

Managing the risks associated with external speakers

Guidance for HE students' unions in England & Wales

July 2011



national union of students

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Forward

This guidance is principally about continuing to empower students and students' unions to self organise and continue organising their vast array of activities to take place. It is not about limiting the number or types of speakers from being a part of students' union and student society activities.

Importantly, the guidance supports students' unions to do this within the context of new regulation by the Charity Commission.

It also responds to demand from the membership for practical support on how to maintain an environment where the rights of 'freedom of speech' and 'freedom from harm' can coexist. This guidance seeks to support students' unions to do this and in particular where it relates to external speakers.

Two other things set the context for the production of this guidance. Since Christmas Day 2009, when a former UCL student and Islamic Society President was apprehended in attempting to blow up a flight from Amsterdam to Detroit, there has been increased attention on who speaks on campus and whether radicalisation takes place at universities and colleges. Following this a working group was formed by Universities UK to examine the issues of freedom of speech and violent extremism on campus. Their report, *Freedom of speech on campus: rights and responsibilities in UK universities*¹, offers a useful and credible analysis of the broader issues surrounding freedom of speech and extremism. However, building an environment where the rights of 'freedom of speech' and 'freedom from harm' can coexist often requires more practical support – this guidance seeks to support students' unions to be able to respond to these issues, particularly where they relate to external speakers.

Alongside this the government have undertaken a review of *Prevent*² - the government's strategy to stop people becoming terrorists or supporting terrorism - which was

launched alongside the new strategy in June 2011. This review outlines a new approach to tackling radicalisation to violent extremism and non-violent extremism in universities and colleges of which tackling 'hate speech' is a key part. As such this guidance also seeks to support students' unions to respond to this particular issue.

In addition we remain of the view that adopting a policy of 'no platform' for racists and fascists is both morally desirable and legally possible where a students' union chooses to do so. However, 'no platform' can be a blunt tool for determining how to mitigate the associated risks of a controversial or contentious external speaker. Students' unions have also long requested support with making decisions about what constitutes 'hate speech' and how to make reasoned and informed decisions about particular speakers and/or how to manage the risk they may pose to attending a society or students' union event.

NUS is committed to student welfare and safety and students' unions are key to promoting a safe environment for students where they can go about their lives free from prejudice, discrimination, physical harm and verbal abuse.

Open debate, the exchange of opinions and the development of students' ideas and understanding are central to the culture of universities in promoting freedom of speech and ensuring academic freedom. Similarly, freedom of expression and speech are basic human rights to be protected and are protected by law.

Students' unions are at the heart of ensuring our colleges and universities are places in which a diversity of people and opinions are not only accepted, but celebrated. The range of activities and events that take place in students' unions demonstrate this diversity of interests, ideas and opinions and this is to be encouraged.

NUS would like to thank the Department for Business, Innovation and Skills for their financial support to produce this guidance.

Introduction

Background

This guidance follows the decision at National Conference 2010 for the NEC to develop support for students' unions to make informed decisions about controversial and contentious external speakers who are invited to campus by societies and officers.

At the time, this request was made in response to both an increased number of queries from the membership about external speakers and a rise in negative reporting about controversial speakers at universities in the media.

Since then the majority of students' unions in HE have become registered charities and are now subject to regulation by the Charity Commission³. This places legal responsibilities on the trustees of students' unions to avoid undertaking activities that might place the charity's endowments, funds, assets, or reputation at risk.

Within this new context the guidance seeks to provide information and advice for students' unions on

- considering their legal implications as charities
- considering the safety and welfare implications of visiting speakers, and
- how to manage associated risks of external speakers speaking or presenting at events organised by the students' union (including clubs and societies)

Above all, this guidance aims to enable students' unions to facilitate students self organisation in the context of above.

'External speaker' is used throughout this document to describe any individual or organisation who is not a student or staff member at the university or students' union in question.

About the guidance

Universities are accustomed to debate and protest; and tensions can arise and sometimes erupt between different political, social and identity groups on campus. This guidance does not deal with the issues and challenges students' unions face with regards to controversial issues discussed by staff, students or academics at your institution (other guidance already exists to support students' unions with this, links to which can be found in the *further information* section of this guidance and on NUS Connect).

Students' Unions have a right to refuse individuals and groups who threaten the safe environment students' unions provide for their members. No platform policies, as well as equal opportunities policies, are tools in which students' unions provide and maintain a safe environment for their members.

In many cases, where the views and expressions of external speakers are not easily attributable to being 'hate speech' it is very difficult for students' unions to make a decision (with their parent institution) as to whether it is appropriate for the speaker to attend or be banned.

This guidance seeks to support students' unions make this decision; and work with their institution (where appropriate) to do so.

The relationship between this guidance and NUS no platform policy

The proposed policy within this guidance for dealing with external speaker requests can and should be used alongside a students' union no platform policy, but can also be used where a students' union has no no platform policy in place.

No platform policies prevent individuals or groups known to hold racist and/or fascist views from speaking at union events, and ensures that executive members will not share a public platform with individuals or groups known to hold racist and/or fascist views.

Of significant note, is this guidance and policy does not seek to extend the no platform policy or replace it. Students' unions reserve the right to refuse to invite any external speaker into their students' union meetings and/or events (including those organised by societies) but no platform has been found to be a blunt tool for dealing with the complexities of 'external (hate) speakers', by a number of students' unions.

We have a no platform policy for individuals and organisations who are known to be racists and/or fascists. The vast majority of individuals or organisations that societies invite to speak at events are not and should never be on our no platform policy but some can non-the-less be controversial or risky, in terms of what they have to say or do at a students' union or society event. In these scenarios students' unions have highlighted that they need support to determine whether the speaker should be allowed to attend or be banned. For these speakers decisions should be made on a case by case basis as the risk will vary depending on a variety of factors at the time.

This guidance seeks to fill that gap by supporting students' unions to assess risk of each external speaker and reach sound, evidenced judgements about the organisation or individual in question whilst ensuring the union meets its various legal obligations.

The guidance will help students' unions:

- To understand the various legal implications and their responsibilities
- To develop a policy on handling events with external speakers
- To implement the policy and consider the associated challenges in doing so

Who is this guidance for?

Trustees of a students' union are held accountable by the Charity Commission, and it is important that they are familiar with the charity regulations and understand the associated risks of external speakers. However, this guidance has been developed with student activities staff and managers in mind, as we anticipate these staff to lead on implementing this area of work.

We would however encourage staff and managers to share this guidance with sabbatical officers and trustees so they are also familiar with their legal responsibilities. In addition to this NUS will be providing specific training to Trustees, sabbatical officers and staff at existing NUS training events throughout the year.

Other resources and training will be available for staff and sabbatical officers alongside this guidance. These resources will be available on www.nusconnect.org/welfare

Why do students' unions need to implement this guidance?

Following charity registration, students' union Trustees have a clear duty to act in the best interests of their Charity and must avoid undertaking activities that might place the Charity's endowments, funds, assets or reputation at risk. There is a particular risk if the Charity is seen to support actions which may contravene the Race Relations Act and the Racial and Religious Hatred Act. It is also important to note that activities of societies are almost always considered to be activities carried out by the union itself - there isn't in practice any legal "distance" between the union and its often disparate clubs and societies.

In relation to issues of societies' activities, events and external speakers, the Charity Commission would expect that the Trustees have in place procedures that consider the risk posed by Charity events, and that (for example) steps are taken to identify when external speakers might present at an event and that checks are made on people that are planned to speak at an event. As such the Charity Commission expects that when handling these sorts of issues:

- There are procedures in place to monitor, examine and make judgements on the activities of societies and their events
- There are opportunities for the Trustees to consider the range of legal responsibilities that are placed on them, including both the University's requirement to secure freedom of speech AND other legal considerations on the trustees (such as the need to consider risk and follow union policy), when making judgements about what can or cannot happen in the name of or under the auspices of the union.

What we mean by 'external speakers'?

'External speaker' is used to describe any individual or organisation who is not a student or staff member of the university or students' union.

This includes any individual who is a student or staff member from another institution or students' union. For this reason you will also need to consider the risk of events that are organised in partnership with a society or students' union from another institution.

All events organised with external speakers in and outside of the students' union building or property is still within the responsibility (and liability) of the students' union charity including:

- Any event organised by an affiliated society
- Any event organised by a society or the students' union outside the union building (for example in the university, off campus, out of the immediate area or in another country)
- Events where external speakers are streamed live into an event, or a pre-recorded film is shown

You should not just consider the content of a speech or presentation but also the individual who attends for example the risk of someone high profile (such as a foreign diplomat) attending. It may be that they are speaking about a very mundane issue but their profile attracts a large audience and therefore their might be a need for security.

This guidance does not relate to issues where staff and/or students from your institution/students' union are found to be inciting hate. In this scenario you should use the students' union or university's existing complaints, disciplinary or grievance procedure.

The wider legal framework

The Universities UK (UUK) publication *Freedom of speech on campus: rights and responsibilities in UK universities*¹ deals with the legal considerations (particularly from the University perspective) extensively; here we summarize the additional considerations relating to no platform policies and Charity Regulation specifically relevant to students' unions.

UUK makes clear that the legal framework governing academic freedom, freedom of speech and freedom of expression in the higher education sector has three key elements:

First there are specific legal obligations on universities to promote, protect and respect these key freedoms. However, the rights to academic freedom and freedom of speech and expression are not absolute - they are freedoms "within the law". Consequently, the criminal and civil law also sets limits on the lawful exercise of these rights. There are also other relevant legal considerations.

