

FREEDOM OF SPEECH AND ACADEMIC FREEDOM POLICY



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1 PURPOSE

- 1.1 This policy details CQUniversity's support for the Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers¹ (the Model Code) and sets out the rights, expectations and responsibilities of the University and its employees and students.
- 1.2 CQUniversity has aligned this policy with the June 2019 version of the Model Code² prepared by the University Chancellors Council.

2 SCOPE

- 2.1 This policy applies to CQUniversity's employees and students, the University Council and its committees, the Student Representative Council, and the University's controlled entities.

3 POLICY STATEMENT

- 3.1 This policy provides an overarching framework for, and operationalises, the [Academic Board Position Statement – Academic Freedom](#).

Objects

- 3.2 The objects of this policy, and the Model Code, are:
- a) to ensure that the freedom of lawful speech of employees 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 other than those imposed by law and set out in the Principles of this policy and the Model Code

¹ The Model Code was developed by former High Court Chief Justice, the Hon Robert S. French AC, following an independent review of policies supporting freedom of speech and intellectual inquiry in Australian higher education completed in March 2019: <https://www.education.gov.au/review-university-freedom-speech>

² The University Chancellors Council version of the Model Code can be accessed within the report on the Review of the Adoption of the Model Code on Freedom of Speech and Academic Freedom accessible from <https://www.dese.gov.au/higher-education-reviews-and-consultations/resources/report-independent-review-adoption-model-code-freedom-speech-and-academic-freedom>.

- b) 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 other than those imposed by law and set out in the Principles of this policy and the Model Code, and
- c) 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.

Operation

- 3.3 The University shall have regard to the below Principles (in this policy, copied from the Model Code) in the drafting, review or amendment of any non-statutory policy documents and industrial agreements.
- 3.4 The University's non-statutory policy documents shall be interpreted and applied, so far as is reasonably practicable, in accordance with the below Principles.
- 3.5 Any power or discretion under a non-statutory policy document shall be exercised in accordance with the below Principles.
- 3.6 This policy prevails, to the extent of any inconsistency, over any University non-statutory policy document.
- 3.7 Any power or discretion conferred on the University under any contract or workplace agreement shall be exercised, so far as it is consistent with the terms of that contract or workplace agreement, in accordance with the below Principles.

Principles

- 3.8 Every employee and 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 employees, and
 - 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.
- 3.9 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 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 employees 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.
- 3.10 All employees and students enjoy academic freedom subject only to prohibitions, restrictions or conditions imposed by:
 - law
 - the reasonable and proportionate regulation necessary to the discharge of the University's teaching and research activities
 - the reasonable and proportionate regulation necessary to discharge the University's duty to foster the wellbeing of students and employees
 - by the reasonable and proportionate regulation to enable the University to give effect to its legal duties, and
 - the University by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.

- 3.11 The exercise by an employee or by a student of academic freedom, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action.
- 3.12 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 educator or students carrying on research or study under such arrangements or subject to such conditions.
- 3.13 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 employees and students
 - d) refuse permission to any external visiting speaker to speak on University land or at University facilities where the content of the speech is or is likely to involve the advancement of theories or propositions which purport to be based on scholarship or research but which fall below scholarly standards to such an extent as to be detrimental to the University's character as an institution of higher learning, and
 - e) 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.
- 3.14 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.
- 3.15 Consistently with this policy, 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. Educators must comply with any policy documents supportive of the University's duty to foster the wellbeing of employees 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.

4 RESPONSIBILITIES

Compliance, monitoring and review

- 4.1 The University Secretary and the University Council are responsible for implementing, monitoring, reviewing and ensuring compliance with this policy.

Reporting

- 4.2 No additional reporting is required.

Records management

- 4.3 Employees must manage records in accordance with the [Records Management Policy and Procedure](#). This includes retaining these records in a recognised University recordkeeping information system.

- 4.4 University records must be retained for the minimum periods specified in the relevant [Retention and Disposal Schedule](#). Before disposing of any records, approval must be sought from the Records and Privacy Team (email records@cqu.edu.au).

5 DEFINITIONS

- 5.1 Terms not defined in this document may be in the University [glossary](#).

Terms and definitions

Academic freedom:

1. Academic freedom is the freedom to put forward an opinion informed by scholarship and intellectual inquiry without interference or penalty. Academic freedom allows for independent learning, teaching and research whilst upholding the values of truth, accuracy, honesty, rigour, civility and courage. *(from the Academic Board Position Statement – Academic Freedom)*
2. For the purposes of this policy, and as per the Model Code, Academic Freedom comprises the following elements:
 - the freedom of employees to teach, discuss, and research and to disseminate and publish the results of their research
 - the freedom of employees 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 employees and students to express their opinions in relation to the University
 - the freedom of employees to participate in professional or representative academic bodies
 - the freedom of students to participate in student societies and associations
 - the autonomy of the University 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.

Educators: 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.

Employee: all employees of the University whether full-time or part-time and whether or not an educator.

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. For the purposes of this definition, 'the University' includes its decision-making organs and officers; its student representative bodies; any clubs, societies and associations recognised by its decision-making organs or student representative bodies; and any entities controlled by the University.

Non-statutory policy documents: 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.

The duty to foster the wellbeing of employees and students:

- includes the duty to ensure that no employee or 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 employee or 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, and
- does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.

University facilities: includes physical and virtual facilities provided by the University.

Unlawful: means in contravention of a prohibition or restriction or condition imposed by law.

6 RELATED LEGISLATION AND DOCUMENTS

[A Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers](#)

[Academic Board Position Statement – Academic Freedom](#)

[Central Queensland University Enterprise Agreement 2017](#)

[Review of the Adoption of the Model Code on Freedom of Speech and Academic Freedom](#)

7 FEEDBACK

7.1 Feedback about this document can be emailed to policy@cqu.edu.au.

8 APPROVAL AND REVIEW DETAILS

Approval and Review	Details
Approval Authority	Council
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Required Consultation	N/A
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