

ACADEMIC FREEDOM POLICY

Section	University Management
Contact	Provost
Last Review	September 2023
Next Review	September 2026
Approval	C23/103
Effective Date	22 September 2023

Purpose

Fundamental to delivering on our mission as academic and professional staff at Massey University Te Kunenga ki Pūrehuroa is a commitment to the values of academic freedom, in the context of the freedom of speech, and the freedom of expression. These sit alongside our commitment to encourage and model respectful dialogue, and our belief that such exchanges should not silence, disparage, marginalise, stigmatise or incite hostility towards others, especially vulnerable groups with particular attention to those who have been subject to or disproportionately impacted by historical injustices.

At the heart of the tradition of a university are certain privileges and rights exercised by staff and students: the freedom of expression, the freedom of speech and the freedom to associate are central to academic inquiry, as is the free and frank exchange of ideas. As a university that encompasses a range of disciplines and approaches to teaching, learning and research, these freedoms are central to the university's mission and do not privilege one type of discipline or approach over another.

This policy defines the core principles of academic freedom, in the context of free speech/freedom of expression within the academy and at Massey University Te Kunenga ki Pūrehuroa. It presents these principles as different, but complementary freedoms. It also outlines the responsibilities of staff and students, the obligations upon the University to protect academic and professional staff in exercising academic freedom, and the interdependencies and tensions with relevant legislation and Te Tiriti o Waitangi/the Treaty of Waitangi.

All staff and students should expect to safely exercise their work-related responsibilities regarding academic freedom at their place of employment, within a context of mana-enhancing civility and without fear of abuse, victimisation, and bullying. It is recognised too that all scholarly discourse in the context of the university is subject to critical examination and disagreement, and that such disagreement, in itself, does not constitute a breach of this policy, provided it is civil and respectful in its delivery and reasonably supported by existing scholarship or verifiable evidence. Finally, a strong research infrastructure must offer the necessary protections to academic staff and students in pursuing impactful public scholarship when that public scholarship is subject to organised disinformation campaigns.

Principles

This Policy is informed by the following principles:

- This Policy is not intended to create a culture of censorship at our university; rather, it seeks to create safe spaces for the open and honest discussion of ideas. We are inspired by the notion that ‘the purpose of the university is to make students safe for ideas – not ideas safe for students’ (*Professor Clark Kerr, Chancellor of the University of California, Berkeley, 1958-67*).
- This Policy is informed by our university’s commitment to honouring Te Tiriti o Waitangi/the Treaty of Waitangi. This means that the Te Tiriti principles of partnership, protection and participation guide our operating context and the exercise of academic freedom.
- This Policy takes a justice-based approach to the exercise of academic freedom. This means recognising the broader context in which we operate, including acknowledging the history of Aotearoa New Zealand and the role of place, and paying attention to vulnerability, especially for historically marginalised groups. A justice-based approach to supporting academic freedom also responds to the intersecting contexts of colonisation, racism, patriarchy, and cis-normativity and calls attention to the power imbalances that have historically silenced academic inquiry. It means attending to unequal power structures, reducing inequities and challenging unjust power and social relations.
- This Policy has implications for individual and collective responsibilities; while both are referenced throughout, they may from time to time sit in tension with one another.
- This Policy should be read as a living document and as such it will be subject to ongoing review.

Definitions

Mana-enhancing:

This expression refers to tikanga (actions, practices and behaviours) that give authentic expression to the guiding principle (or kaupapa) of manaakitanga, that is the capacity to demonstrate compassion, care, generosity, hospitality, altruism and benevolence. Mana-enhancing prioritises the welfare of others and lays the foundation for positive and enduring relationships to be fostered and nourished over time.

Speak truth to power:

To ‘speak truth to power’ means to speak without fear of retribution to those in authority and demand a well-considered response to a problem or question, rather than relying on or accepting an expedient, easy or convenient response. The phrase carries with it the implication of courage, of risking or defending either the status quo, one’s reputation or livelihood, or the wrath of the person or source one is confronting.