UUK argue that "it is the law alone which can set restrictions on freedom of speech and expression and on academic freedom - it is for the law and not for institutions or individuals within institutions to set the boundaries on the legitimate exercise of those rights"¹.

NUS takes a different view. For students' unions, whilst the issues are linked, it is important to note that some of the legal duties on institutions do not apply (or at least do not apply directly) in the same way. Similarly, many students' unions may wish to go further than the law on securing "freedom from harm" when restricting some speaker activity. This combination of a slightly different legal context and a desire to go further than the law in considering the welfare of students is exemplified, for example, by students' unions' no platform policies.

This section of the guidance outlines the law relevant to freedom of speech and freedom from harm:

- The Education (No. 2) Act 1986
- Education Reform Act 1988 – Academic Freedom
- The Human Rights Act 1998
- Discrimination Law – religion and belief
- Public Order Act 1986 – Violent, Threatening or Abusive Conduct and Speech
- Religious hatred

The Education (No. 2) Act 1986

Section 43 of the Education Act (No 2) 1986 places a direct legislative duty on universities to promote and protect freedom of speech:

*“Persons concerned in the government of an institution in the higher or further education sector have a duty to take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students, employees and visiting speakers...”*⁵

As such, it imposes a positive and proactive legal duty to do all that is reasonably practicable to ensure that freedom of speech is secured and is directed at freedom of speech for members of a university - students and staff. To do this it requires that...

“...governing bodies ... issue, and keep updated, a Code of Practice regarding the organisation of meetings and other activities on the university’s premises...”

and places a duty:

“...on every individual and body of persons concerned in the government of the institution to 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 are observed...”, and

“...a duty to ensure that the use of any university premises is not denied to any individual or body of persons on the grounds of their beliefs, views, policies or objectives...”

As UUK acknowledge, the section 43 duty is directed “at universities, at the governing body and senior management level”. While it does not directly apply to students or students’ unions, the duty is indirectly applied to them through the required Code of Practice and rules and practices adopted to support and implement the section 43 duties.

Practically, this could be argued to represent a legal anomaly; the central question being “what if a students’ union says no to a speaker that the university would be bound by law to say yes to”. There is not an easy or simple answer to this question; suffice to say that the students’ union trustees have to take into account a range of duties and factors when making decisions, including both their relationship with the university and their own legal duties as an autonomous organisation – as a registered charity.

Education Reform Act 1988 – Academic Freedom

The term “academic freedom” is well-recognised but does not itself appear in any UK legislation. It is a shorthand reference to the provisions of section 202 Education Reform Act 1988⁶, which requires University Commissioners to have regard, inter alia, to the need to

“...ensure that academic staff 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 in jeopardy of losing their jobs or privileges they may have at their institutions.”

This legal obligation is imposed on the Commissioners, rather than directly on institutions, and is limited to academic staff only, rather than staff generally. **Notably, students and visiting speakers are not covered and cannot invoke a legal right of “academic freedom”.**

The Human Rights Act 1998

The Human Rights Act incorporates the European Convention of Human Rights into UK law, and some Convention Rights are relevant to freedom of speech and expression; freedom of thought, conscience and religion (Article 9) – including the freedom, either alone or in community with others, and in public or private, to manifest one’s religion or belief, through worship, teaching, practice and observance; freedom of expression, and freedom of assembly and association. The Convention states that “the exercise of these freedoms, since they carry with them duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society” for the following purposes:

- in the interests of national security, territorial integrity or public safety;
- for the prevention of disorder or crime;
- for the protection of health or morals;
- for the protection of the reputation or rights of others;
- preventing the disclosure of information received in confidence.

It is unlawful for public authorities to act in a manner incompatible with the Convention rights. The acts of universities - at least in relation to their public functions - must therefore respect the rights and freedoms set out above. But students’ unions are not considered to be “Public Authorities” and thus are not directly covered by these duties.

Discrimination law – religion and belief

Discrimination law can limit freedom of speech and expression (by making speech and conduct unlawful), but it can also protect these freedoms. The Equality Act 2010 prohibits discrimination – including harassment and detrimental treatment – relating to religion or belief. This offers specific legal protection for the holding, manifestation and expression of religious and other qualifying beliefs. As such the law (re)reflects the “tension” in our Conference motion between the need to protect freedom to expression and freedom from harm.

Public Order Act 1986 – Violent, Threatening or Abusive Conduct and Speech

UUK advise that The Public Order Act 1986 contains a range of criminal offences which can be committed by speech and conduct and therefore limit the exercise of the rights to freedom of speech and expression and academic freedom. These offences are characterised by violent conduct or by speech or actions which threaten violence or cause fear, alarm or distress.

The use or threat of unlawful violence to another, where that conduct would cause a person of reasonable firmness present at the scene to fear for his personal safety, constitutes the criminal offence of affray. The relevant threat cannot be made by the use of words alone”.

They go on: “The criminal offence of fear or provocation of violence is committed where a person:

- uses threatening, abusive or insulting words or behaviour; or
- distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting with the intention to cause another to believe that immediate unlawful violence will be used against him or another; or to provoke the immediate use of unlawful violence by another; or to cause another to believe that such violence will be used or is likely to be provoked.

“The offence of causing harassment, alarm or distress may be committed by:

- the use of threatening, abusive or insulting words or behaviour or disorderly behaviour; or
- the display or any writing, sign or visible representation which is threatening, abusive or insulting
- within the hearing or sight of a person likely to be caused harassment, alarm or distress.”

They continue: “It will be noted that this offence can be committed without an intention to cause harassment, alarm or distress (where that intention is present, an aggravated form of the offence is committed). Indeed, the offence is focused on the likelihood of that effect rather than whether it is actually caused. However, where there is no intent, it is a defence for the person concerned to show that he had no reason to believe that there was any person within hearing or sight likely to be caused harassment, alarm or distress, or that the conduct was reasonable”

Religious hatred

Religious hatred offences (introduced into the Public Order Act 1986 by the Racial and Religious Hatred Act 2006) occur where the following actions are committed with the intention to stir up religious hatred:

- the use of threatening words or behaviour;
- the display of threatening written material;
- the publication or distribution of written material which is threatening;
- the public performance of a play involving threatening words or behaviour;
- the distribution or showing or playing of a recording of visual images or sounds which are threatening;
- the broadcasting of a programme which includes threatening visual images or sounds;
- the possession of written material, the recording of visual images or sounds, which are threatening, with a view to their display, distribution, publication, playing or broadcasting.

UUK advise that “It will be noted that the focus of these offences is on threatening words or behaviour but not insulting or abusive words or behaviour. Further, as the offences all involve the intent to stir up religious hatred, the defences available in relation to racial hatred do not apply. Intent is a necessary ingredient of the offences - it is not sufficient to show that religious hatred was likely to be stirred up”

They go on: “A specific provision in the religious hatred legislation reinforces the right to freedom of expression. This provides that the religious hatred offences should not be applied “in a way which prohibits or restricts discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents or of any other belief system or the beliefs or practices of its adherents, or proselytising or urging adherents of a different religion or belief system to cease practicing their religion or belief system.”

Summary of key points

- Students’ union trustees have to take into account a range of duties and factors when making decisions about external speakers, including both their relationship with the University and their own legal duties as an autonomous organisation - as a registered charity.
- The governing bodies of institutions have a legal duty (under Section 43 of the Education Act (No 2) 1986) to ensure that freedom of speech within the law is secured for members, students, employees and visiting speakers. To do this an Institutions’ Governing Body are required to issue a Code of Practice and have a legal duty to “...ensure that the use of any university premises is not denied to any individual or body of persons on the grounds of their beliefs, views, policies or objectives...”
- Students and visiting speakers are not covered and cannot invoke a legal right of “academic freedom” – this only applies to university staff and academics.
- The rights to academic freedom and freedom of speech and expression are not absolute - they are freedoms “within the law”. Consequently, the

criminal and civil law also sets limits on the lawful exercise of these rights.

- Students’ unions are not “Public Authorities” and thus are not directly covered by the duties of the Human Rights Act 1998 but universities — at least in relation to their public function — are.
- Discrimination law can limit freedom of speech and expression, but it can also protect these freedoms. As such the law (re)reflects the “tension” in our Conference motion between the need to protect freedom to expression and freedom from harm.
- Intent is a necessary ingredient of defining religious hatred offences (which is different to defining racial hatred) - it is not sufficient to show that religious hatred was likely to be stirred.
- The rights to freedom of speech, freedom of expression and academic freedom are limited by criminal offences (defined by the Public Order Act 1986) including violent conduct or by speech or actions which threaten violence or cause fear, alarm or distress.

Charity law, students’ unions and societies

Trustees have a clear duty to act in the best interests of their Charity and must avoid undertaking activities that might place the Charity’s endowments, funds, assets or reputation at risk. There is a particular risk if the Charity is seen to support actions which may contravene the Race Relations Act and the Racial and Religious Hatred Act. It is also important to note that activities of societies are almost always considered to be activities carried out by the union itself - there isn’t in practice any legal “distance” between the union and its often disparate clubs and societies.

In relation to issues of societies’ activities, events and hate speakers, the Charity Commission would expect that the trustees have in place procedures that consider the risk posed by Charity events, and that (for example) steps are taken to identify when external speakers might present at an event and that checks are made on people that are planned to speak at an event.

