

## ACADEMIC FREEDOM POLICY



Current version in effect from: 8 Oct 2020  
Approved by Council: 7 Oct 2020  
Revised by Council: None.

### Related documents

*Higher Education Support Act 2003*

*Higher Education Standards Framework (Threshold Standards) 2015*

*Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers* (the “Model Code”)

Commonwealth discrimination legislation, including the *Age Discrimination Act 2004*, *Australian Human Rights Commission Act 1986*, *Disability Discrimination Act 1992*, *Racial Discrimination Act 1975*, and the *Sex Discrimination Act 1984*.

Victorian discrimination legislation, including the *Equal Opportunity Act 2010* and the *Racial and Religious Tolerance Act 2001*

Regulation 80: Code of Conduct

### 1. Rationale and Objectives

- 1.1 In accordance with the *Higher Education Support Act 2003* and the *Higher Education Standards Framework (Threshold Standards) 2015* and in conjunction with Regulation 80: Code of Conduct, this Policy articulates how the University of Divinity promotes and protects academic freedom.
- 1.2 This Policy aims to ensure that academic freedom is a defining value of the University pursuant to the objects of the Model Code.
- 1.3 This Policy sets out the means by which the University promotes and protects academic freedom, but it is not to be inferred that the statements in this Policy regarding academic freedom automatically extend to the broader right to freedom of speech.
- 1.4 This Policy aims to ensure that the freedom of lawful speech of staff and students of the University and visitors to the University is not restricted nor its exercise unnecessarily burdened by restrictions or burdens other than those imposed by law and set out in this Policy.

### 2. Scope

- 2.1 This policy applies to all members of the University, including:
  - a) The University’s Council, officers, employees, students and other decision-making bodies, including those involved in academic governance.
  - b) Student representative bodies to the extent that they have policies and rules which are capable of being applied to restrict academic freedom.

### 3. Definitions

- 3.1 **Academic Freedom** for the purposes of this Policy comprises the following elements:
- a) The freedom of academic staff to teach, discuss, exhibit artistic works or public performances, research, as well as disseminate and publish the results of their research
  - b) The freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their subjects of study and research
  - c) The freedom of academic staff and students to express their opinions in relation to the University
  - d) The freedom of academic staff, without constraint imposed by reason of their employment by the University, to make lawful public comment on any issues in their personal capacities
  - e) The freedom of academic staff to participate in professional or representative academic bodies
  - f) The freedom of students to participate in student societies and associations
  - g) The autonomy of the University in relation to the choice of academic courses and offerings, the ways in which they are taught and the choices of research activities and the ways in which they are conducted.
- 3.2 **Academic Staff** means all persons accredited by the University under Regulation 40: Academic Staff and the Academic Staff Policy.
- 3.3 **Imposed by Law** (in relation to restrictions or burdens or conditions on a freedom) includes restrictions or burdens or conditions imposed by statute law, the common law (including the law of defamation), duties of confidentiality, restrictions deriving from intellectual property law and restrictions imposed by contract.
- 3.4 **Invited Visiting Speaker** means any person who has been invited by the University to speak on the University's land or facilities.
- 3.5 **Speech** extends to all forms of expressive conduct including oral speech and written, artistic, musical and performing works and activity and communication using social media; the word 'speak' has a corresponding meaning.
- 3.6 **Staff** means all employees of the University, whether or not academic staff.
- 3.7 **University Policies** includes University statutes, regulations, policies, procedures, codes of conduct, charters, guidelines and manuals, as amended from time to time.
- 3.8 **Unlawful** means in contravention of a prohibition or restriction or condition imposed by law.
- 3.9 **The duty to foster the wellbeing of students and staff:**
- a) includes the duty to ensure that no member of staff and no student suffers unfair disadvantage or unfair adverse discrimination on any basis recognised at law including race, gender, sexuality, religion and political belief;

- b) includes the duty to ensure that no member of staff and no student is subject to threatening or intimidating behaviour by another person or persons on account of anything they have said or proposed to say in lawfully exercising their freedom of speech;
- c) supports reasonable and proportionate measures to prevent any person from using lawful speech which a reasonable person would regard, in the circumstances, as likely to humiliate or intimidate other persons and which is intended to have either or both of those effects;
- d) does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.

