

Policy name: Freedom of Speech: Code of Practice

Approved by Trinity Academic Council 13th May 2020

1. Context

- 1.1 Everyone has the right to free speech within the law. This can include the right to say things which, though lawful, others may find disturbing or upsetting. The right extends further than just the right to make speeches; it extends to all forms of expression. Together, freedom of expression and freedom of association cover the right to form societies with lawful aims, even where those aims are not shared with the majority, and the right to peaceful protest. Free speech is not an absolute right; it is a right for which there are limitations, to ensure that it is not exercised in a way which causes harm to others, but it does not prohibit speech or expression which others may find upsetting or offensive.
- 1.2 This right to free speech is important in all settings, but especially in higher education institutions (HEIs), where education and learning are advanced through dialogue and debate. It underpins academic freedom. HEIs are places where ideas are developed, a diverse range of interesting—and sometimes controversial—topics should be debated. Students are among those particularly affected.
- 1.3 Academic freedom is valued as a defining characteristic of the Royal Irish Academy of Music, hereinafter referred to as RIAM or the Academy. It includes the freedom, subject to the norms and standards of scholarly inquiry, to conduct research, teach, speak and publish without interference or penalty, no matter where the search for truth and understanding may lead. It is incumbent on the Academy, therefore, to have regard to the need to ensure that academic staff members 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 at risk of losing their jobs or any associated privileges they may have at the Academy.

2. Purpose

- 2.1 Subject to the authority of the Irish Constitution, this Code of Practice on Freedom of Speech sets out the rights and obligations inherent within the principles of freedom of speech and expression and academic freedom. The Code shall be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law.

3. Scope

- 3.1 The Code's rights and obligations shall apply to:
- (i) the Academy, as an institution, including members of the Board of Governors;
 - (ii) all members of Academy staff and/or those working on behalf of the Academy (whether paid or unpaid);
 - (iii) all duly enrolled students of the Academy (whether full or part-time);

- (iv) all students studying at the Academy (whether full or part-time) under an agreement with a partner organisation of the Academy (e.g. a school, college or employer) even if not enrolled as students at the Academy;
- (v) the Students' Union, its associated buildings, and any of its societies, clubs or associations which normally operate on Academy premises; and;
- (vi) all persons invited to speak, perform, or otherwise take part in events to be held on Academy premises in accordance with the provisions of this Code.

3.2 References in the Code to 'Academy premises' include premises which are owned and/or controlled by the Academy, and any premises occupied or used by the Academy's Students' Union whether or not the Academy owns or has control of such premises.

4. Principles

- 4.1 The Academy shall take such steps as are reasonably practicable to ensure that freedom of speech and expression within the law is secured for every person to whom this Code's rights and obligations apply.
- 4.2 Every person to whom this Code's rights and obligations apply shall assist the Academy in upholding this Code of Practice on freedom of speech.
- 4.3 The Academy will not suppress freedom of expression, provided that such speech and expressions do not go beyond the articulation of points of view and are within the law. The Academy has a duty to ensure, wherever practical, that such expressions do not constitute: incitement to riot; insurrection; racial hatred; religious hatred; sexual harassment; a significant increase in the risk of an individual being drawn into terrorism; or other activities (beyond the right of peaceful protest) which are likely to cause a breach of the peace or public disorder or otherwise to be unlawful.
- 4.4 The Academy shall ensure, so far as is reasonably practicable, that the use of Academy premises is not denied to any individual or body of persons to whom this Code's rights apply on any grounds connected with:
 - (i) the beliefs or views of such individual or any member of such body; or
 - (ii) the policy or objectives of such body.
- 4.5 Every person to whom this Code's rights and obligations apply shall refrain from organising or engaging in or otherwise being associated with any conduct (other than by lawful, reasonable and peaceful persuasion) intended to prevent the enjoyment of rights under this Code.
- 4.6 The Academy shall take such steps as are reasonably practicable (including, where appropriate and following proper investigation, invoking disciplinary measures) to secure that the obligations under this Code are complied with.