As such the Charity Commission expects that when handling these sorts of issues, that:

- There are procedures in place to monitor, examine and make judgements on the activities of societies and their events
- There are opportunities for the trustees to consider the range of legal responsibilities that are placed on them, including both the University’s requirement to secure freedom of speech AND other legal considerations on the trustees (such as the need to consider risk and follow union policy), when making judgements about what can or cannot happen in the name of or under the auspices of the union.

Risk assessment

Traditionally students’ unions have developed sophisticated procedures for managing physical risks posed by events, entertainments and sports clubs. However, students’ unions are less versed in balancing the various requirements and risks posed by a controversy over society speakers - and as such the guidance herein offers a basis on which students’ unions should operate.

The Charity Commission would expect that:

- All risks, including non physical risks to the wider student body as well the members of a society, as well as reputational risk and the risk to the relationship with the university, be assessed in the round
- That there are procedures in place that ensure the trustees make robust decisions in cases considered to be “high risk”
- That where events are regulated that the regulation in place is appropriate and achieves its objectives
- That there are sound procedures that take action where policies or decisions are breached (for example if a society fails to declare a speaker)

Sample policy on handling events with external speakers

This sample policy has been developed by NUS from existing practices of a number of students' unions consulted in the development of this guidance. This sample policy should be used as a guide in developing your own policy on handling events with external speakers.

Preamble

1. Freedom of expression and speech are basic human rights to be protected and are protected by law.
2. Open debate is central to the culture of academic freedom, the development of students ideas and understanding and is protected by an act of parliament relating to freedom of speech and academic freedom on campus.
3. That said student safety and welfare is at the heart of the union's policies and practices.
4. As such, the freedom to express views can sometimes be tempered by the need to secure freedom from harm for students and communities.
5. Where there is a potential for these rights to come into conflict in relation to controversial speakers, this union is committed to collaboration that will allow the union to reach sound, evidenced judgements about the organisation or person in question and that allows the union to meet its various legal obligations.
6. The President of the society organising any event are responsible for the activities that take place within their society's events.
7. All speakers will be made aware of their responsibility to abide by the law, the university and the union's various policies, including that:
 - They must not incite hatred, violence or call for the breaking of the law
 - They are not permitted to encourage, glorify or promote any acts of terrorism including individuals, groups or organisations that support such acts

- They must not spread hatred and intolerance in the community and thus aid in disrupting social and community harmony
- Within a framework of positive debate and challenge seek to avoid insulting other faiths or groups
- They are not permitted to raise or gather funds for any external organisation or cause without express permission of the trustees

Background

8. Clubs and Societies must notify the Union of any events that involve external speakers (defined as individuals or organisations that are not part of the Union or the University) through these procedures.
9. No event involving any external speakers may be publicised until the speaker has been cleared through the appropriate procedures as provided in this policy.
10. The Union reserves the right to cancel or prohibit any event with an external speaker if the procedures provided herein are not followed or if the relevant health, safety and security criteria cannot be met.
11. The Union reserves the right to deny a platform to racist and fascist individuals and groups by debating them as part of the no platform policy in the usual channels. It will be for the Trustee Board to determine processes that reasonably identify individuals and members of groups that fall within the no platform policy and where this judgement is made the event will automatically not be approved.

Initial process

12. The Union's external speaker request form requires event organisers to provide:
 - Expected number of attendees
 - Confirm whether the event will be a member only, invitation only event or open to the general public
 - Confirm any external speakers' affiliations (specifically where they are political or religious)
 - Declaration of any knowledge of controversy attracted by the speaker or topic in the past
 - Confirmation if the event and speaker are likely to attract media interest – if so why?
 - Confirmation of website details (where relevant) providing further information on the speaker
13. Any failure to disclose full speaker details may result in an event/booking being cancelled and could result in referral for union disciplinary action
14. On receipt of the form the Student Activities Staff will check all speakers on Google (after first looking at any web link provided) and look at the first three pages of results (if any results are found). This information is then noted on the sheet including a link to the most relevant information about the speaker. The Student Activities Staff will receive regular training and briefing on controversial speakers and will liaise closely with student societies, religious and cultural groups and University security.
15. The Student Activities Staff will review the completed spreadsheet twice weekly. They will refer any speakers that may require further exploration to the Student Activities Officer and General Manager/CEO. They will provide 5 hyperlinks to the most relevant Google results for any speakers that are a cause for concern. All others will be considered to be approved.

Referred speakers

16. Any events with referred speakers will be investigated by the General Manager for decision by the Student Activities Officer on behalf of the Trustee Board.
17. They will conduct a short investigation into the speaker and the event that, wherever possible, takes representations from the students society related to the booking and from a wide number of concerned student groups, university officials and external bodies.
18. In making recommendations they will assess risk on the following basis:
 - The potential for any decision to limit freedom of speech as per the university's code of practice in pursuance of the 1986 Education Act
 - The potential for the event going ahead to cause the union to be in breach of its equal opportunities policy
 - The potential for the event going ahead to cause the union to fail in its wider legal duties
 - The potential for the event going ahead to cause reputational risk to the Union
 - The potential for the speaker's presence on campus to cause fear or alarm to members of the student body
 - The potential for the speakers presence on campus to give rise to breach of peace
19. They may make one of the following recommendations
 - On the basis of the risks presented to not permit the event with the external speaker to go ahead
 - On the basis of the risks presented to fully permit the event with the external speaker to go ahead unrestricted
 - On the basis of the risks presented to permit the event with the external speaker to go ahead on the basis of regulatory steps designed to reduce risk
20. Regulatory steps designed to reduce risk may include:
 - Requiring that the event be filmed by an independent body
 - Requiring that the event be observed by union,

- university or third party officials
 - Requiring that the event be stewarded or subject to security on the door
 - Requiring that an event promoting a particular view includes an opportunity to debate or challenge that view
 - Requiring that an event closed to society members only be opened to all members of the union
 - Requiring that a copy of any speech to be delivered by the speaker be submitted to the union
21. When considering any regulatory steps designed to reduce risk, their potential to in and of themselves cause risk (for example, the sense of oppression felt by the imposition of security on the door) should be taken into account.
22. The recommendation will be put to the Student Activities Officer who will make a decision that is routinely communicated to the Trustee Board. Where members of the Trustee Board disagree with the decision they can call an extraordinary meeting in the usual way.
23. Where the society in question disagrees with the decision made they shall have the right to appeal which will be considered by the President.
24. Where students or student groups disagree with the decision made they shall have the right to submit a complaint in the usual way, a remedy to which shall be the option to consider the complaint an appeal as above.
25. An annual report on referred speakers will be produced by the Student Activities Officer for consideration by the Trustee Board.

Implementing the guidance

Each students' union will be starting this process from a different position. Some students' unions will already have a process that works well for their union and meets the needs of the Charity Commission. For others this will be a completely new process that they will need to initiate from scratch.

We have therefore put together the following information to help unions consider all the stages of implementing this new procedure into their students' unions.

- Before you start – policies and procedures you should already have in place
- The process in detail
- How to support societies to follow the new procedures e.g. providing training to chairs
- How to work with your partner institution to implement the changes

Existing policies and procedures

The following is a list of policies and procedures you should already have in place. These policies will form the foundation of any additional policy you implement in relation to external speakers and process of risk assessment.

- Equal Opportunities Policy
 - » Outlining principles of freedom from harm, discrimination and harassment
- Complaints / Grievance Policy

You may also find it useful to be familiar with the following policies and procedures of your parent institution:

- Student Conduct Agreement
- Disciplinary Procedure
- Code of Practice (Freedom of Speech)

Training societies

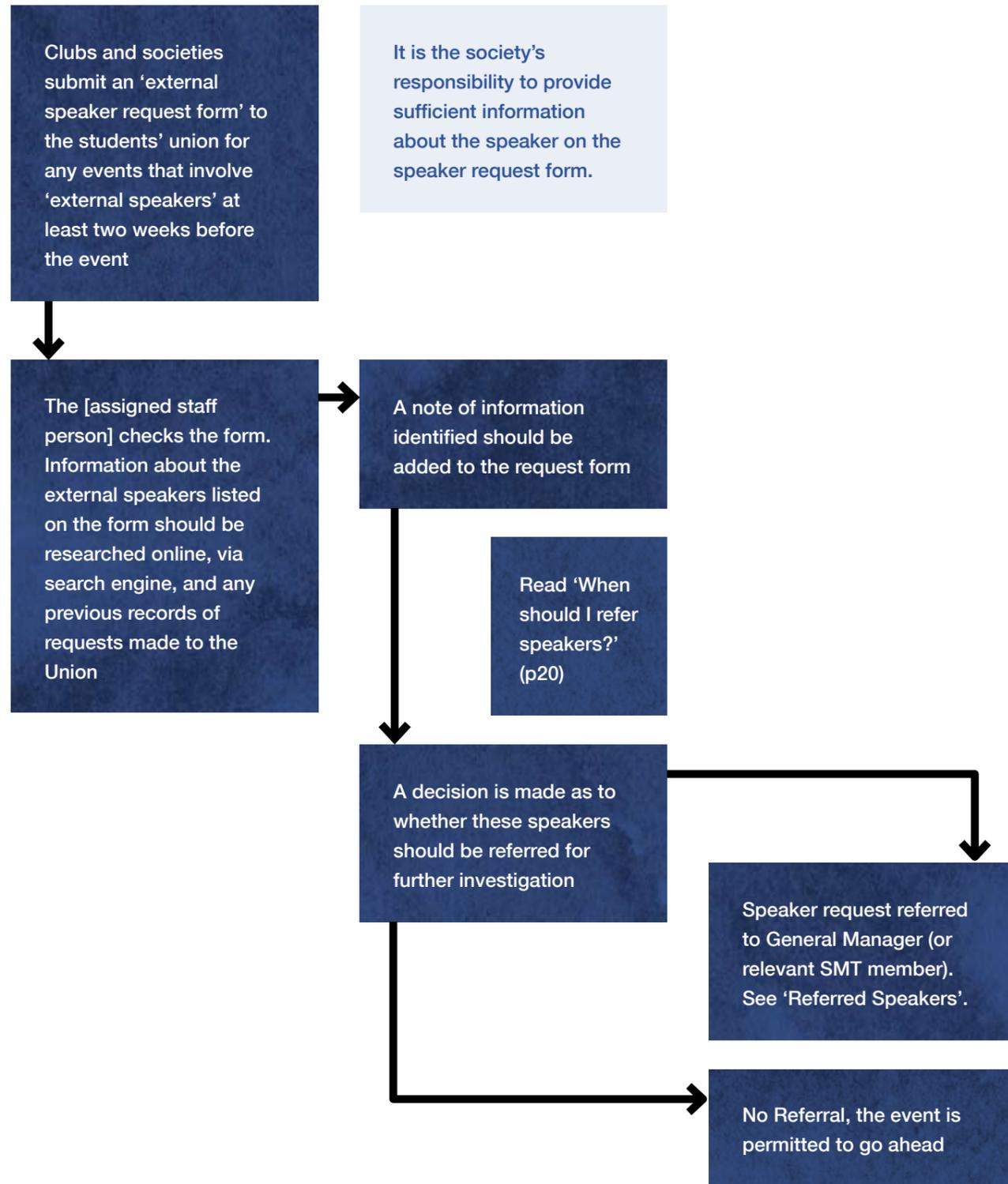
In order to assist the Student Activities staff member in reviewing the speaker request forms, the students' union should incorporate training on this policy and procedure to student societies at the start of the year (and or when they are created).

