helps to support when making decisions about external individuals or groups who are invited by student groups, Union staff and officers to speak, participate or perform at Hallam Students' Union ("HSU").

As a registered charity, HSU is subject to regulation by the Charity Commission. This places legal responsibilities on the trustees of Students Unions to avoid undertaking activities that might place the charity's endowments, funds, assets or reputation at risk.

- What we mean by 'external speakers/performers'?

'External speaker/performer' is used to describe any individual or group who is given a metaphorical 'platform' and is not a student or staff member of HSU or SHU. For the avoidance of doubt this includes, but is not restricted to, all performing artists like singers, bands, actors / actresses and comedians / comediennees.

- What 'events' are covered?

All events organised with external speakers/performers in and outside of the Students' Union building or property is still within the responsibility (and liability) of the HSU charity. It also falls within the scope of the University's responsibilities under the Code of Practice. This includes any event organised by:

- an affiliated club or society both within HSU or outside of the Union building (outside being for example, on campus (i.e. SHU controlled premises), off campus (i.e. off SHU and HSU controlled premises), out of the immediate area or in another country). For information, the society's president is responsible for activities of that society.

HSU staff or officers.

- Events where external speakers/performers are streamed live into an event, or pre-recorded media (i.e. a speech/film/presentation) is shown.
- Events held wholly on-line.

Note:

- Students' Union events which are to take place on SHU premises should follow this HSU policy but should also ensure the event is logged on the SHU central events register through the HSU Societies' Team via [this link](#).
- Events held by informal student groups on SHU premises should follow SHU's External Speaker Procedure and book events space via SHU Events Team.

1. Background

- 1.1 Freedom of expression and speech are basic human rights to be protected and are protected by law.
- 1.2 Student safety and welfare is at the centre of HSU's and SHU's policies and procedures and, on occasions, the freedom to express views can be tempered by the need to secure freedom from harm for students and communities.
- 1.3 When there is potential for these rights to come into conflict in relation to controversial speakers/performers, HSU is committed to collaboration that will allow the Union and SHU to reach sound, evidenced judgements about the organisation or person in question which will enable the Union and SHU to meet their various legal obligations.
- 1.4 The Committee of the student group or staff organising any event are responsible for the activities that take place within their groups' events. All external speakers/performers will be made aware of their responsibility to abide by the law and SHU and HSU's policies which includes, but is not restricted to, speech, songs, games, actions and any other media, such as presentations:
 - 1.4.1 They must not incite hatred, fear, intolerance, violence or call for the breaking of the law.
 - 1.4.2 They are not permitted to encourage, glorify or promote any acts of terrorism including individuals, groups or organisations that support such acts.
 - 1.4.3 They must not spread hatred and intolerance in the community and thus aid in disrupting social and community harmony.
 - 1.4.4 Within a framework of positive debate and challenge seek to avoid directly or indirectly discriminating or harassing other groups, especially based on protected characteristics as referenced in the Equality Act 2010.
 - 1.4.5 They are not permitted to raise or gather funds for any external organisation or cause without prior permission.

2. Procedure

- 2.1 Organisers must notify appropriate HSU staff of any events, including ones that involve external speakers/performers, by completing the Guest speaker/performer Request Form at least 4 weeks before the event. The event should also be logged on the HSU events register.
- 2.2 All Guest speaker/performer Request Forms are to be approved by the staff as detailed in Appendix B.
- 2.3 No event involving external speakers/performers may be publicised until the speaker/performer has been cleared through the appropriate procedure.
- 2.4 HSU and SHU reserve the right to postpone, cancel or prohibit any event with an external speaker/performer if the procedures provided herein are not followed; if the relevant health, safety and security criteria or the criteria in the Code of Practice or this policy cannot be met.
- 2.5 The booker must confirm:
 - 2.5.1 Whether anyone who is not a Sheffield Hallam University student or staff member, aside from the external speaker/performer, is expected to attend, who this is and why they are attending.
 - 2.5.2 A title for the event and a description of the event including details of any topic up for discussion and any questions/points that are anticipated to be raised.
 - 2.5.3 Details of the external speaker/performer including name, organisation they are representing, any affiliations that the speaker/performer has (particularly those that are political or religious), details of any controversy attracted by the speaker/performer / group / topic in the past (including a list of websites/URLs where relevant) and whether the speaker/performer will attract any media attention.
 - 2.5.4 Any failure to disclose full speaker/performer details may result in an event /booking being postponed or cancelled and could result in referral for HSU disciplinary action.
 - 2.5.5 On receipt of the form, appropriate HSU staff (see Appendix B) will check all speakers/performers using search engines, URLs and websites provided and any other literature available. Staff will look at the first three pages of any results found. Staff will then make a note on file of the speaker/performer, including a link to the most relevant information available.

