

DRAFT MODEL CODE OF CONDUCT:

Protection of Academic Freedom and the Academic Community in the context of the internationalisation of the UK HE Sector

I. Purpose:

To serve as a model for the UK Higher Education Sector (HE) to enable UK HE institutions, working in partnership with their academic communities, to adopt common responsibilities embedding transparency and accountability that will strengthen the protection of academic freedom and the academic community from risks arising specifically from the internationalisation of the Sector.

II. Key Definitions:

Academic Freedom: while academic freedom is difficult to define precisely, it is referred to in this Model Code of Conduct as the intellectual independence of members of the academic community, both individually and collectively, including in particular their freedom to:

- teach, discuss, assess, define the curriculum and study within their areas of academic expertise and/or inquiry;
- promote and engage in academic thinking, debate and inquiry;
- carry out research, and publish the results and make them known;
- freely express opinions about the academic institution or system in which they work;
- participate in professional or representative academic bodies;
- not be censored; and,
- fulfil their functions without discrimination or fear of repression.

The above is reflected in the provisions of the 1997 UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (Section VI(A)); the 1988 Education Reform Act Section 202(2)(a); and, the 2017 Higher Education and Research Act Section 2(8)(c).

Academic community: academics, students and other staff teaching, researching and/or studying at a UK HE institution(s), exercising their academic freedom; or, those communities collectively within the UK HE Sector.

Internationalisation of UK Higher Education Sector: the incorporation by UK HE institutions of an international dimension into UK HE processes and delivery, particularly by extending engagement and connections with international actors, including students, academics, institutions, companies, Governmental and political bodies, donors and individuals, to advance and consolidate academic excellence, develop the overall knowledge base and support institutional sustainability.

Transnational collaboration: activity or interaction between a UK HE institution and an international actor(s), including but not limited to: foreign campuses, gifts/donations, fieldwork abroad, transnational research, student exchanges, joint accreditation and awarding of degrees, related teaching activities and employment, related online/virtual activities, on-campus and off-campus activities, commercial activities, and access to the UK HE institution's community, facilities, and resources.

III. Rationale:

The internationalisation of UK Higher Education (HE) is an increasing trend with many positive impacts for UK HE institutions and the academic community, including the widening of the overall knowledge base, the advancement of academic excellence, and an important means of institutional economic sustainability.

Internationalisation has both inward and outward dimensions. It refers to, *inter alia*: institutional cooperation by UK HE institutions; international visits by academics and students from UK HE institutions for study and research; the receipt of donations by UK HE institutions from overseas countries, organisations or individuals; and, the participation of international faculty members and students at UK HE institutions. It can also encompass the resourcing by UK donors and actors, like UKRI and FCDO (such as through the *Global Challenges Research Fund*), to support transnational institutional cooperation.

Internationalisation can, however, give rise to certain challenges that risk undermining academic freedom and the safety of members of the academic community, particularly when the international actor(s) involved, such as a state and/or organisations/ individuals directed by or with links to them, wishes to curtail intellectual inquiry and/or critical thinking, directly or indirectly, by preventing members of the academic community from, for example, expressing views, as well as teaching and conducting research, on topics within their areas of academic expertise and/or inquiry, or punishes them for doing so.

Violations of the right to academic freedom in this context can involve and result in surveillance, intimidation, self-censorship, suspension, being banned from academic posts, persecution, attacks, visa denials, deportation, coercive pressure on relatives, prosecution, detention, or, in the most extreme cases, death, obviously impacting the enjoyment of other fundamental rights, such as the right to privacy, freedom of expression, liberty and life.

It is important for the UK HE Sector to openly acknowledge these challenges, which extend beyond questions of intellectual property and national security, work collectively and transparently to mitigate and address relevant risks, and allow itself to be held accountable for its actions in this context, so the on-going internationalisation of the Sector continues to be overwhelmingly positive for the UK HE Sector as a whole, and respects the Sector's institutional autonomy.

This Model Code of Conduct is designed, therefore, to highlight key responsibilities for UK HE institutions that would embed transparency and accountability at all stages of transnational collaboration, for adoption in close consultation with their respective academic communities, and collectively across the UK HE Sector.

The intended primary outcome for the UK HE institutions in question would be to avoid or minimise harm to, and uphold the fundamental rights of, those involved and/or impacted by specific transnational collaborations, and internationalisation more generally, thereby strengthening the protection of academic freedom and the academic community.

Though it is recognised that there are other challenges to academic freedom within the UK HE Sector, this document is limited solely to the context of internationalisation.