Where societies are familiar with what is expected of them when completing the speaker request form it is likely to ease the process of review.

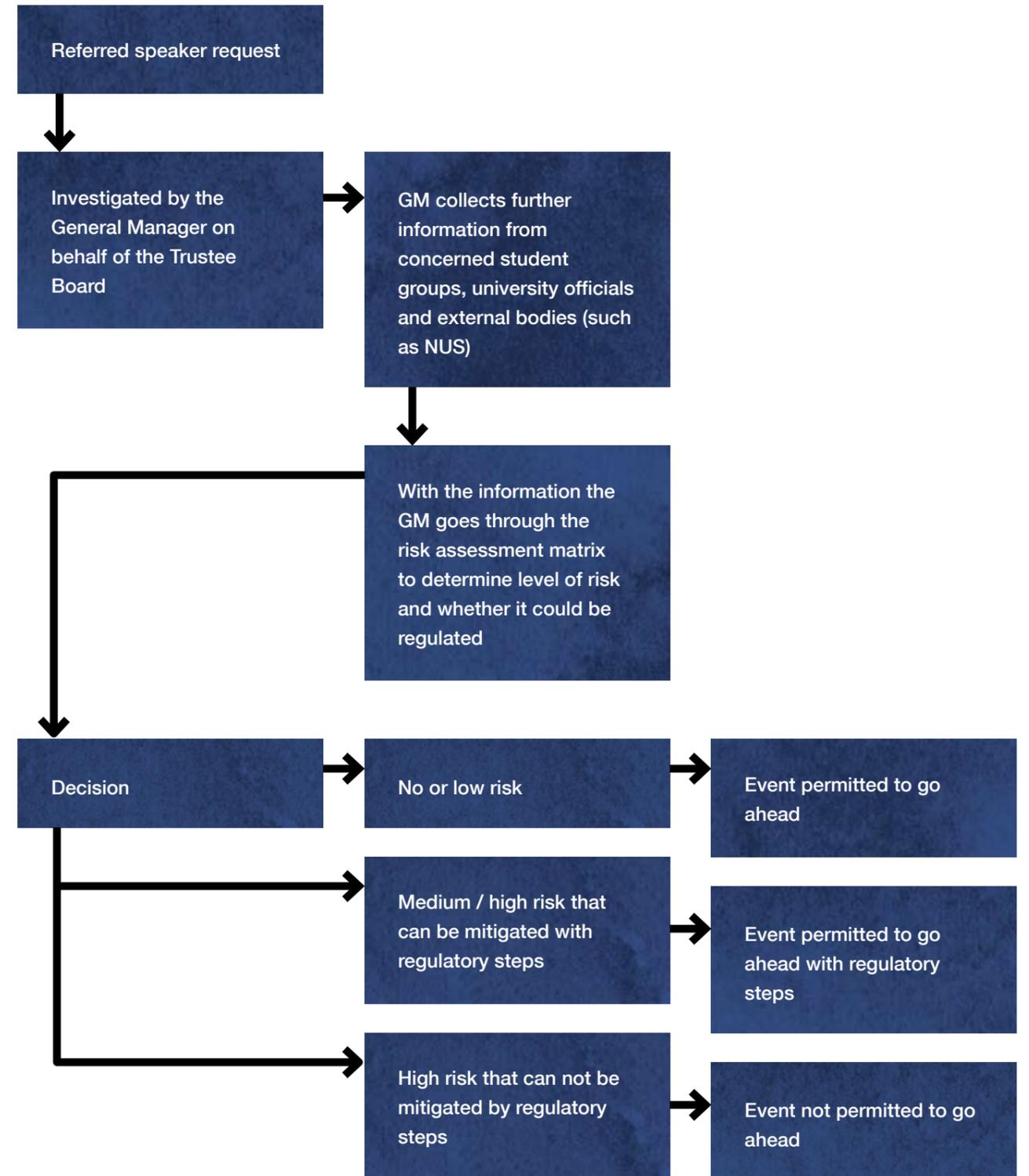
The process in detail

The following section takes you through the sample policy in detail and how to undertake assessment of external speakers.

Stage 1: All speaker requests



Stage 2: Referred Speakers



Stage 1: When should I refer speakers?

It can be difficult to make decisions about potential risks of an external speaker based only on the information provided by an internet search. This section therefore seeks to help you with making decisions about particular speakers. The case studies will also be helpful, please refer to page 27.

You will probably be asking:

- Have I/we collected the appropriate/correct information?
- What if there is no information about this individual/organisation online?

What is controversial and what constitutes 'hate speech' - Who decides?

NUS encourages students' unions to consider each external speaker request individually. Each external speaker or organisation should be considered on a case by case basis. Controversy and hate speech will occur at different times in different situations.

This guidance should not be used to create a list of individuals and organisations that just becomes a secondary no platform policy. This guidance encourages students' unions to assess the risk of each situation individually, and make an evidenced and reasoned judgement.

In terms of regulation under the Charity Commission it is important that you can demonstrate you assessed the risk of an external speaker through a reliable and rational process. At times the wrong decision may be made, but what is important is that you can demonstrate that you undertook a process of assessing potential risks.

When you might consider referring a speaker to stage 2:

- When the information provided on the speaker request form is not sufficient or incomplete (see point 12, of the sample policy on page 15)
- When there is no consideration given to the potential risks by the society in the form
- Where previous risks or tensions have arisen from a similar event organised by the society or where the same/similar speaker has attended before

What might be controversial and/or high risk?

- A speaker tour
- Talks by organisations generally considered to be extremist
- Speaker who is known to have spoken previously at another institution on a topic that has caused fear or intimidation of students or staff
- Accepted in mainstream as being highly controversial (and may require challenge)
- Is known to/or likely to cause harm to a specific group of students at your institution

Stage 2: Assessing risk of referred speakers

Once a speaker has been referred the General Manager (or other SMT member) should collect further information about the external speaker and consider the possible risks using the table on page 22.

Making a decision

In making a decision you should consider the points below and in the following table (on page 22).



Conduct of meeting

How will the chair:

- Deal with hecklers or any disturbance (specifying the circumstances in which the chair would ask stewards or security staff to intervene, and to what effect)
- Allow the expression of alternative views (for example in a debate format)
- Select individual members of the audience to put points or ask questions
- Ask individuals (speakers or audience members) to leave the event
- Terminate the meeting in the event of material disorder

Audience Safety

- Have the organisers made arrangements for first aid and fire safety?
- Have stewards to the event been briefed on their role and responsibility?
- Are the organisers and stewards discussed when and how to liaise with University security?
- Are the arrangements for audience admission appropriate for the type of event?

Cameras, press and publicity

- Will the event be filmed or recorded? And if so, by whom?
- Will members of the press be in attendance?

Outside the venue (during the event)

What arrangements have been agreed with University Security (and if necessary the Police) for crowd control and public order immediately outside the venue (for example, in the event of there being a number of protestors or groups who have been denied access to the venue).

After the event

Events should be evaluated by the organising society or students' union as this will help highlight issues and tensions as well as possible risks associated with similar events held in the future. For example, an event might be assessed as low and go ahead, but turns out to be highly controversial (during or after the event). Evaluation of events will help the students' union understand why this event was controversial or challenging and this record will add to knowledge for assessing future events that are similar.