Academic Freedom:

The academic freedom of academic staff and students contributes to the university’s role as ‘critic and conscience of society’, mandated under the Education and Training Act 2020. Academic freedom is clearly defined in section 267 of the Act as ‘the freedom of academic staff and students, within the law, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions.’ This includes the freedom of academic staff and students to engage in research, the freedom of the institution and its staff to regulate the subject matter of courses taught at the institution, and the freedom of the institution and its staff to teach and assess students in the manner that they consider best promotes learning. Academic freedom includes research dissemination and challenges to research through both formal and informal

channels and mediums, including peer-reviewed published papers through to social media posts and other public platforms (but does not include general comments on social media). The Massey University Social Media Guidelines for Staff give staff members who use social media in a personal capacity an overview of how to engage on these channels appropriately.

Free Speech/Freedom of Expression:

Everyone has the right to free speech/freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form. Free speech/freedom of expression is part of the wider societal context in which academic freedom is exercised and is fundamental to supporting this freedom.

Policy

1. Universities fulfil an important role in encouraging debate and discussion in a democratic society; they provide an environment where new ideas can be explored and challenged and where old ideas can be tested and challenged. As a university, we value independent thinking and consider that the right to express a range of views, both within the university and in public is central to developing and extending scholarship and critical to our role in contributing to the advancement of knowledge, noting the complementarity and interdependence of the concepts of academic freedom and free speech/freedom of expression.
2. New Zealand’s universities are defined both by their ‘teaching-research nexus’ – the idea that teaching is informed by research and that most teaching is conducted by those who are active in research – and the ability of academic staff to engage in their professional work, their employment and with society from a position of autonomy and independence. Universities and their staff have the ability and right, together with the associated responsibilities, to ‘speak truth to power’.
3. The essence of a university is contingent upon its autonomy. The political, cultural, and social independence of universities and their staff is crucial if they are to continue to challenge the status quo and prepare students to operate as active citizens in and contributors to the communities we serve. In short, the plurality of views and the ability to express these views characterises universities. However, this policy should not preclude the critical scholarly examination, for the purposes of teaching and research, of opinions of the kind that might otherwise be in breach of this policy.
4. Massey University Te Kunenga ki Pūrehuroa considers that all staff should be affirmed and encouraged in exercising academic freedom; as teachers, researchers, professional staff and managers, and as public intellectuals.
5. At our university, the culture of freedom of research, research-informed public engagement, teaching, and the expression of views is strongly defended. Our students join with our staff in a community of scholarship, research and learning; we believe that a university is a place where contentious ideas can be debated, tested and challenged. A quality university education emphasises the careful examination of facts and opinion and encourages arguments based on evidence.
6. Academic research plays a role in addressing contemporary global challenges, such as those outlined in the Sustainable Development Goals (SDGs), and much of this research is public facing. At our university, a commitment to addressing these SDGs translates into support for public facing, engaged scholarship seeking to generate social impact.



7. We note that organised efforts to suppress inquiry and silence critical discussions threaten the role of academic staff and students as ‘critic and conscience’ of society, undermining the purpose and mission of a university. Accordingly, the university is aware of the role of digital platforms and organised campaigns in attacking academic freedom and will offer the necessary safeguards to academic staff and students to allow them to pursue their scholarship without fear. This may include providing technology-based, monitoring, security, communication, legal and socio-psychological support to academic scholars at risk. Further guidance on this is provided in the ‘[Staff Safety and Security] Guidelines’.
8. As a university community, we recognise that key processes of accountability established to support the effective functioning of the institution are often the targets of digital disinformation campaigns to attack academic freedom. The university will therefore put in place processes and structures to monitor and filter vexatious complaints, including pursuing options available to the university to effectively address such complaints.
9. It is generally recognised that all scholarly discourse in the context of the university is subject to critical examination and sometimes disagreement, and that such disagreement, in itself, does not constitute a breach of this policy, provided it is within the law and reasonably supported by evidence and scholarship.
10. It follows then that academic staff should not be prevented from including in their teaching materials items or content on the grounds that it may offend or shock any student/s, on the basis that this material is academically quality assured. Indeed, the university asserts that students need to be open to discovering within their teaching and learning materials diverse or radical perspectives they may not have previously considered; this is part of the overall university learning experience.
11. The university has a duty of care towards students and staff of the university and this includes ensuring equal access to the right to free speech, providing an environment, spaces, opportunities and platforms where all voices can be heard and, where appropriate, providing access to security and protection. Some individuals may be disadvantaged by factors of inequality; for example, access, resourcing, status, or other issues that are disabling of their opportunity to engage. It follows then that in such circumstances the university may provide support to staff and students who are excluded from conversations advanced by defenders of free speech, those who are not accustomed to debating ideas in an orthodox Western fashion, and those who have less power than people with access to public platforms. This includes students and staff who may be subject to the work of external parties and state actors who seek to limit academic freedom.
12. The freedoms affirmed in this Policy are also asserted in section 14 of the New Zealand Bill of Rights (‘the freedom to seek, receive and impart information and opinions of any kind in any form’), although these freedoms are not unconditional.
13. In line with the legal definitions of academic freedom and free speech/freedom of expression set out above, we note that all freedoms come with responsibilities.
14. The right to freely express views should be exercised in a way that facilitates and enhances dialogue and provides an opportunity for meaningful discussion and interaction; even if those participating do not ultimately agree with one another. At the core of this dialogue is the right to express opinions in a robust and open way, and in a manner that encourages learning and recognises that others might hold