IV. General Responsibilities:

UK HE institutions, in conjunction with UK grant-making and other official/professional bodies when relevant, commit to:

1. Ensuring all transnational collaboration serves to build on the academic excellence, and further enhance the standing of, the UK HE Sector and the academic community, by:
 - (a) affirming frequently and publicly the importance of academic freedom and the safety of the academic community in such collaborations generally, as well as in the presence of international actors; and,
 - (b) protecting academic freedom and the academic community at all stages of a specific transnational collaborative activity or interaction.
2. Undertaking meaningful risk assessment and due diligence when transnational collaboration is being considered, *before* any agreement or arrangement is entered into, to include:
 - a thorough evaluation of the proposed collaborative activity/interaction and its potential impact on academic freedom and the academic community, with reference to publicly available data, such as the Academic Freedom Index and SAR's Academic Freedom Monitoring Project, area expertise from within, and, if necessary, beyond the institution, and all other relevant information;
 - substantive background checks into the international actor(s) seeking collaboration; and,
 - an understanding of the reasons and expectations motivating collaboration by the international actor(s).
3. Agreeing and putting in place, *from the outset*, measures to protect academic freedom and the academic community commensurate to the risks involved in the transnational collaboration, with such measures to be monitored and their effectiveness in mitigating risk evaluated on a regular basis.
4. Adapting such mitigation measures if they prove ineffective, or, urgently reviewing the transnational collaboration if there is imminent risk to life, liberty or the personal security of members of the academic community.
5. Consulting, in a meaningful and transparent manner, all institutional stakeholders, to include members of the academic community impacted by the transnational collaboration and those with knowledge of the international actor(s) or regional/national context in question, at all stages and always as soon as practicable.
6. Adopting effective procedures for confidential and independent internal reporting for the academic community on threats to academic freedom and the safety of its members arising from transnational collaboration, and ensuring appropriate action is taken to protect academic freedom and/or members of the academic community on the basis of such reports, with a guarantee that there will be no retaliatory action against those reporting concerns or making complaints.

7. Reporting publicly, on an annual basis, on steps taken to implement the Model Code of Conduct and related activity, including anonymously summarising the above reports and further to reporting activities specified under Section V.
8. Providing specific support to members of the academic community at-risk or punished for exercising their academic freedom, including by:
 - supporting their visa applications;
 - supporting their asylum applications when they have a well-founded fear of persecution;
 - developing an internal emergency response to address situations where life and/or liberty is in imminent danger;
 - advocating publicly and privately on their behalf when they are imprisoned, disappeared or facing administrative and judicial sanctions;
 - engaging with relevant UK authorities, such as the police, the Home Office and Foreign Office, as appropriate; and,
 - hosting fellows, and their families if relevant, through programmes such as those run by Cara and SAR, as well as providing appropriate support to enable them to adapt to their new academic environment.
9. Designating an individual with internal institutional responsibility for overseeing and engaging on the protection of academic freedom and the academic community in this context, including confidential reporting, annual public reporting, and support for members of the academic community endangered by exercising or upholding academic freedom.
10. Supporting the appointment of an independent Ombudsperson on Academic Freedom in the context of internationalisation for the UK HE Sector, to investigate case reports which involve a serious risk to the complainant's welfare or safety, with the complainant(s)' consent, and serious issues arising in connection with threats to academic freedom, and co-operating with such investigations.
11. Consulting widely on the adoption and implementation of the Model Code of Conduct, publicising it prominently on their website and in all other related communications, and highlighting it at an early stage in dealings with international actors.
12. Sharing, promoting and facilitating the development of best practice in this area within the UK HE Sector, and more widely.

V. Specific Responsibilities:

1. UK HE institutions' international partnerships

The UK HE Institution will:

- (a) Ensure Memoranda of Understanding (MoUs) on international partnerships, including foreign campuses and the affiliation of foreign education/research institutions to UK HE institutions within the UK, are subject to consultation across the university; based on standard language reflecting the values of the institution and committing all parties to respect academic freedom, including allowing for meaningful agency over the curriculum, assessment and hiring decisions; open for public scrutiny; and, kept under review.

- (b) Provide a mechanism for confidential reporting to a designated individual at the HE institution's UK campus on threats to academic freedom in connection with international partnerships, and share concerns, with appropriate safeguards, with other UK universities involved in similar international partnerships.
- (c) Include an assessment of risks to academic freedom and how these are being addressed in connection with international partnerships in an annual report, and actively disseminate this assessment through staff and student induction processes and at an open annual review meeting.

