

# Freedom of Speech Policy

## Section 1 - Purpose

(1) The purpose of this Policy is to ensure that freedom of speech is embedded as a defining value of the University through its promotion of critical and free inquiry, informed intellectual discourse, and respectful public debate.

(2) This Policy applies in the context of all activities and operations of or associated with the University (on and off campus, and including by technological means). It applies to:

- a. all University staff (including casuals, conjoint, adjuncts and other categories of University staff appointments);
- b. all University students;
- c. all University affiliates (see clause 10);
- d. visitors to the University, including external visitors who speak at an event on University land (whether as an invited external speaker or otherwise, for example, as part of a venue hire arrangement).

(3) This Policy is to be read in conjunction with the following:

- a. [Charter of Academic Freedom](#);
- b. [Media, Social Media and Public Commentary Policy](#);
- c. Staff [Code of Conduct](#);
- d. [Student Code of Conduct](#);
- e. Western Sydney University, Explanatory Note: [Explanatory Note - Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers](#);
- f. Western Sydney University [Academic Staff Agreement](#);
- g. Western Sydney University [Professional Staff Agreement](#);
- h. [Research Code of Practice](#);
- i. [Whistleblowing \(Reporting Corruption and Other Wrongdoing\) Policy](#) and [Whistleblowing \(Reporting Corruption and Other Wrongdoing\) Procedures](#).

(4) This Policy may be adopted by University controlled entities and educational partners.

## Section 2 - Context and Explanation of Terms

(5) Freedom of speech is linked to the right of freedom of opinion. The right to freedom of opinion is the right to hold an opinion about anything, without interference, and to seek, receive and impart information and ideas through any medium and regardless of jurisdiction.

(6) For the purposes of this Policy, freedom of speech extends to all forms of expressive conduct in any medium, format or activity occurring on or off campus and associated with the University. It includes the following expressions of freedom:

- a. freedom of speech in oral, written, artistic or musical form, or by broadcast or other means of communication;
- b. freedom of assembly;
- c. freedom to engage in non-violent protest;
- d. creation and publication of written, artistic or musical works;
- e. freedom to access and express personal views through social media platforms.

(7) Freedom of speech differs from academic freedom. Academic freedom refers more narrowly to the freedoms enjoyed by students and staff in their capacity as scholars. Specifically, it refers to the freedom to carry out research and disseminate and publish the results thereof, the freedom to express freely an opinion about the University and Higher Education systems in which they work, the freedom from institutional censorship, and the freedom to participate in professional or representative academic bodies. At the same time, it is subject to accepted scholarly principles including professional responsibility and intellectual rigour with regard to standards and methods.

(8) While Australia has ratified the International Covenant on Civil and Political Rights (which enshrines, among other things, the right to hold opinions without interference and the right to freedom of speech), the Australian Constitution does not explicitly provide protection for freedom of speech. The High Court of Australia has held that there is an implied freedom of political communication that exists as an indispensable part of Australia's system of representative and responsible government, as created under the Australian Constitution. However, this freedom operates as a restraint on government rather than as an individual right.

(9) Freedom of speech is not an absolute and unfettered right and may be subject to regulation or restriction. Throughout Australia, there are laws (both statutory and common) that regulate or restrict freedom of speech. These include laws related to defamation, confidentiality, privacy, unlawful discrimination (including hate speech and other forms of vilification) and workplace health, safety and wellbeing. In an employment context, restrictions can arise out of employees' duties to their employer, including, for instance, obligations to protect the University's confidential information. Similarly, the University has an obligation to protect the confidential information of employees.

(10) For the purposes of this policy, University affiliates means a clinical title holder, an honorary appointee, a consultant or contractor to the University, an office holder in a University entity, a member of any University Board, Council or Committee and any other person appointed or engaged by the University to perform duties or functions on its behalf.

(11) For the purposes of this Policy an invited external speaker means a person who has been invited by the University or a member of the University community to speak or give a presentation in any medium on any University land or facilities, or via technological means.

## Section 3 - Policy and Principles

(12) The University strongly encourages and supports the exercise of freedom of speech by its staff, students and visitors, in recognition of its key importance to the principles of academic freedom, the advancement of knowledge and institutional autonomy.

(13) The University adopts the following principles which are based on the [Explanatory Note - Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers](#):

- a. that universities should be places for open discussion and free inquiry, including the pursuit of knowledge for its own sake and challenging orthodoxies;
- b. that the lawful exercise of freedom of speech by a University staff member or student on University land or in connection with a University activity will not constitute misconduct or attract any penalty or other adverse action by reference only to its content;

- c. that the freedom of University staff to make lawful public comment on any issue as private individuals will not be subject to constraint imposed by reason of their employment with the University, provided that they do so as private individuals and not in their capacity as University staff;
- d. that the right to freedom of speech does not include the right to obstruct or restrict the rights of others to express their own opinions, for example, by unreasonably shutting down debate, engaging in hate speech, vilifying people or segregating participants;
- e. that the University should not attempt to shield staff, students or visitors from ideas or opinions that they may disagree with or find offensive;
- f. that the University values courage, civility and respect, and promotes a climate where people disagree well. So while freedom of speech includes the right to criticise, challenge the views of others and otherwise engage in robust debate, this does not extend to uncivil or disrespectful behaviour;
- g. that the following forms of speech are not permitted:
  - i. speech that is contrary to law;
  - ii. speech that unreasonably interferes with the University's ability to discharge its legal duties and obligations, including those with respect to the health, safety and welfare of its staff, students and visitors;
  - iii. speech that unreasonably disrupts University activities (including teaching, learning and research) or operations, or the ability of people to participate in activities, or make full use of University facilities and resources;
  - iv. speech that is not made in good faith in accordance with the principles set out in the relevant Code of Conduct.

(14) The University values openness and transparency, and actively promotes the disclosure of information that relates to the public good and will as far as possible seek to maximise the benefit to the public from its academic and research activities. The University will take reasonable steps to minimise any restrictions or burdens on lawful freedom of expression by University staff or students carrying out research or study under any collaborative or other arrangements with third parties or in accepting donations.

(15) The University reserves the right to determine the terms and conditions on which external visitors (including invited external speakers) may come onto and speak or present on University land or use its resources or facilities (including online resources and facilities), taking into account the principles described in clause (13), external visitors will generally be permitted access provided they adhere to those principles and all other relevant University policies and procedures.

(16) The University may refuse access to its facilities and resources to external visitors where the activity or content of any speech or activity is likely to:

- a. contravene any of the principles in clause (13);
- b. advance theories or propositions that purport to be based on scholarship or research, but that fall below scholarly standards to the extent that it is detrimental to the University's reputation as an institution of higher learning;
- c. be unreasonably disruptive to University activities or operations; or
- d. prejudice the University's duty to foster the health and wellbeing of its staff, students and other visitors.

## Section 4 - Procedures

(17) The University will implement procedures for assessing and approving the following:

- a. hire of University venues or facilities by third parties (including booking procedures and information about

- conduct of events, including public safety and security arrangements);
- b. invited external speakers.

## **Section 5 - Guidelines**

(18) Nil.

## Status and Details

<b>Status</b>	Historic
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