

APPENDIX G – CODE OF PRACTICE ON FREEDOM OF SPEECH

(issued by the Governing Body of St Hugh's College on 9th March, 1988 pursuant to its statutory duty under Section 43 (3) of the Education (No. 2) Act 1986)

I. INTRODUCTION

Statutory obligations

1. The Education (No.2) Act 1986, Section 43, imposes on the authorities of universities and their constituent colleges obligations to safeguard the lawful exercise of freedom of speech and requires each of them to issue a code of practice to facilitate the discharge of its duties under the Act. The authorities are further required to take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to ensure compliance with the code of practice. The duties imposed by Parliament, and the interpretation provisions, are as follows:

“43.- (1) Every individual and body of persons concerned in the government of any establishment to which this section applies shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.

(2) The duty imposed by sub-section (1) above includes (in particular) the duty to ensure, so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with –

- a. the beliefs or views of that individual or of any member of that body; or*
- b. the policy or objectives of that body.*

(3) The governing body of every such establishment shall, with a view to facilitating the discharge of the duty imposed by subsection (1) above in relation to that establishment, issue and keep up to date a code of practice setting out –

- a. the procedures to be followed by members, students and employees of the establishment in connection with the organisation –*
 - i. of meetings which are to be held on premises of the establishment and which fall within any class of meeting specified in the code; and*
 - ii. of other activities which are to take place on those premises and which fall within any class of activity so specified; and*
- b. the conduct required of such persons in connection with any such meeting or activity; and dealing with such other matters as the governing body consider appropriate.*

(4) Every individual and body of persons concerned in the government of any such establishment shall 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 for that establishment, issued under sub-section (3) above, are complied with.

(5) The establishments to which this section applies are

- a. any university;*
- b. any establishment which is maintained by a local education authority and for which section 1 of the 1968 (No. 2) Act (government and conduct of colleges of education*

and other institutions providing further education) requires there to be an instrument of government; and

- c. any establishment of further education designated by or under regulations made under section 27 of the 1980 Act as an establishment substantially dependent for its maintenance on assistance from local education authorities or on grants under section 100 (1) (b) of the 1944 Act.*

(6) In this section –

"governing body", in relation to any university, means the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs (that is to say the body commonly called the council of the university);

"university" includes a university college and any college, or institution in the nature of a college, in a university.

(7) Where any establishment -

- c. falls within subsection (5) (b) above; or*
- d. falls within subsection (5) (c) above by virtue of being substantially dependent for its maintenance on assistance from local education authorities;*

the local education authority or authorities maintaining or (as the case may be) assisting the establishment shall, for the purposes of this section, be taken to be concerned in its government.

(8) Where a students' union occupies premises which are not premises of the establishment in connection with which the union is constituted, any reference in this section to the premises of the establishment shall be taken to include a reference to the premises occupied by the students' union."

- 2. The University's own statutes include under Tit. XIII (Of University Discipline) the following provision:

"2. (1) No member of the University shall intentionally

- a. disrupt or attempt to disrupt teaching or study or research or the administration of the University, or disrupt or attempt to disrupt the lawful exercise of freedom of speech by members, students, and employees of the University and by visiting speakers, or obstruct or attempt to obstruct any officer or servant of the University in the performance of his duties;*
- b. damage or deface any property of the University or of any college;*
- c. occupy or use or attempt to occupy or use any property of the University or of any college except as may be expressly or impliedly authorized by the university or college authorities concerned;*
- d. forge or falsify any university certificate or similar document or knowingly make false statements concerning standing or results obtained in examinations.*

(2) Every member of the University shall, to the extent that such provisions may be applicable to that member, comply with the provisions of the Code of Practice on Freedom of Speech issued from time to time by Council pursuant to the duty imposed by Section 43 of the Education (No. 2) Act 1986 and duly published in the University Gazette."

3. The College's Statutes under VI.D (Dean) provide that the Dean 'shall administer the discipline of members of the College in statu pupillari but all matters of serious importance shall be referred to the Principal'.

II. CODE OF PRACTICE

The following provisions constitute the Code of Practice adopted by St. Hugh's College to operate with effect from 1 September 1987 to facilitate the discharge of the duty imposed by Section 43 (1) of the Education (No. 2) Act 1986, in relation to the College.

PART 1 - General Duties

1. General duty to uphold freedom of speech

Members, students, and employees of the College are bound at all times so to conduct themselves as to ensure that freedom of speech within the law is secured for members, students, and employees of the College and for visiting speakers.

2. The freedom protected by para. 1 of this Code of Practice is confined to the exercise of freedom of speech within the law. Examples of statements which involve a breach of the criminal law are incitement to commit a crime, sedition, and stirring up racial hatred in contravention of statute. Statements may also be unlawful if they are defamatory or constitute a contempt of court.
3. General duty not to impede access to, or egress from, places at which the right of freedom of speech is exercised on premises of the College.