2. Fieldwork abroad

The UK Higher Education Institution will:

- (a) Evaluate academic freedom, and the risks associated with its absence, as when planning fieldwork and field trips abroad, with reference to publicly available data, such as the Academic Freedom Index and SAR's Academic Freedom Monitoring Project, area expertise within, and, if necessary, beyond the institution, and all other relevant information, to inform measures adopted to mitigate related risks.
- (b) Include training on academic freedom in pre-departure training courses, including a basic overview of respect for academic freedom globally and consideration of limitations/risks in geographic and academic areas of interest (i.e., "risk management").
- (c) Make available enhanced travel insurance, including kidnap and ransom insurance which may also cover politically motivated or arbitrary detention by state authorities, to members of the academic community engaging on fieldwork in places where a heightened risk to, or a deficit of, academic freedom has been identified, and integrate this insurance process with internal ethics review processes.

3. International faculty and/or students teaching, researching or studying at a UK HE institution

The UK Higher Education Institution will:

- (a) Ensure that academic freedom requirements, including personal data protection for these members of the academic community, are incorporated within all MOUs with state scholarship programmes, all faculty exchange agreements and any similar visit or exchange relationships, as well as ensure all MoUs affirm the right of the UK HE host institution and these members of the academic community to maintain contact after the latter's return to their home country.
- (b) Establish a confidential and independent internal reporting mechanism to a designated individual on campus for cases or issues of concern in relation to the academic freedom of these members of the academic community.
- (c) Report serious cases and issues, including all those involving a threat to the welfare or safety of the complainant, to the independent Ombudsperson on Academic Freedom in the context of internationalisation for the UK HE Sector, and cooperate with the Ombudsperson's investigations.
- (d) Provide anonymised summary data on cases and issues in a section of the annual report, and, where a case has become public, a detailed assessment of the case and the actions taken.

- (e) Provide specific guidance to these members of the academic community regarding their right to academic freedom, to be included in induction processes and throughout their employment and/or studies.
- (f) Establish a safeguarding policy for these members of the academic community to protect their academic freedom where this is deemed to be at risk by transnational collaboration.
- (g) Take steps to protect the academic freedom of these members of the academic community engaged in distance education at a UK HE institution, including through safeguards for personal data, secure use of online discussion platforms, and safe access to online teaching and learning materials.

4. Grants, donations and other funding to UK HE research and/or education

The UK Higher Education Institution will:

- (a) Include academic freedom criteria, with reference to publicly available data, such as the Academic Freedom Index and SAR's Academic Freedom Monitoring Project, area expertise from within, and, if necessary, beyond the institution, and all other relevant information, when considering the receipt of gifts, donations and other funding to support transnational collaboration.
- (b) Undertake an academic freedom risk assessment as part of a general risk assessment and due diligence with regard to new or renewed grants, donations and other funding streams, and establish transparent processes to review such risks, their mitigation and related changes over time. These assessments and processes will seek to protect the academic freedom of all under such funding arrangements, especially that of individuals visiting or cooperating transnationally with UK HE institutions but ordinarily based in institutions and countries where academic freedom is deemed at risk.
- (c) Make all MOUs and summary information on all foreign gifts/donations public, and include a section in the annual report on the operation of the MoUs and any other foreign gifts/donations, with specific reference to academic freedom risks that have arisen or are on-going and how these are being mitigated; and further undertake, in connection with any such funding arrangements, not to enter into non-disclosure agreements.

ANNEX

Links to references in Model Code of Conduct

Defining Academic Freedom:

- 1997 UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (Section VI(A)): http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_TOPIC&URL_SECTION=201.html
- The 1988 Education Reform Act Section 202(2)(a): <https://www.legislation.gov.uk/ukpga/1988/40/section/202?view=plain>
- The 2017 Higher Education and Research Act Section 2(8)(c) https://www.legislation.gov.uk/ukpga/2017/29/pdfs/ukpga_20170029_en.pdf
- UCU Statement on Academic Freedom: <https://www.ucu.org.uk/academicfreedom>

Guidance for Due Diligence and Risk Assessment Processes:

- Academic Freedom Index: <https://www.gppi.net/project/assessing-academic-freedom-worldwide>; <https://www.gppi.net/2020/03/26/free-universities>
- Academic Freedom Monitoring Project: <https://www.scholarsatrisk.org/academic-freedom-monitoring-project-index/>
- Values at Home and in Partnership: <https://www.scholarsatrisk.org/wp-content/uploads/2020/05/Values-at-Home-and-in-Partnerships.pdf>

Organisations Focused on Protecting Academics at Risk:

- Cara – Council for At-Risk Academics - <https://www.cara.ngo>
- SAR – Scholars at Risk - <https://www.scholarsatrisk.org>

Other Relevant Government and Professional Organisations/Contact Points:

- UCU – University and College Union - <https://www.ucu.org.uk>
- UUKi - Universities UK International - <https://www.universitiesuk.ac.uk/International>
- International Education Champion - <https://www.gov.uk/government/news/universities-minister-sets-out-support-for-international-students>