very different views.

15. As an academic and professional community, we seek to affirm the dignity of our fellow human beings in a way that encourages the recognition of difference and enhances inclusiveness. In our interactions, we should model civility and permit a range of voices to be heard in a safe and respectful manner. This is especially relevant in our context where Māori, as Mana Whenua and Tangata Whenua, have particular rights and the Crown has responsibilities to enact as per Te Tiriti o Waitangi/the Treaty of Waitangi and the United Nations Declaration on the Rights of Indigenous Peoples, 2007.
16. As part of the wider context in which academic freedom is enacted, the freedom of expression and the exchange of views are critical to who we are. As a university, it is integral to our identity and mandate, as statutorily defined, that we critique ideas, practices and structures. But we must also be aware of the impacts of speech that might silence, stigmatise and victimise, especially in relation to ethnicity, cultural differences, 'race', gender, and gender and sexual diversity, religion, national origin, ability or age, or other identities (as appropriate). We should not, therefore, limit the freedom of others through intimidation, fear or suppression.
17. As part of the wider context in which academic freedom is enacted, the right to free speech is necessarily constrained by legal and other limitations, especially in relation to the way in which a viewpoint is expressed or broadcast. The Human Rights Act section 61(1) provides some guidance when it deems, as unacceptable, words that are 'threatening, abusive or insulting ... words likely to excite hostility against or bring into contempt any group of persons ... on the grounds of colour, race, or ethnic or national origins of that group of persons.'
18. Inevitably, at times, there is a fine line between speech that contributes to robust debate and that which may unlawfully stigmatise or silence. We need to reflect the diversity of the communities we serve as a public institution, and it is important that all members of those communities feel welcomed by our university, and that they can contribute to the learning process – theirs and that of others – in a way that encourages participation and success, rather than silencing or marginalising them.
19. Therefore, we affirm the centrality of certain freedoms – of speech and expression, and of association – as central to our university. We also affirm that these freedoms are contingent on ensuring that dialogue is within the law. As noted above, these freedoms ought not to contravene, undermine, or diminish the rights and responsibilities in Te Tiriti o Waitangi/the Treaty of Waitangi and the status of Māori as Mana Whenua and Tangata Whenua.
20. It is critical that an understanding of the impacts on groups, particularly those such as Tangata Whenua who have not been historically well-represented in academic institutions, is understood and moderated. Accordingly, it is appropriate to reference the key commitments in the *Massey University Te Kunenga ki Pūrehuroa Strategy 2022-2027*:

As a Tiriti-led University we are committed to demonstrating authentic leadership in contemporary Aotearoa New Zealand as we uphold Te Tiriti o Waitangi, the founding document of our nation, and its principles through our practice. We see this as a critical requirement to advance more inclusive and socially progressive outcomes for Aotearoa New Zealand.