5. Events and Teaching

- 5.1 The Academy has the responsibility to maintain good order on its premises. It has the right and the power to regulate and, if necessary, to impose conditions or restrictions upon

activities such as teaching, performances, meetings and demonstrations held or proposed to be held on its premises. In particular:

- (i) **Visiting Artists:** The Academy has a number of visiting teaching staff giving one-off classes and masterclasses. It is assumed that these activities will be engaged in the delivery of music/performance teaching. If there is any doubt as to the proposed content the host (usually Head of Faculty) must discuss the proposed teaching with the Director, who will review the proposed activity, highlight any issues which have the potential to incur risks requiring due diligence and decide whether risks are acceptable or can be mitigated or whether the teaching cannot go ahead. Where permission is not granted the activity must not go ahead and the rationale for the decision will be noted and recorded centrally by the relevant Head of Faculty. Where a discussion is required concerning the content of proposed teaching, no advertising must be undertaken until permission for the teaching has been granted.
- (ii) **External Lecturers:** The Academy has a number of visiting teaching staff giving one-off lectures or classes. It is assumed that these activities will be engaged in the delivery of music/pedagogy/other approved activities. If there is any doubt as to the proposed content the host (usually the relevant Head of Faculty or Doctoral Studies coordinator) must discuss the proposed activity with the Director, who will review the proposed activity, highlight any issues which have the potential to incur risks requiring due diligence and decide whether risks are acceptable or can be mitigated or whether the event cannot go ahead. Where permission is not granted the activity must not go ahead and the rationale for the decision will be noted and recorded centrally by the Board of Studies. Where a discussion is required concerning the content of the proposed activity, no advertising must be undertaken until permission for the activity has been granted.
- (iii) **External Speakers - Students' Union or student societies:** The Students' Union (SU) or student societies of the Academy may have events which involve external speakers. It is assumed that these activities will be engaged in discussions about music, performance, music pedagogy or other approved activities. If there is any doubt as to the proposed content the host (usually SU President or nominee) must discuss the proposed activity with the Head of Musicianship, who will review the proposed activity, highlight any issues which have the potential to incur risks requiring due diligence and decide whether risks are acceptable or can be mitigated or whether the event cannot go ahead. Where permission is not granted the activity must not go ahead and the rationale for the decision will be noted and recorded centrally by the Head of Musicianship. Where a discussion is required concerning the content of the proposed activity, no advertising must be undertaken until permission for the activity/event has been granted.
- (iv) **Public Performances:** the Head of Artistic Programming will review the draft programme and highlight any artist(s) or event(s) which have the potential to incur risks requiring due diligence and decide whether risks are acceptable or can be mitigated. Where permission is not granted the activity must not go ahead and the rationale for the decision will be noted and recorded centrally by the Board of Studies.

- (v) **Recitals and Examinations:** advice will be provided to students concerning the draft programme presented by candidates for recitals/examinations. Such advice will highlight that any potentially sensitive material or that related to extremism must be discussed with the relevant Head of Faculty before final authorisation. Where permission is not granted the activity must not go ahead and the rationale for the decision will be noted and recorded centrally by the relevant Head of Faculty.
- 5.2 The Academy reserves the right to intervene in activities on social media where the Academy is identified as a host/organiser or where an individual is identified as an Academy member and purports to be representing the Academy. Such activities should comply with the Academy Social Media Policy.
- 5.3 Any such events (held electronically or on the premises) must comply with this Code.
- 5.4 The Academy reserves the right to request written details of a proposed event/activity should there be reasonable doubt that the proposal would be a contravention of this Code.
- 5.5 The Academy will not unreasonably refuse to allow events to be held on its premises. The expression of controversial views which do not breach the law will not constitute reasonable grounds for withholding permission for an event. Reasonable grounds for refusal would include, but are not limited to, the fact that the event is likely to:
- (i) incite those attending to commit a criminal act;
 - (ii) lead to the unlawful expression of views;
 - (iii) be in direct support of an organisation whose aims and objectives are illegal; or
 - (iv) give rise to a breach of the peace.
- 5.6 In determining whether the holding of an event on Academy premises might reasonably be refused, where appropriate consideration should be given to:
- (i) the safety of persons attending the event and persons on Academy premises who might foreseeably be put at risk;
 - (ii) the security of Academy premises; and
 - (iii) the good name and reputation of the Academy.
- 5.7 The Academy should permit the use of its premises only by organisers of events, whether internal or external, who undertake to comply with all lawful instructions issued by the Academy in relation to the location, arrangements and conduct of such events, including adequate stewarding and moderating, chairing, monitoring, and the provision of adequate control over entry. If Academy IT systems are used, or if the Academy or individuals are identified as being members of the Academy, the Social Media Policy must be followed. Appropriate advice and permissions must be sought from the RIAM Secretary.
- 5.8 In all circumstances, a named Principal Organiser should be identified, who is responsible for the booking and control arrangements of the event, and who will be held responsible for maintaining public order and, as far as possible, securing compliance with this Code.