- 256 Relevant HSU staff will receive annual training and briefings on controversial speakers/performers and will liaise closely with student groups, religious and cultural groups and SHU personnel.
- 257 All external speakers/performers will have a record saved in a central location, so they can be referenced and updated as appropriate and shows all the events and activities that they have been associated with. In line with GDPR legislation, this record will be deleted within 12 months of year-end.
- 258 Any speakers/performers that do not require further exploration will be researched by Union staff (with line manager approval).
- 259 Any speakers/performers that require further exploration will be flagged by the Union staff to an appropriate Officer a relevant Director, and the Deputy CEO, (all from the Students' Union) and Governance Legal and Sector Regulation ("GLSR"), for SHU. SHU will be provided with the details of the event and will confirm if it has any objections or concerns or if it is happy for the event to go ahead.

3. Referred Speakers/Performers

- 3.1 Any events with referred speakers/performers will be investigated by the persons named in paragraph 2.5.9 to reach a recommendation on behalf of HSU Trustee board and SHU. This group will conduct a short investigation that will consider representations from the organisers of the booking, other concerned student groups, SHU officials and external bodies. The investigation should be completed within 14 days.
- 3.2 In making recommendations, the group will assess risk on the potential for:
 - 3.2.1 any decision to limit freedom of speech as per the criteria under SHU's Code of Practice
 - 3.2.2 the event going ahead to cause HSU or SHU to be in breach of their obligations under the Equality Act 2010
 - 3.2.3 the event going ahead to cause HSU or SHU to fail in their wider legal duties and obligations.
 - 3.2.4 the event going ahead to cause reputational risk to HSU or SHU
 - 3.2.5 the speaker/performer's presence at the event to cause fear, hatred, or intolerance towards members of the student body or others.
- 3.3 the speaker/performer's presence at the event to give rise to breach of peace or to incite violence or promote terrorism. The group may make one of the following recommendations, on the basis of the risks presented and the application of the Code of Practice criteria, to:
 - 3.3.1 fully permit the event with the external speaker/performer to go ahead unrestricted.

- 3.3.2 permit the event with the external speaker/performer to go ahead based on regulatory / mitigation steps designed to reduce risk.
 - 3.3.3 not permit the event with the external speaker/performer to go ahead.
- 3.4 Regulatory steps designed to enable the event to go ahead whilst managing risk may include but are not limited to a requirement that:
 - 3.4.1 the event to be filmed by an independent body.
 - 3.4.2 the event to be observed by HSU, SHU, or third-party officials.
 - 3.4.3 the event be stewarded or subject to security on the door.
 - 3.4.4 an event promoting a particular view includes an opportunity to debate or challenge that view.
 - 3.4.5 an event closed to student group members only, be opened to all HSU members.
- 3.5 When considering any regulatory or mitigation steps designed to reduce risk, the potential to cause further risk (e.g. the sense of oppression felt by the imposition of security on the door) should be taken into account.
- 3.6 If the recommendation is that the event does not go ahead this must be referred to SHU's Deputy Vice Chancellor (Strategy and Operations) who, as SHU's ultimate Decision Maker under SHU's Code of Practice and External Speaker Procedure, is responsible for making such a decision. The referring group may also refer an event to SHU's Decision Maker for borderline cases where the group is unable to reach a clear recommendation and the final decision of SHU's Decision Maker is considered appropriate. Decisions made by SHU's Decision maker will be communicated to the HSU Trustee Board.
- 3.7 Where the organiser in question disagrees with the decision, they shall have the right to appeal, which will be considered by an appropriate officer, relevant director, and the Deputy CEO.
- 3.8 Where students or student groups disagree with the decision made by the appeal group, they shall have the right to submit a complaint in the usual way, a remedy to which shall be the option to consider the complaint an appeal as above.
- 3.9 An annual report on events, speakers and referred speakers/performers will be produced by SU for consideration by the Trustee Board and SHU.

APPENDIX A

The Wider Legal Framework

This section outlines the law relevant to freedom of speech and freedom from harm:

The Education (No.2) Act 1986

Section 43 of the Education Act (No 2) 1986 places direct legislative duty on universities to promote and protect freedom of speech:

"Persons concerned in the governed of an institution in the higher or further education sector have a duty to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students, employees and visiting Performers..."