Subject to such limitations on access as may lawfully be imposed by the competent college authorities, it shall be the duty of every member, student, and employee of the College not to impede any person entitled to be present from entering or leaving a place where the right of freedom of speech is being or is to be exercised on premises of the College.

4. Right of peaceful protest

Nothing in this Code of Practice shall be taken to prohibit the legitimate exercise of the right to protest by peaceful means; provided always that nothing is done which contravenes the foregoing general principles or the other requirements of this Code.

PART 2 - Academic Activities

5. All persons concerned with the organization or conduct of an activity which forms part of the College's teaching, study, or research (such as a tutorial, lecture, seminar, class, conference, research work, or examination) shall immediately give notice to the Dean of any facts coming to their notice which indicate that such activity is likely to be delayed or disrupted by improper means.
6. The Dean shall be empowered to give such directions and to adopt such measures as seem appropriate to the Dean to prevent or minimize the delay or disruption of an academic activity, and all persons concerned with the organization or conduct of the academic activity under threat shall co-operate in carrying out the Dean's directions and in facilitating the measures adopted.
7. In the event that any academic activity is delayed or disrupted by improper means a report shall forthwith be made to the Dean by the person or persons responsible for the conduct of such activity.

PART 3 - Meetings and assemblies on premises of the College of clubs, societies, and other organizations

8. Any meeting or assembly involving 10 persons or more held on College premises must be specifically authorised by the Dean. A minimum of 48 hours' notice must be given and, in respect of meetings, the request must include the name(s) of any participant(s) not member(s) of the College.
9. Any member, student, or employee of the College who, whether alone or in collaboration with other persons, makes arrangements for the holding on premises of the College of any meeting or assembly of persons (including any meeting of any club, society or other organization and whether with or without a restriction to college membership), and who becomes aware of facts indicating that such meeting or assembly is likely to be delayed or disrupted by improper means, shall immediately report such facts to the Dean.
10. In relation to any such meeting or assembly which he believes to be threatened, the Dean shall be empowered to give such directions and to require the adoption of such measures as seem appropriate to the Dean to prevent or minimise the improper delay or disruption, and all persons concerned shall be bound to co-operate in carrying out the Dean's directions and in facilitating the measures required to be adopted.

PART 4 – Powers of the Dean in relation to threatened meetings

11. (1) Directions and measures to be adopted

In relation to any academic activity or any meeting or assembly of persons which the Dean believes to be threatened by disruption, the Dean may give directions and require measures to be adopted pursuant to paras. 6 and 10 of this Code on the following (amongst other) matters:

- (a) the number of persons to be admitted to the premises where the meeting is to be held;
- (b) the issue of tickets of admission;
- (c) the designation of one or more persons as the official organisers of the meeting with direct responsibility to the Dean for all the arrangements thereof;
- (d) the designation of a person as the Chair of the meeting with responsibility for the proper conduct of such meeting;
- (e) the admission (or non-admission, as the case maybe) of members of the University who are not members of the college, or members of the public generally;
- (f) the appointment of stewards to assist with the control of the meeting;
- (g) the employment of security staff to ensure the orderly conduct of the meeting and safe access to and egress from the meeting;
- (h) the carrying of banners, placards and similar objects into the meeting;
- (i) the place where the meeting is to be held.

(2) Meetings where serious disruption is anticipated

The Dean may as necessary consult with the Proctors and the local police about forthcoming meetings and activities covered by this Code of Practice. In any case where serious disruption may be anticipated the Dean shall have power, having taken into consideration such advice from the police as may be available, to order the cancellation, postponement, or relocation of the meeting.

(3) Expenses incurred in safeguarding academic activities and other meetings

Where expenses are incurred (e.g. in the engagement of stewards or the employment of security staff) to safeguard an academic activity under Part 2 of this Code of Practice the cost thereof shall be borne by the College. In all other cases the cost shall be borne by the person or persons organising the meeting, save that the Dean may (if so advised) make representations to the Governing Body of the College suggesting that the cost shall be borne in whole or in part by the College and the Governing Body may decide the matter.

PART 5 - College premises made available for use by outside organisations

12. In any case where the College is proposing to grant permission to an outside organisation or group to hold meetings on its premises, the attention of such outside organisation or group will be drawn to the contents of this Code of Practice and permission to use the premises may be refused unless the outside organisation or group both undertakes to secure that the principles embodied in this Code will be upheld and satisfies the college authorities of its ability to discharge its obligations in regard to upholding freedom of speech.

PART 6 - Miscellaneous

13. The Governing Body of the College is under a duty pursuant to Section 43(3) of the Education (No. 2) Act 1986 to keep this Code of Practice up to date. No revision of the Code will, however, take effect until after due notice has been given.
14. Failure to comply with the provisions of this Code of Practice may render the offender liable to disciplinary proceedings. Nothing in this Code of Practice affects the normal operation of the criminal law.