



Version	Approved by	Approval date	Effective date	Next full review
1.0	Council	12 April 2021	12 April 2021	April 2024

UNSW has an unequivocal commitment to freedom of speech and academic freedom. This is reflected in our long-standing position that freedom of speech at UNSW is no different to freedom of speech anywhere in Australia. The only constraints we place on freedom of speech are those that apply to the community under the law.

This Code adopts the Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers developed by former High Court Chief Justice the Hon Robert French AC, as modified and adopted by the University Chancellors Council. Where the Model Code offers less protection than the UNSW position, it has been modified to provide greater protection for freedom of speech.

UNSW is a place where many different views and opinions are expressed and vigorously debated. We expect those engaged in these debates to treat others with respect. We welcome speakers of all backgrounds and beliefs to use UNSW land and facilities, respectfully acknowledging the Bedegal, Gadigal and Gunnedjal people who are the traditional custodians of the lands where UNSW campuses are located.

1. Object

The object of this Code is:

1. To ensure that the freedom of lawful speech of staff and students of the University and visitors to the University is treated as a paramount value and therefore is not restricted nor its exercise unnecessarily burdened by restrictions or burdens other than those imposed by law and set out in the Principles of the Code.
2. To ensure that academic freedom is treated as a defining value by the University and therefore not restricted nor its exercise unnecessarily burdened by restrictions or burdens other than those imposed by law and set out in the Principles of the Code.
3. To affirm the importance of the University's institutional autonomy under law in the regulation of its affairs, including in the protection of freedom of speech and academic freedom.

2. Application

The Code applies to the governing body of the University, its officers and employees and its decision-making organs, including those involved in academic governance.

3. Operation

The University shall have regard to the Principles of this Code in the drafting, review or amendment of any non-statutory policies or rules and in the drafting, review or amendment of delegated legislation pursuant to any delegated law-making powers.

4. Principles

1. Every member of the staff and every student at the University enjoys freedom of speech exercised on University land or in connection with the University subject only to restraints or burdens imposed by:
 - law
 - the reasonable and proportionate regulation of conduct necessary to the discharge of the University's teaching and research activities
 - the right and freedom of others to express themselves and to hear and receive information and opinions
 - the reasonable and proportionate regulation of conduct to enable the University to fulfil its duty to foster the wellbeing of students and staff
 - the reasonable and proportionate regulation of conduct necessary to enable the University to give effect to its legal duties including its duties to visitors to the University.

2. Subject to reasonable and proportionate regulation of the kind referred to in the previous Principle, a person's lawful speech on the University's land or in connection with a University activity shall not constitute misconduct nor attract any penalty or other adverse action by reference only to its content; nor shall the freedom of academic staff to make lawful public comment on any issue in their personal capacities be subject to constraint imposed by reason of their employment by the University.
3. Every member of the academic staff and every student enjoys academic freedom subject only to prohibitions, restrictions or conditions:
 - imposed by law
 - imposed by the reasonable and proportionate regulation necessary to the discharge of the University's teaching and research activities
 - imposed by the reasonable and proportionate regulation necessary to discharge the University's duty to foster the wellbeing of students and staff
 - imposed by the reasonable and proportionate regulation to enable the University to give effect to its legal duties
 - imposed by the University by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.
4. The exercise by a member of the academic staff or of a student of academic freedom, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action.
5. In entering into affiliation, collaborative or contractual arrangements with third parties and in accepting donations from third parties subject to conditions, the University shall take all reasonable steps to minimise the restrictions or burdens imposed by such arrangements or conditions on the freedom of speech or academic freedom of any member of the academic staff or students carrying on research or study under such arrangements or subject to such conditions.
6. The University has the right and responsibility to determine the terms and conditions upon which it shall permit external visiting speakers and invited visiting speakers to speak on University land and use University facilities and in so doing may:
 - a) require the person or persons organising the event to comply with the University's booking procedures and to provide information relevant to the conduct of any event, and any public safety and security issues
 - b) distinguish between invited visiting speakers and external visiting speakers in framing any such requirements and conditions
 - c) refuse permission to any invited visiting speaker or external visiting speaker to speak on University land or at University facilities where the content of the speech is or is likely to:
 - i. be unlawful; or
 - ii. prejudice the fulfilment by the University of its duty to foster the wellbeing of staff and students.
 - d) require a person or persons seeking permission for the use of University land or facilities for any external visiting speaker to contribute in whole or in part to the cost of providing security and other measures in the interests of public safety and order in connection with the event at which the external visiting speaker is to speak.
7. Subject to the preceding Principles the University shall not refuse permission for the use of its land or facilities by an external visiting speaker or invited visiting speaker nor attach conditions to its permission, solely on the basis of the content of the proposed speech by the visitor.
8. Consistently with this Code the University may take reasonable and proportionate steps to ensure that all prospective students in any of its courses have an opportunity to be fully informed of the content of those courses. Academic staff must comply with any policies and rules supportive of the University's duty to foster the wellbeing of staff and students. They are not precluded from including content solely on the ground that it may offend or shock any student or class of students.