Responsibility of university and/or students' union	Statutory legislation	Issues/questions to consider	Reminder of how and why this is relevant
Encouraging divergent views and debate	Education (No.2) Act 1986 (The duty is indirectly applied to Students and SUs through the institutions required Code of Practice and rules and practices adopted to support and implement the section 43 duties.) Education Reform Act 1988 (duty imposed on Commissioners, and relevant to academic staff only)	<ul style="list-style-type: none"> • What is the format of the event? Will there be a Q & A session, or similar? • Is this a sole speaker at the event? • Are alternative views being presented? • Will there be a strong chair? 	Section 43 is a positive and proactive legal duty, obligating universities to do all that is reasonably practicable to ensure that freedom of speech is secured for all participants in university life – members, students, staff and visiting speakers. The Education Reform Act 1988 refers to Academic Freedom - Students and visiting speakers are not covered and cannot invoke a legal right of “academic freedom”.
Freedom of expression of all members of the University community	Freedom of Expression & Speech under Human Rights Act 1988 (SUs are not directly covered by this duty)	<ul style="list-style-type: none"> • Is the speaker likely to impart ideas or information that will affect the rights, freedom and/or safety of staff/ students on campus? 	Freedoms under the Human Rights Act can be restricted for the protection of the reputation or rights of others and for the prevention of disorder and crime
Promoting good race relations	Race Relations Act 1976 (and Amendment Act 2000); Equality Act 2010	<ul style="list-style-type: none"> • Does the speaker’s presence on campus and likely content of speech breach the University’s duty to promote good race relations? 	
Protection against racial and/or religious hatred	Public Order Act 1986; Racial and Religious Hatred Act 1986; Equality Act 2010	<ul style="list-style-type: none"> • Is the speaker likely to incite racial or religious hatred? • How will the speaker engage in incitement? 	
Protection against discrimination and/or harassment	Race Relations Act 1986; Protection from Harassment Act 1997; Employment Equality (Religion or Belief) Regulations 2003; Equality Act 2010	<ul style="list-style-type: none"> • Is the speaker’s attendance likely to discriminate against staff or students and/or lead to an intimidating or offensive environment? • Is it likely to cause others to fear for their own safety? • How is this likely to manifest itself? 	
Maintenance of public order and safety	Public Order Act 1986	<ul style="list-style-type: none"> • Is the speaker’s attendance likely to cause public disorder on campus? What steps could be taken to mitigate risk of protests/ counter-protests threatening public safety? • Have concerns of staff and students been collated and addressed? 	

Regulatory steps

Regulatory steps should only be used to reduce risk, and where otherwise the event would need to be cancelled. Notably this guidance seeks to support students to self organise events safely and considering the potential risks to the union and university. And therefore in some cases regulatory steps will support events to go ahead, by mitigating the risk.

Importantly though, when considering regulatory steps you should take into account their potential in and of themselves to cause risk during and after an event.

In doing so, it is up to each students’ union to decide which regulatory steps they implement for which events as necessary, however some suggestions are:

- Requiring that the event is chaired by an experienced chair (from the students’ union or university)
- Requiring that the event be filmed by an independent body
- Requiring that the event be observed by union, university or third party officials
- Requiring that the event be stewarded or subject to “security” on the door
- Requiring that an event promoting a particular view includes an opportunity to debate or challenge that view
- Requiring that an event closed to society members only be opened to all members of the union
- Requiring that a copy of any speech to be delivered by the speaker be submitted to the union beforehand

Remember all events should comply with the unions polices such as equality and diversity policies and statements on eliminating/preventing discrimination or harassment. Event Chairs should be familiar and able to uphold these polices by challenging anyone in an event who undermines a policy/procedure. See tutor notes for training Chairs on NUS Connect.

If the General Manager (on behalf of the trustees) decides the event can go ahead but requires some

regulatory steps to mitigate against potential risks, they also need to consider the associated risks to implementing these regulatory steps.

For example having security at an event may make the audience members feel more insecure or under scrutiny. You may need to consider communicating the need for security to the audience at the start of an event (or beforehand).

Disciplinary action for societies and officers who infringe union policy

Where societies repeatedly avoid submitting external speaker request forms (or don't undertake the requirements of this policy in other ways) you should implement your unions existing disciplinary procedures relevant to when societies do not comply with the rules, policies and procedures of the union.

It should be clearly communicated to societies, when they register (and undergo initial training) the consequences of them not complying with union policy. They should be informed it is their responsibility to inform the union of any events they hold with external speakers or when displaying films.

Similarly, officers are subject to the same responsibilities as societies, as part of the students' union and are therefore subject to the same disciplinary procedures where they infringe union policy.

Managing relationships with students and student groups

A positive relationship between societies and the union is always encouraged; societies should feel supported to invite external speakers to their events and not made to feel policed by the students' union administration. It should be communicated to societies that this is a normal part of ensuring the safety of all students and the reputation of the students' union.

The aim of this guidance and the sample policy is to empower students and societies to self organise and reduce potential limitations and restrictions on their activities.

Additional risks you should consider or monitor

There are wider issues the students' unions should consider in thinking about the potential risk of particular speakers and topics for events, such as:

- Not knowing what's going on on campus including activities organised by the institution, student groups and societies, and existing or arising tensions

- between particular groups of students
- Global and local events both long term, existing issues and arising events (the level of risk some speakers or events pose change with changing local and global issues). NUS will try to keep students' unions informed with updates and briefings of major global events/issues that may have an impact on student relations or risks associated with external speakers and events
- Banning an event is a risk in itself due to the potential fall out from this
- Risks may change as the demographics of an institution (or its local community) change over time. The students' union should work with the institution and local authorities, such as police, to keep up to date with changes in the local demographics that may be cause for concern

Example A – knowing what's going on at the institution

A union aware of nascent tensions between the Jewish society and Islamic society at their institution organises a meeting at the beginning of the year with both societies to discuss what events they have planned throughout the year and how they will manage tensions or issues between the two groups that may arise.

The students' union feels this has a positive impact and is a proactive response to potential issues for each forthcoming year. NUS feels this is a good example of a students' union knowing the particular groups or issues local to their union which may cause problems and looks to deal with it from the outset rather than responding after a situation occurs and dealing with the consequences.

Example B – global events increasing tensions

In January 2009 events taking place in the Middle East had a direct consequence on relations between different student groups at a number of university campuses. Being aware of such instances as they arise can help students' unions consider the increased risk of particular speakers at that time visiting campus to talk on the

issue. For example, when tensions are high because of an international issue/conflict speakers on the topic who would normally be considered low-medium risk may become high risk because of the topic of the speech/event and as a result cause heightened risk to the safety of individual/groups of students.

Example C – local events increasing tensions

Similarly students' unions should work closely with their university to keep on top of local issues that may have an influence on the student community at your institution. Local tensions can be both short-term and long-term and will differ for each university depending on the locality. The impacts will also be different depending on the proximity of the university to the town/city.

For example, the invitation of a local MP who is known to hold controversial views on immigration, integration and/or multiculturalism, to talk on a panel following a recent EDL rally and counter-protest in the town/city where your institution is located, may be considered more high-risk than at other times and it may be necessary to take regulatory steps to mitigate the risk factors (that wouldn't usually be necessary for this speaker/event).

Considering your local context and building partnerships

The example above (local event increasing tensions) demonstrates the importance of having good relationships with local groups and the community including the police and local authority in order to help you consider the potential risks of particular speakers and events. This is particularly useful if you are new to this area of work and unfamiliar with the local community tensions or issues that may be playing out on campus or influencing student relations on campus.

In thinking about the wider issues that may impact on the potential risk of particular speakers, groups or events going ahead you will find it useful to have strong links and relationships with organisations in the community, in addition to the institution.

This includes the local police, local authority and local community groups who will be aware of changing issues and tensions in the community that are relevant to your members, the institution and the wider community.

It is also important to maintain a good relationship with your parent institution on this issue, and it is likely in many cases that you make decisions about a particular speaker together.

Relationship with your parent institution

Your students' union relationship with the university is significant due to the overlap in responsibilities and who will be held accountable by the various commissions. It is also important for the union to be aware of the activities and events taking place within the institution which may be problematic or cause risks to students and the students' union. Communicating your concerns and hearing the parent institutions concerns is an important part of maintaining a positive relationship, and being able to resolve issues easily when they arise.

The NUS Good Governance Guidance is a good place to start in helping your students' unions build and maintain a positive working relationship with your parent institution. You can find more information about this here: www.nusconnect.org.uk/goodgovernance/sections/

Students' unions should utilise these resources to help in implementing this guidance and building good relationships with their parent institution which is of vital importance when making decisions about external speakers who have an impact on the reputation of both the students' union and the university.

“It is clear that the Charity Commission will be the students’ unions’ regulator for compliance with charity law. The parent institution still has a range of specific regulatory duties in relation to finances, democratic procedures and other items outlined in the 1994 Education Act. In some of these areas the regulation has the potential to overlap and the general approach by the Charity Commission will be to defer to local procedures before stepping in. For example, in membership charities, the Commission can investigate and has some powers over elections, but they would normally expect a disgruntled student to use and exhaust a union and institution’s complaints procedures first.”

The Charities Act 2006, Implications for Students’ Unions in England & Wales - A briefing & frequently asked questions, NUS (2008)

The recent Universities UK (UUK) guidance on *Freedom of Speech on campus: rights and responsibilities in UK universities* (2011) identified the following **recommendations for universities** in working to resolve the issues of free speech, campus security, equality rights, charity law and the rights of students and staff similarly outlined in this guidance:

- Identify an appropriate senior person to lead on issues of campus security supported by clear identification of responsibilities within the institution in areas such as student services, security and IT.
- Ensure that all involved in making decisions in relation to campus security, academic freedom, free speech and equality rights are familiar with the legal requirements operating in this area and indeed this report.
- Review current protocols/policies on speaker meetings to ensure they are up to date and relevant, and are aligned with the students’ union’s protocols and policies.