- 5.9 The Equality and Human Rights Commission sought in 2014, to provide greater clarity about the circumstances in which segregation according to gender is prohibited under equality and human rights law at events which take place at or under the auspices of universities and students' unions, including those organised by Academy societies or associations. The guidance notes that segregation by gender is clearly not permitted under equality law in universities' normal academic, teaching and research activities, and therefore is not permissible for most events covered by the Code of Practice. Gender segregation is, however, permissible during collective religious worship because it is not subject to equality law. Therefore for the purposes of this Code of Practice, gender segregation will not be permitted at events that do not include religious worship. It therefore follows that if any event includes religious worship and involves gender segregation, then the principal organiser must provide full details and the seating arrangements that will apply across both parts of the event.
- 5.10 In cases in which it is reasonable to assume that there is a possibility of disruption at an event, the Academy may consult with external agencies (likely to include the Gardaí) regarding the security arrangements required.
- 5.11 Any organisers of any event held on Academy premises shall be responsible for any costs involved in organising and holding such events and for ensuring, as far as possible, that nothing in the organisation and holding of such events infringes the law, or Academy regulations, in any way.

6. Research

- 6.1 Research undertaken in the Academy generally relates to music and music pedagogy. If academic or teaching staff propose to undertake research into other areas, especially where these might be regarded as sensitive or related to extremism they should discuss this in advance with the Head of Musicianship or Doctoral Studies Coordinator, who will review the proposed research, highlight any issues which have the potential to incur risks requiring due diligence and decide whether risks are acceptable or can be mitigated (for example data storage will need to meet the standards for data security and access to such data restricted). Where permission is not granted, the rationale for the decision will be noted and recorded centrally by the Head of Musicianship or Doctoral Studies Coordinator.
- 6.2 External invited speakers for research purposes are assumed to be discussing research relating to music or music pedagogy. If a speaker might be discussing research which would generally be regarded as sensitive or related to extremism the host must discuss the proposed event with the Head of Musicianship or Doctoral Studies Coordinator, who will review the proposed event, highlight any issues which have the potential to incur risks requiring due diligence and decide whether risks are acceptable or can be mitigated or whether the event cannot go ahead. Where permission is not granted, the rationale for the decision will be noted and recorded centrally by the Head of Musicianship or Doctoral Studies Coordinator. No advertising must be undertaken until permission for the event has been granted.

7. Sanctions and Penalties

- 7.1 A student, staff member or member of the Board of Governors in breach of this Code may be subject to action being taken against them under the relevant Academy procedure.

7.2 Where those responsible for the breach are students or staff of a partner organisation of the Academy, the RIAM Secretary (or nominee) shall inform the partner organisation with a view to that partner organisation taking action under its disciplinary or other relevant procedure.

7.3 Where a breach of this Code takes place at an event, the Academy may take steps to assist the Gardaí in identifying any persons committing offences with a view to appropriate action being taken against them.

8. Review and Amendment of the Code

8.1 The Academy will normally review this Code of Practice on Freedom of Speech every three years or as legislation dictates.

9. Responsibility

9.1 The RIAM Secretary is responsible for overseeing this policy and its operational procedures.

10. Legislation and Regulation

10.1 [The Irish Constitution](#).

11. Related Documents

11.1 Social Media Policy.

11.2 Staff Disciplinary Policy.

11.3 Student Code of Conduct.

12. Document Control

Approved by Trinity Academic Council 13th May 2020.

Next review: Academic year 2020/21.