Accountabilities	
Responsible Officer	Deputy Vice-Chancellor, Planning and Assurance
Contact Officer	Director of Governance
Supporting Information	
Legislative Compliance	This Code supports the University's compliance with the following legislation: University of New South Wales Act 1989 (NSW)
Supporting Documents	Nil
Related Documents	Code of Conduct Equity, Diversity and Inclusion Policy HEFEI Statement on the Ten Characteristics of Contemporary Research Universities
Superseded Documents	Nil
File Number	2021/007160
Definitions and Acronyms	
Academic freedom	for the purposes of this Code comprises the following elements: <ul style="list-style-type: none"> the freedom of academic staff to teach, discuss, and research and to disseminate and publish the results of their research the freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their subjects of study and research the freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled the freedom of academic staff to participate in professional or representative academic bodies the freedom of students to participate in student societies and associations the autonomy of the higher education provider in relation to the choice of academic courses and offerings, the ways in which they are taught and the choices of research activities and the ways in which they are conducted.
Academic staff	all those who are employed by the University to teach and/or carry out research and extends to those who provide, whether on an honorary basis or otherwise, teaching services and/or conduct research at the University.
External visiting speaker	any person who is not an invited visiting speaker and for whom permission is sought to speak on the University's land or facilities.
Imposed by law	in relation to restrictions or burdens or conditions on a freedom include restrictions or burdens or conditions imposed by statute law, the common law (including the law of defamation), duties of confidentiality, restrictions deriving from intellectual property law and restrictions imposed by contract.
Invited visiting speaker	any person who has been invited by the University to speak on the University's land or facilities.
Non-statutory policies and rules	means any non-statutory policies, rules, guidelines, principles, codes or charters or similar instruments.
Speech	extends to all forms of expressive conduct including oral speech and written, artistic, musical and performing works and activity and communication using social media; the word 'speak' has a corresponding meaning
Staff	for the purposes of this Code 'staff' includes all employees of the University whether fulltime or part-time and whether or not academic staff.

<p>The duty to foster the wellbeing of staff and students</p>	<ul style="list-style-type: none"> • includes the duty to ensure that no member of staff and no student suffers unfair disadvantage or unfair adverse discrimination on any basis recognised at law including race, gender, sexuality, religion and political belief • includes the duty to ensure that no member of staff and no student is subject to threatening or intimidating behaviour by another person or persons on account of anything they have said or proposed to say in exercising their freedom of speech • supports reasonable and proportionate measures to prevent any person from using lawful speech which a reasonable person would regard, in the circumstances, as likely to humiliate or intimidate other persons and which is intended to have either or both of those effects • does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another. 			
<p>University</p>	<p>means the University of New South Wales.</p>			
<p>Unlawful</p>	<p>means in contravention of a prohibition or restriction or condition imposed by law.</p>			
<p>Revision History</p>				
Version	Approved by	Approval date	Effective date	Sections modified
1.0	Council	12 April 2021	12 April 2021	This is a new Code of Conduct