#### **4. Policy Statement**

- 4.1 The University's understanding of freedom is modelled on the ideal set out in 1 Corinthians 12:20-25:

As it is, there are many members, yet one body. The eye cannot say to the hand, “I have no need of you,” nor again the head to the feet, “I have no need of you.” On the contrary, the members of the body that seem to be weaker are indispensable, and those members of the body that we think less honourable we clothe with greater honour, and our less respectable members are treated with greater respect; whereas our more respectable members do not need this. But God has so arranged the body, giving the greater honour to the inferior member, that there may be no dissension within the body, but the members may have the same care for one another. If one member suffers, all suffer together with it; if one member is honoured, all rejoice together with it.

This ideal is represented in the University's fifth Graduate Attribute, that “Graduates are prepared for the service of others”.

- 4.2 The University encourages the exercise of freedom in ways which honour the dignity of the human person as made in the image of God and which embody love of neighbour.
- 4.3 Freedom is therefore not only a right but also a responsibility in which individual needs are to be set alongside the service of others and the greater good.
- 4.4 The exercise of freedom includes both the courage to speak the truth in love and to show respect for other people. This includes respect for the integrity and diversity of Christian theological traditions represented in the Colleges of the University.
- 4.5 Academic freedom is a defining value of the University and therefore not restricted nor its exercise unnecessarily burdened by restrictions or burdens other than those imposed by law and set out in this Policy.
- 4.6 Academic freedom is essential to the purpose of the University and central to the advancement of knowledge through teaching and research. The University fully supports the responsibility of its staff and students to engage in open and robust debate in the pursuit of truth and understanding, and to hear and express diverse opinions and beliefs as they do so.
- 4.7 Academic freedom of expression is not restricted except by:

- a) Limits imposed by law; or
- b) University policies designed to prevent undue disruption to its activities, or undue risk to the wellbeing of students and staff; or
- c) Reasonable requirements imposed by the University as necessary to give effect to its legal duties and its teaching and research activities.

Subject to these limitations, academic staff and students, as well as invited visiting speakers, have the right to express their opinions freely and to hear those of others.

## **5. Operation of this Policy**

- 5.1 The University shall have regard to the Principles of this Policy in the drafting, review or amendment of University Policies.
- 5.2 University Policies are to be interpreted and applied, so far as is reasonably practicable, in accordance with this Policy.
- 5.3 Any power or discretion under a University Policy shall be exercised in accordance with this Policy.
- 5.4 This Policy prevails, to the extent of any inconsistency, over any University Policy.
- 5.5 Any power or discretion conferred on the University by a law made by the University in the exercise of its delegated law-making powers shall be exercised, so far as that law allows, in accordance with this Policy.
- 5.6 Any power or discretion conferred on the University under any contract or workplace agreement shall be exercised, so far as it is consistent with the terms of that contact or workplace agreement, in accordance with this Policy.

## **6. Principles of the Policy**

- 6.1 University academic staff and students enjoy freedom of speech exercised on University land or in connection with the University subject only to restraints or burdens imposed by:
  - a) law
  - b) the reasonable and proportionate regulation of conduct necessary to the discharge of the University's teaching and research
  - c) the right and freedom of others to express themselves and to hear and receive information and opinions
  - d) the reasonable and proportionate regulation of conduct to enable the University to fulfil its duty to foster the wellbeing of students and staff
  - e) the reasonable and proportionate regulation of conduct necessary to enable the University to give effect to its legal duties including its duties to visitors to the University.
- 6.2 Subject to reasonable and proportionate regulation of the kind referred to in section 6.1, a person's lawful speech on the University's land or in connection with a University

activity shall not constitute misconduct nor attract any penalty or other adverse action by reference only to its content.