- Work with the students’ union to provide clear information to students and student societies about the rights and responsibilities of the institution, the students’ union, student societies and students in relation to academic freedom, free speech and equality rights.
- Develop, if not already in existence, and maintain a mechanism for regular dialogue with relevant external organisations such as the police, local authorities and community groups.

Similarly **we would encourage students’ unions** to:

- Ensure that all involved in making decisions in relation to campus security, academic freedom, free speech and equality rights are familiar with the legal requirements operating in this area and indeed this report, in particular Trustees of students’ unions who will be held accountable by the Charity Commission
- Identify a relevant staff person to manage the day to day ‘external speaker’ requests and a relevant senior staff person to manage referred ‘external speaker’ requests. These individuals should have a good relationship with the individual responsible within the parent institution.
- Work with your parent institution to ensure your protocols and policies are aligned to those the university has in place
- Work within the framework of the Good Governance Relationship Agreement to maintain a positive relationship with your parent institution
- Work alongside your parent institution to develop, if not already in existence, and maintain a mechanism for regular dialogue with relevant external organisations such as the police, local authorities and community groups in order to understand and be aware of potential local issues and tensions that may impact the risk of events with external speakers.

Training

Training officers and student society presidents

We recognise the risk of many events can be mitigated by good preparation, organisation and facilitation. We therefore recommend students’ unions consider the skills Officers and Society Presidents need to be able to prepare and run an event.

Suggested training for student societies:

- How to chair meetings
- How to facilitate debates
- Conflict management/mediation techniques
- Legal boundaries of students’ union and societies - the charity commission context
- What constitutes ‘hate speech’

Tutor notes for the training sessions listed above can be found at www.nusconnect.org/welfare

Training staff, officers and trustees

NUS will also be delivering a variety of training and organising events for staff, officers and trustees to find out more and discuss this issue. Updates on forthcoming training will be available on www.nusconnect.org

Case studies

The following scenarios have been developed to help students' unions consider how to put the suggested process in to practice. In doing so we have tried to highlight many of the different types of situations students' unions find themselves in, with regards to external speakers and the issue of hate speech on campus. However, there may be many other issues that your students' unions come across. We will provide updates and additions to these examples online and explore further case studies through training with staff and officers.

We have also included scenarios that don't involve external speakers but controversial events and speakers who are staff/students of the university/students' union, and how these events should be responded to via existing policies and procedures your students' union (or university) should already have in place.

The scenarios don't provide answers to how you should deal with each situation as this will differ from each institution and students' union. The case studies do however help you consider the key issues, potential risks and process you should follow in making a decision.

We welcome students' unions sharing their examples/ case studies with NUS so these can be developed as additional resources for students' unions in the future.

Additional examples and suggestions can be found in the following two documents:

- Universities UK (March 2011) **Freedom of speech on campus: rights and responsibilities in UK universities** www.universitiesuk.ac.uk/Publications/Pages/Freedomofspeechoncampus.aspx
- Universities UK, Equality Challenge Unit and Standing Conference of Principles (2005) **Promoting good campus relations: dealing with hate crimes and intolerance** www.ecu.ac.uk/publications/promoting-good-campus-relations-dealing-with-hate

Case study A

Palestinian Solidarity Society at your students' union has requested to invite an individual to give a keynote speech about "Human Rights in Gaza" during the Students' Union Anti Apartheid Week (taking place in a few weeks time). They also request to show a film following the presentation given by the external speaker, who has recently returned from a visit to Gaza as part of the human rights campaigning organisation they work for. The president of the Palestinian Solidarity Society plans to introduce the speaker and then let them lead the event. The event will be open to staff and students of the university. An online link to the film is provided in their request, but no other information is provided.

The students' union have organised Anti-Apartheid Week and there has been huge support and involvement from more than twenty different student societies. There are a wide range of activities focussing on a wide range of related issues to Apartheid.

The Jewish society (who also support Anti-Apartheid Week in principle) have raised some concerns about how the event will be facilitated and what the speaker will be specifically talking about.

The students' union has limited knowledge about the speaker or the focus of the event and so the speaker request is referred for further investigation.

In investigating a) the risks associated with speaker attending the event and b) the risks associated with the society screening the film during the event, and c) whether each of these separate things can go ahead (within the event) you may need to consider the following:

- The existing state of relations between various groups and societies at your institution with regards to the issue of Israel/Palestine. Is this a particularly sensitive and contentious issue on your campus?
 - » If so, what might mitigate the risk of the event causing controversy or additional tensions between groups?
- Information collected about the speaker and the likely content of their speech at the event
 - » Have you collected information about the speaker and/or film which highlights potential risks, if so what are these and how might they manifest?
- With the information that you have collected (about the speaker and the film), is the format and content of the event likely to attract controversy?
 - » If so, why?
 - » Will alternative views be presented? Will their be a strong chair?
 - » Is the speaker likely to impart ideas or information that will affect the rights, freedom and/or safety of staff/students on campus?
 - » Is the speaker's attendance (or showing of the film) likely to discriminate staff/students and/or lead to an intimidating or offensive environment?
- Has the topic covered in the event (and film to be shown) caused controversy or associated risks in similar events that have happened previously at your campus?
 - » If so, how might situations occurring in the past be learnt from to mitigate potential risk?

If you answer yes to the above questions you may then need to consider to what extent the following pose a significant risk to a) prevent the event from taking place,

b) the speaker and/or the film not to be allowed c) steps to mitigate the risk of the event going ahead.

Case study B

Your students' union's Jewish Society have invited twenty-five Israeli students to be on and around campus as part of an organised tour that is taking place across the UK, in partnership with an external organisation. The event organiser (not a member of the Jewish society and not a student of the university) has contacted the students' union and university to let them know the visit would be happening within the week but have not given details of the activities that will be taking place. They explained that they had been advised to keep the event quiet due to reaction that had recently taken place on other campuses.

The students will be attending events organised by the Jewish society during their visit and talking about their own experiences of university student life in Israel.

Last month three societies submitted a joint motion to condemn the university's recent link with a university in Israel. The motion did not pass but the students' union has concern that the underlying tension on campus due to this issue may pose a risk.

The students' union refers the speaker/event request due to the Jewish Society not completing a speaker request form at least two weeks before.

The main reason this event has been flagged by the students' union is that the event is planned to happen within the week and no information has been submitted to the students' union about the purpose of the events or the visiting speakers and they have a responsibility to know what is taking place within the students' union.

In investigating a) the risks associated with the Israeli students visiting the university and taking part in Jewish society events and b) whether the event should be allowed to go ahead you may need to:

Collect further information about the event from the Jewish society

- Speak to other student groups (and university officials) about the event and consider whether the tensions will increase any risk of event(s) going ahead
- Upon collecting further information assess the associated risks of the event going ahead

Case study C: Tensions between religious beliefs and sexual orientation

At the start of term, the Christian Society asks for permission to hold a meeting within the students' union building with a guest speaker from a local church talking about "Morality: living by the scriptures".

The speaker is known locally to hold controversial views on homosexuality, and the LGBT society have raised concerns to the students' union that this speaker is likely to breach the students' unions equal opportunities policy.

None of the students' union staff /officers has attended any previous presentation given by the guest speaker, but they are concerned that his presence may cause fear amongst staff and students; cause insult, offence and support intolerance of lesbian, gay or bisexual students.

The speaker request has been referred due to concerns raised from the information provided on the speaker request form.

Things to consider:

- Are you aware of the specificity of what the speaker will discuss at the event
- Is the knowledge of the views he has expressed previously likely to cause risks to staff/students during or after the event. For example, protest by students against his attendance at the event, disruption during the event and / or likely to cause lesbian, gay and bisexual students to fear for their own safety (before and after the event)

- Is there a risk of protest against the speaker attending? (What steps could be taken to mitigate risk of protests threatening public safety?)
- Is the speaker likely to lead to an intimidating or offensive environment during or after the event?
- Is the speaker's presence likely to breach the university/students' unions Equal Opportunities Policy? How?

Important things to note:

- Discrimination law can limit freedom of speech and expression (by making speech and conduct unlawful), but it can also protect these freedoms. The Equality Act 2010 prohibits discrimination – including harassment and detrimental treatment – relating to religion or belief. This offers specific legal protection for the holding, manifestation and expression of religious and other qualifying beliefs.
- Therefore, in this scenario due consideration should also be given to the freedom of expression of the speaker's religious beliefs, as well as the Christian students who have invited him to speak
- Consideration should also be given to the potential impact on the relations between these two groups and other student groups on campus as a result of the event taking place and/or not taking place.

Case study D: Complaint about speaker affiliations

The Islamic Society requests to invite a guest speaker for one of their events taking place in Islamic Awareness Week (in 6 weeks time). The event is planned to be just for Islamic society members.

The guest speaker is said to be speaking independently of any organisational affiliations, and is said to be coming to speak in an informal capacity to talk to the Islamic, society members about Islam in 21st Century Britain. On the speaker request form the Islamic society include some information about who the speaker is affiliated to and mentions other universities where he has spoken.

A student has raised concern that the speaker is affiliated to a number of organisations, one of which is

banned by law in England and Wales.

On undertaking an initial search of the organisations the speaker is alleged to be affiliated by the student, and who the Islamic society have highlighted he is associated to they choose to refer the speaker request.