*As such, it imposes a positive and proactive legal duty to do all that is reasonably practicable to ensure that freedom of speech is secured and is directed at freedom of speech for members of a university - students and staff. To do this it requires that..
"..governing bodies...issue, and keep updated, a Code of Practice regarding the organisation of meetings and other activities on the university's premises..." and places a duty: "...on every individual and body of persons concerned in the government of the institution to take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the requirements of the Code of Practice are observed..." and "...a duty to ensure that the use of any university premises is not denied to any individual or body of persons on the grounds of their beliefs, views, policies or objectives.."*

Education Reform Act 1988 - Academic Freedom

The term "academic freedom" is well-recognised but does not itself appear in any UK legislation. It is a shorthand reference to the provisions of section 202 Education Reform Act 1988, which requires University Commissioners to have regard, inter alia, to the need to

"...ensure that academic staff have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at their institutions."

This obligation flows down to SHU under the Office for Students' regulatory framework, on-going conditions of registration for providers (specifically condition E1).

The Human Rights Act 1998

The Human Rights Act incorporates the European Convention of Human Rights into UK law, and some Convention Rights are relevant to freedom of speech and expression; freedom of thought, conscience and religion (article 9) - including the freedom, either alone or in community with others, and in public or private, to manifest one's religion or belief, through worship, teaching, practice and observance; freedom of expression, and freedom of assembly and association. The Convention states that "the exercise of these freedoms, since they carry with them 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" for the following purposes:

- 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;
- preventing the disclosure of information received in confidence.

It is unlawful for public authorities to act in a manner incompatible with the Convention rights. The acts of universities - at least in relation to their public functions - must therefore respect the rights and freedoms set out above. But students' unions are not considered to be "Public Authorities" and thus are not directly covered by these duties.

Prevent Duty

SHU has a statutory duty under the Counter Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism (known as the "Prevent Duty"). It must also have regard to the statutory guidance when carrying out the Prevent Duty. In carrying out the Prevent Duty, SHU should have 'particular regard' to its duty to secure free speech under s.43 of the Education (No.2) Act 1986 and to the importance of academic freedom. When considering speakers who express extremist ideas, the Prevent Duty and guidance are only relevant if there is a risk of people being drawn into terrorism.

Discrimination Law - religion and belief

Discrimination law can limit freedom of speech and expression (by making speech and conduct unlawful), but it can also protect these freedoms.

The Equality Act 2010 prohibits discrimination - including harassment and detrimental treatment - relating to religion or belief. This offers specific legal protection for holding manifestation and expression of religious and other qualifying beliefs. As such the law (re)reflects the "tension" in the motion between the need to protect freedom to expression and freedom from harm.

Public Sector Equality Duty (PSED): under s 149 of the Equality Act 2010, SHU has a legal

responsibility to consider how it can promote equality and minimise tension and prejudice between different groups with protected characteristics. SHU needs to consider this in the context of securing free speech including the steps it should take to encourage good relations between groups but without restricting lawful free speech.

Public Order Act 1986 - Violent, Threatening or Abusive Conduct and Speech. Within the Act a range of criminal offences can be committed by speech and conduct and therefore limit the exercise of the rights to freedom of speech and expression and academic freedom. These offences are characterised by violent conduct or by speech or actions which threaten violence or cause fear, alarm, or distress. The use or threat of unlawful violence to another, where that conduct would cause a person of reasonable firmness present at the scene to fear for his / her personal safety, constitutes the criminal offence of affray. The relevant threat cannot be made by the use of words alone.

The criminal offence of fear or provocation of violence is committed where a person:

- uses threatening, abusive or insulting words or behaviour; or
- distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting with the intention to cause another to believe that immediate unlawful violence will be used against him or another; or to provoke the immediate use of unlawful violence by another; or to cause another to believe that such violence will be used or is likely to be provoked.

The offence of causing harassment, alarm or distress may be committed by:

- the use of threatening, abusive or insulting words or behaviour or disorderly behaviour; or
- the display or any writing, sign or visible representation which threatening, abusive or insulting.
- within the hearing or sight of a person likely to be caused harassment, alarm or distress.

Religious hatred

Religious hatred offences (introduced into the Public Order Act 1986 by the Racial and Religious Hatred Act 2006) occur where the following actions are committed with the intention to stir up religious hatred:

- the use of threatening words or behaviour;
- the display of threatening written material;
- the publication or distribution of written material which is threatening;

- the public performance of a play involving threatening words or behaviour;
- the distribution or showing or playing of a recording of visual images or sounds which are threatening;
- the broadcasting of a programme which includes threatening visual images or sounds;
- the possession of written material, the recording of visual images or sounds, which are threatening, with a view to their display, distribution, publication, playing or broadcasting.

APPENDIX B

External Speaker and Performer Request Forms are to be approved by appropriate staff i.e.:

Societies' performers: Leader / Manager	Student Communities Team
Student Rep's performers: Manager	Representation Team Leader /
Other Students' Groups: Manager	Relevant Team Leader /
Trainers:	Relevant Team Leader / Manager
Others:	Relevant Team Leader / Manager

If any of the above positions change, the equivalent / relevant role will apply.