- 6.3 Every member of the academic staff and every student enjoys academic freedom subject only to prohibitions, restrictions or conditions:
- a) imposed by law
  - b) imposed by the reasonable and proportionate regulation necessary to the discharge of the University's teaching and research activities
  - c) imposed by the reasonable and proportionate regulation necessary to discharge the University's duty to foster the wellbeing of students and staff
  - d) imposed by the reasonable and proportionate regulation to enable the University to give effect to its legal duties
  - e) imposed by the University by way of its reasonable requirements as to the courses to be delivered and the content and means of their delivery.
- 6.4 The exercise by a member of the academic staff or of a student of academic freedom, subject to the above limitations, shall not constitute misconduct nor attract any penalty or other adverse action.
- 6.5 In entering into affiliation, collaborative or contractual arrangements with third parties and in accepting donations from third parties subject to conditions, the University shall take all reasonable steps to minimise the restrictions or burdens imposed by such arrangements or conditions on the freedom of speech or academic freedom of any member of the academic staff or students carrying on research or study under such arrangements or subject to such conditions.
- 6.6 The University has the right and responsibility to determine the terms and conditions upon which it shall permit external visitors and invited visitors to speak on University land and use University facilities and in so doing may:
- a) require the person or persons organising the event to comply with the University's booking procedures and to provide information relevant to the conduct of any event, and any public safety and security issues;
  - b) distinguish between invited visitors and external visitors in framing any such requirements and conditions;
  - c) refuse permission to any invited visitor or external visitor to speak on University land or at University facilities where the content of the speech is or is likely to:
    - i) be unlawful
    - ii) prejudice the fulfilment by the University of its duty to foster the wellbeing of staff and students
    - iii) involve the advancement of theories or propositions which purport to be based on scholarship or research but which fall below scholarly standards to such an extent as to be detrimental to the University's character as an institution of higher learning

- d) require a person or persons seeking permission for the use of University land or facilities for any visiting speaker to contribute in whole or in part to the cost of providing security and other measures in the interests of public safety and order in connection with the event at which the visitor is to speak.
- 6.7 Subject to the preceding sections the University shall not refuse permission for the use of its land or facilities by an external visitor or invited visitor nor attach conditions to its permission, solely on the basis of the content of the proposed speech by the visitor.
- 6.8 Consistently with this Policy the University may take reasonable and proportionate steps to ensure that all prospective students in any of its courses have an opportunity to be fully informed of the content of those courses. Academic staff must comply with any policies and rules supportive of the University's duty to foster the wellbeing of staff and students. They are not precluded from including content solely on the ground that it may offend or shock any student or class of students.

## **7. University Responsibilities**

- 7.1 The University undertakes to:
- a) Protect and promote academic freedom in the conduct of its affairs, so that all academic staff and students may engage in inquiry, research, scholarship, teaching, or public commentary without fear or favour.
  - b) Recognise viewpoint diversity and the right to express opinions on University campuses and in public forums such as the media.
  - c) Investigate complaints and issues regarding abuses of or undue restrictions on academic freedom in accordance with the Complaints Policy.

## **8. Staff and Student Responsibilities**

- 8.1 University academic staff and students have the right to:
- a) Exercise academic freedom by expressing opinions without fear of being harassed, intimidated or vilified by other staff or students.
  - b) Express opinions through acts of speech, without being subject to undue restriction or sanction by the University.
  - c) Express opinions that may be unpopular or controversial, and that may cause offence; while recognising that this does not mean the right to harass, intimidate or vilify any other individuals or groups.
- 8.2 University staff and students have a responsibility to:
- a) Act lawfully and ethically
  - b) Respect the rights of others
  - c) Observe University policies and the Code of Conduct
  - d) Express views with intellectual honesty
  - e) Make it clear that a view they express is their own, not that of the University.

**9. Date of next review**

This policy must be reviewed no later than 31 December 2025.