Things to consider:

- In this situation you would need to collect further information about the speaker and whether they share the views or are affiliated to the organization that has been banned in the UK. Where this is the case the speaker should not be allowed to attend the event.
- Where there is no evidence to suggest the speaker is affiliated to or shares the views of the banned organisation in the UK you should consider the potential risks/issues associated with the speaker's other organisational affiliations, and then follow the usual steps for assessing potential risk.

Case study E

The Rational Thinkers Society at your students' union are organizing a public event on "Women's Equality and Religion" with a panel of speakers including a senior lecturer from another university who recently made a statement in a national newspaper declaring his aversion to female students who wear the Niqab (face covering) in his lectures proclaiming that he finds the Niqab an "unnecessary accessory for Muslims to draw attention to themselves" and that "the Islamic veil is oppressive, taking the freedom of choice away from women".

The Islamic Society supported by the students' union president and a number of other societies submit concerns to the students' union about the invitation of this particular speaker. They express that the presence of this speaker will cause intolerance towards Muslim students (in particular those who wear the Niqab), cause tension between students and increase the potential of harassment and abuse towards Muslim students on campus.

The main potential risks in this scenario to consider are:

- The safety of staff and students (and whether the speaker's presence will affect this during and after the event)
- The risk of the speaker spreading hatred and intolerance (of Muslim women, in particular) in the community and thus aid in disrupting social and community harmony (both on and off university campus)
- What format the event will take? Will alternative views be presented?
- How will the event be chaired, and by who? Will they be able to stop the speaker if s/he breaches the students' union equal opportunities principles and policy?
- Reputational risk to the students' union and university, in particular as this will be a public event
- Protests against the speaker attending, and risks associated with this.

Case study F: Speaker calls for students to undertake "direct violent action"

The students' union Anti-Vivisection Society has been staging a protest outside the university's biomedical research facility for an hour once a week for the past four weeks.

They gather at the gates to the building, but do not enter university premises. Their protest is peaceful but both members of university staff and students entering the site have complained that they feel intimidated by the presence of the demonstrators and the placards they carry.

The society have submitted a request to invite an Animal Rights Campaigner to speak at a forthcoming society meeting and includes information about the invited speaker with a link to an online profile where it clearly states they support "violent direct action". On this basis the speaker request has been referred.

In investigating the referred speaker further you should consider:

- The potential for the event going ahead
 - » to cause the union to fail in its wider legal duties
 - » to cause reputational risk to the Union
- The potential for the speaker's presence on campus
 - » To cause fear or alarm to members of the student body
 - » to give rise to breach of peace (during and after the event)

Case study G: Extremist political parties on NUS no platform policy invited to speak at Debating Society event

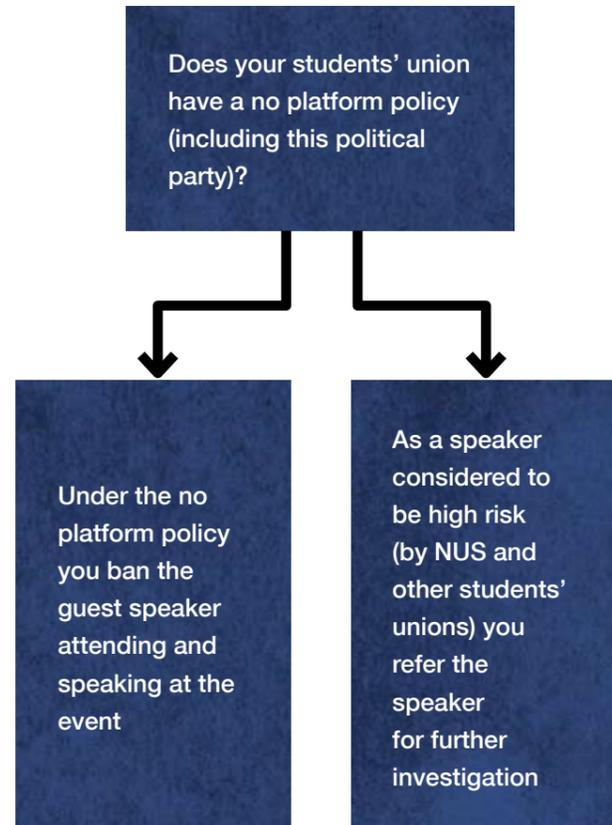
In the run up to a local election, your students' union debating society asks for permission to hold an event inviting each of the local election candidates to talk about their parties policies.

The society submits the speaker request form highlighting that they want to invite the candidate who is from a far-right party. The society plans for the event to be a ticketed event for students only.

The extreme party has a history of incitement to racial hatred and several senior members of the party have been convicted of incitement to racial hatred and other violent offences. However, the local candidate from this party is not one of the people who has been convicted or charged.

None of the staff / officers has actually attended any previous presentation given by the guest speaker, but they are concerned that he may create a hostile environment for staff and students or may contravene the law.

There have been a number of concerns raised by students about whether the individual in question should be allowed to attend. The institution is happy for the event to go ahead, but has raised concerns with the students' union about the significance of the event in the run up to the election, and the attention it is likely to attract locally.



Case study H: Students and Hate Speech

Complaints are made by students and concerns raised by university staff members about comments made by the President of the Political Debates Society following a recent panel debate they organised on Immigration. The complaints were in relation to hostile comments he (is alleged) to have made about migrants and in particular international students.

Notably, this situation is not covered by the guidance in this document which focuses on the risks related to external speakers. However such complaints/concerns should still be taken seriously and investigated under your existing policies and procedures on student/officer behaviour. It may be necessary for the society president to undergo a disciplinary procedure for comments made.

Knowledge of this situation may contribute to your assessment of future events on the same topic organised by the same society.

Case study I: Extreme political organizations

Members of an extreme political organization, who are not students or staff, visit your university and distribute flyers and put up posters promoting their policies and views and generally to canvas support. A number of students complain that they believe the content contravenes the students' union equal opportunities policy and that some students have been intimidated and threatened by members of the organization.

Things to consider:

- This situation is not covered by the guidance in this document. Many university campuses are open to and used by the public.
- The distributors have a right to freedom of expression, including the right to receive and communicate information provided that in doing so there is no threat to public safety; no likelihood of disorder or crime; and no interference with the rights and freedoms of others.
- Where materials (flyers and posters) are distributed or displayed that cause harm or offense to staff and students it is reasonable to remove these and ask the distributors to leave the campus.
- Where individuals and groups, who are not staff and students, come on to university premises and cause disruption, harass or intimidate staff and students and make staff and students feel threatened you should work quickly with your institution and institution security. In some cases it may be necessary to bring in the police however you should consult with the institutions estates and security in the first instance.

Templates and samples

The following templates are available as Word documents to download at www.nusconnect.org/welfare

External speaker request form (template)

This form is for all societies and groups who have an external speaker speaking at their event. It should be returned to the societies/activities coordinator at least 14 days in advance of the event.

Name of organiser:

Society or Group organising event:

Contact Email:

Contact Telephone number:

Event Details

Title of event:

Date of event:

Venue/Location of event:

Expected number of attendees:

Will the event be...?

- member only
- invitation/ticket only event
- open to the general public

About the event

Please provide a short description of the event

About the speaker(s)

This should include name, and organisation they're related to the subject they will be speaking about and any other information you think we need to be aware of. Confirm any external speakers' affiliations (specifically where they are religious or political). Declaration of any knowledge of controversy attracted by the speaker or topic in the past. Confirmation of website details (where relevant) providing further information on the speaker

Is the event and speaker are likely to attract media interest – if so why?

Sample: Briefing for [Union] club and society presidents - outside speakers and freedom of speech on campus

[Union] has policy and procedures regarding external speakers in order to enshrine our commitment to Freedom of Speech while ensuring we act in the best interests of our students and in a socially responsible manner. We are committed to facilitating debate and discussion to further the extra-curricular development of our students. Constitutionally, [Union] is committed to Freedom of Speech and to support student societies in inviting external speakers to their events to contribute to the dialogue.

When approving external speaker requests, it is important that we take into consideration any risks associated with the speaker attending the event so that we can work with you to mitigate them. This may require additional support and resources so the more time we have to prepare the better. Risks we have to take into consideration when approving a speaker include student wellbeing and health and safety. We also consider the history of the speaker and any media attention they have received previously. Laws regarding discrimination, incitement and intimidation are taken into account when reviewing the history of the speaker to ensure that we are not perceived to be providing a platform for illegal activity. We will also consider any particular student groups that may take offence at the invitation of the speaker to an event and will encourage you to contact them in advance to discuss their concerns.

The form you need to complete to request permission for an external speaker can be found in the Clubs and Societies section of our website. It is important that you include as much information as possible to speed up the checks we have to perform on the speaker. If the form is submitted incomplete or we feel that you have not been thorough enough, we will send the form back to you to be updated. You need to leave us two weeks to carry out our approval process from the date

of submission of a complete and appropriately detailed form, so submitting an inappropriately completed form risks having your event postponed.

The 'Briefing for External Speakers' document provided on our website must be circulated to all speakers in advance of submission of the form. You then need to confirm with them that they agree to comply with [Union] policy while being hosted at one of our events, and note this on the form.

The Freedom of Speech Rider we have included in the Club and Society Development Pack is aimed at increasing awareness of our policy amongst all attendees at your event, including those not classified as speakers. With that in mind, you must copy and paste this rider on to the bottom of emails you send out inviting people to your event, for example on your club or society mailing list, as well as the event pages you set up on the internet, for example on Facebook. It is essential that this be circulated as due to the nature of some events, even those that are not classified as speakers will be voicing their opinions and contributing to discussions.

While we realise that the bureaucratic burden of forms is not insignificant, we hope you understand that the information you provide is important for us to be able to fairly assess each speaker and make a decision that is in the best interests of the students and of [Union]. Overall, responsibility for all [Union] activity, including Club and Society events, lies with the [Union] Trustee Board.

For more information please refer to the Freedom of Speech policy that is included in the club and Society Development Pack. If any questions remain, please contact the Student Activities Officer, Thank you.

Sample: [Union] speaker agreement

[Union] is committed to providing a forum that facilitates Freedom of Speech while providing a safe space for our students and the public. We support events that contribute to the extra-curricular development of students while requesting that all speakers and attendees are respectful of the beliefs and opinions of others as well as the laws that protect individuals and groups from intimidation, discrimination and harassment. By attending a [Union] event you are agreeing to uphold our policies regarding Freedom of Speech. Any breach of the [Union] policies and procedures may result in a [Union] disciplinary or further action being taken.

Sample: Briefing for external speakers at [union] events

Welcome, and thank you for agreeing to speak to our students at a [Union] event. [Union] exists to 'provide for the intellectual, cultural, social and physical recreation of our members' as well as to 'foster and encourage the freedom of speech, expression, assembly and association amongst members'. A number of our societies choose to fulfil these objectives by inviting in speakers broaden the scope of discussion and debate at events and we are grateful to those who volunteer their time to contribute to the extra-curricular development of our students.

In allowing speakers to attend [Union] events we approve them based on the understanding that they act within the law and the regulations set by the College and the statutes that those regulations are drawn from. The use of [union] premises for events that involve external speakers is regulated by the '[University] Code of Practice on Freedom of Speech' and these rules are therefore adopted by [Union] in line with our use of their premises for our events.

From [University's] 'Code of Practice on Freedom of Speech', relevant clauses include:

- 'So far as is reasonably practical, the use of the premises [the University] will not be denied to any individual or body of persons on any ground connected with:
 - » the beliefs or views of that individual or of any member of that body; or
 - » the policy or objectives of that body.
- It is essential to the purposes of [University] that opportunities for free and open discussion within the law should be safeguarded. Members of [University] and all other persons attending meetings held on the premises must behave in a lawful manner and avoid taking any action or using any language which is offensive or provocative.

While it is the duty to uphold the aforementioned regulations, it is also our duty to act within the law and protect the safety of our students and staff. Our objective to promote Freedom of Speech is limited only by statute laws that protect individuals and groups of individuals from hate speech. These statutes forbid communication which is hateful, threatening, abusive or insulting and is intended to harass, alarm or distress. Communication which targets a person based on their skin colour, race, nationality, ethnicity, religion or sexuality is forbidden^{7 8 9 10}. It is also a criminal offence to incite or encourage others to break the law. All speakers, as well as event attendees, must be respectful of the beliefs and opinions of others.

There is also a [University] Freedom of Speech Policy which can be found on our website. It highlights our commitment to Freedom of Speech and the extra-curricular development of our students through dialogue and debate, to which external speakers make significant contributions.

If there are concerns raised at any point in the lead up to the event regarding the safety of attendees such as a breach of the peace or a criminal offence the Union will inform the [University] Head of Security, in line with the [University] Code of Practice¹², and conditions may

be made before the continuation of the event/event approval. These may include:

- Requesting submission of the speeches in advance of the meeting
- Limitation on attendees
- Declaration of attendees in advance of the meeting
- Stewards to be provided by the organisers
- Presence of officers of [Union] to ensure good order
- Limitation on what attendees may bring to the event, which may include banning food or drink or anything that could be used as a missile
- No banners, flags, placards or similar items being allowed in to the building
- Alteration of the conduct of the meeting or its facilitation.

Organisers would be consulted on these conditions in advance of the event and all speakers notified of the outcome. An event may also be cancelled if there are concerns that the event would risk student safety, violation of health and safety requirements or if the event risked violating the aforementioned laws regarding hatred, discrimination or incitement. [University] Union reserves the right to cancel or postpone any event should they have any concerns. We also reserve the right to perform spot checks on events being hosted by [Union] clubs and societies. If there are breaches of the [Union] or [University] policies at our event the matter will be referred for disciplinary or legal action.

This briefing document has been provided to ensure all of our speakers are aware of the framework we operate within when facilitating external speakers and the measures that may, rarely, be required to support Freedom of Speech at our events. Again, we thank you for agreeing to speak at one of our events and if you have any questions regarding any of the information in this document please contact us. Email our Student Activities Officer.

Further information and resources

The following resources are also available to download from www.nusconnect.org.uk/welfare

Universities UK (March 2011)

Freedom of speech on campus: rights and responsibilities in UK universities

www.universitiesuk.ac.uk/Publications/Pages/Freedomofspeechoncampus.aspx

Universities UK, Equality Challenge Unit and Standing Conference of Principles (2005)

Promoting good campus relations: dealing with hate crimes and intolerance

www.ecu.ac.uk/publications/promoting-good-campus-relations-dealing-with-hate

Equality Challenge Unit (2007)

Promoting good campus relations: an institutional imperative – Update

www.ecu.ac.uk/inclusive-practice/promoting-good-campus-relations-imperative

AFAF (2011)

Statement of Academic Freedom

afaf.web.officlive.com/default.aspx

NUS (2008)

Students' Union Trustee Guide

www.nusconnect.org.uk/resources/governance/Students-Union-Trustee-Guide-2008/

NUS (Jul 2008)

The Charities Act 2006, Implications for Students' Unions in England & Wales A briefing & frequently asked questions

www.nusconnect.org.uk/resources/governance/The-Charities-Act-2006-implications-for-students-unions-in-England-and-Wales/

NUS (2005)

Trustee Responsibilities & Governance Models for Students' Unions in England and Wales

www.nusconnect.org.uk/resources/governance/Trustee-Responsibilities-and-Governance-Models-for-Students-Unions-in-England-and-Wales-2005/

NUS (2011)

Hate Crime Interim Report: Exploring students understanding, awareness and experiences of hate incidents

www.nusconnect.org.uk/resources/crime/Hate-Crime-Interim-Report/

NUS Briefing – no platform policies and students' unions

www.nusconnect.org.uk/resources/citizenship/No-Platform-Briefing/

Useful websites

NUS Connect

www.nusconnect.org

The Charity Commission

www.charity-commission.gov.uk

Equality Challenge Unit

www.ecu.org.uk

Appendices

Policy from NUS National Conference 2010

Here we include the policy passed at NUS National Conference in 2010 from where this piece of work was developed.

Conference believes

1. NUS has received an increased number of queries from unions about speakers on campus. In addition there has been a rise in negative reporting of controversial speakers in the media.
2. Freedom of expression and speech are basic human rights to be protected and are protected by law.
3. Open debate is central to the culture of academic freedom, the development of students ideas and understanding, and is protected by an act of parliament relating to freedom of speech and academic freedom on campus.
4. Everyone agrees that there is no place for the fomenting of terrorism or violent extremism on campus.
5. That student safety and welfare should be at the heart of institutional and students' unions policies and practices.
6. That the freedom to express views can sometimes be tempered by the need to secure freedom from harm for students and communities.
7. That where there is a potential for these rights to come into conflict in relation to hate speakers, that all parties should seek to collaborate to allow students responsible to reach sound, evidenced judgements about the organisation or person in question.

Conference further believes

1. Guidelines should be developed for unions to follow that help them reach judgements about controversial speakers on campus.
2. We need to prevent against irresponsible judgements being made about speakers or groups that may be controversial - but not harmful.
3. That if we don't develop guidelines, they will be developed for us - and we won't like the results.
4. That students should always reserve the right to refuse to invite any speaker into students' union meetings but no platform is a very blunt tool for dealing with the complexities of "hate speech".

Conference resolves

1. To mandate the NEC to develop guidelines on hate speech involving relevant national faith groups, universities [and others].
2. To convene a national panel on hate speech that seeks to assist unions in making evidenced judgements about the issues at stake.

1. *Freedom of speech on campus: rights and responsibilities in UK Universities*, Universities UK, 2011, www.universitiesuk.org.uk
 2. *Prevent*, 2011, www.homeoffice.gov.uk/publications/counter-terrorism/prevent/prevent-strategy/prevent-strategy-review?view=Binary
 3. www.charity-comission.gov.uk
 4. Universities UK, 2011, www.universitiesuk.org.uk
 5. www.legislation.gov.uk/ukpga/1986/61/section/43
 6. www.legislation.gov.uk/ukpga/1988/40/section/202
 7. Public Order Act 1986, www.statutelaw.gov.uk/content.aspx?activeTextDocId=2236942
 8. Racial and Religious Hatred Act 2006
www.legislation.gov.uk/ukpga/2006/1/contents
 9. Criminal Justice and Public Order Act 1994
www.opsi.gov.uk/acts/acts1994/Ukpga_19940033_en_1.htm
 10. Criminal Justice and Immigration Act 2008,
legislation.gov.uk/ukpga/2008/4/pdfs/ukpga_20080004_en.pdf
 11. Terrorism Act 2000
legislation.gov.uk/ukpga/2000/11/pdfs/ukpga_20000011_en.pdf
 12. C20: Code of Practice on Freedom of Speech
www.ucl.ac.uk/academic-manual/part-c/c20
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