21. In addition to affirming the university's commitment to promoting academic freedom and free speech/freedom of expression within the law, this policy also outlines circumstances in which academic freedom and free speech/freedom of expression might properly be restricted.
22. The university may itself apply restrictions in circumstances where they are necessary for the university:
 - a. to discharge its obligations under The Human Rights Act s61(1); or
 - b. to safeguard the safety, health and welfare of its students, employees and other persons lawfully upon the premises or engaged in activities associated with the University (pursuant to its obligations under the Health and Safety at Work Act 2015); or
 - c. to enable use of the University's premises to be consistent with maintaining and promoting the efficient conduct and administration of the University's functions.
23. The university is an owner and occupier of its physical premises with rights under the Property Law Act 2007 to remove material posted on campus (notice boards or elsewhere). Therefore, the university retains the right to remove materials (such as posters or leaflets) found on campus that contravene this policy.
24. The university, through the auspices of the Vice-Chancellor or delegate, retains the right to refuse permission for invited speakers to speak on campus for health and safety reasons or when their remarks are likely to be unlawful or to make no meaningful contribution to scholarly activity and debate. Further guidance on this is provided in the 'External Speaker Guidelines'.
25. In the event of a complaint in relation to the application or enforcement of this Policy, or in relation to a purported breach of this Policy:
 - (a) Complaints should be made in writing to the Provost and should clearly set out the facts of the complaint and the outcome/s sought.
 - (b) The Provost will either consider the complaint themselves, or if they consider it appropriate to do so, they may appoint a panel (of at least three academic staff members, which may or may not include the Provost) to consider the complaint. As part of their consideration of the complaint, the Provost or panel may seek further information or responses from the complainant/s and/or other persons. Given that the university is a place of learning and research, arbitration may also take a pedagogical, educative and/or restorative approach in order to resolve a complaint.
 - (c) The Provost or panel will make recommendations to the Vice-Chancellor and the Vice-Chancellor will make a final determination in relation to the complaint.

Audience:

All staff, students, and visitors to the university community and external bodies.

Relevant legislation includes (but is not limited to):

- CEDAW (The Convention on the Elimination of All forms of Discrimination against Women), 1979
- New Zealand Bill of Rights Act 1990
- Defamation Act 1992

- Human Rights Act 1993
- CRPD (The Convention on the Rights of Persons with Disabilities) 2006
- UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples), 2007
- Property Law Act 2007
- Harmful Digital Communications Act 2015
- Health and Safety at Work Act 2015
- Education and Training Act 2020

Legal compliance:

The Health and Safety at Work Act 2015 requires Massey University Te Kunenga ki Pūrehuroa to ensure, so far as is reasonably practicable, the health and safety of its workers while at work and the health and safety of workers whose activities in carrying out work are influenced or directed by the university while at work. It must also ensure that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the university. Accordingly, the university has a duty of care to staff, contractors, students and visitors taking part in any event on our campus.

Related procedures / documents:

- Student Disciplinary Regulations
- Event Management Policy
- Risk Management Policy
- Internet Use and Digital Communications Policy
- Emergency Management Policy
- Policy on Staff Conduct
- Health, Safety and Wellbeing Policy
- Social Media Policy and Guidelines

Document Management Control:

Prepared by: Provost

Authorised by: Provost

Date issued: September 2023

Next review: September 2026



EXTERNAL SPEAKER GUIDELINES

Section	University Management
Contact	Provost
Last Review	September 2022
Next Review	September 2025
Approval	C22/84
Effective Date	22 September 2022

Purpose

Massey University Te Kunenga ki Pūrehuroa has a legal duty to promote academic freedom, free speech/freedom of expression within the law. The university also has obligations under the Health and Safety at Work Act 2015 to ensure the physical and mental health and safety of students, staff and visitors.

The university's *Policy on Academic Freedom, Free Speech and Freedom of Expression* (henceforth known as the *Policy on Academic Freedom* or 'the Policy'), affirms the university's commitment to promoting such freedoms within the law, as well as specifying the responsibilities of exercising these freedoms.

External speakers play a key role in the life of the university, providing staff and students with opportunities to access a broad range of views and beliefs and encouraging students to develop their own informed opinions. These *External Speaker Guidelines* (henceforth known as 'the Guidelines') provide guidance for staff and students at the university to ensure that external speakers who wish to speak on campus (including virtual platforms hosted or owned by the university) or who are invited to speak on campus are aware of the expectations regarding the promotion of academic freedom, free speech/freedom of expression, and that any speakers remain within the law.

These Guidelines apply to all external speakers who have been invited to speak on campus or have requested a university-owned and operated venue to deliver an event, as well as any event that utilises the university's name away from the university and their Students' Association premises. These Guidelines should be read in conjunction with the Policy, the *Massey University Strategy 2022-2027*, the *Venue and Space Use Terms of Agreement* and the *Massey University Event Management Policy*.

These Guidelines should therefore be considered by all staff and students at Massey University Te Kunenga ki Pūrehuroa as well as external parties.

Staff and students have personal obligations under the Health and Safety at Work Act 2015 to take reasonable care for their own health and safety and to take reasonable care that their acts and omissions do not adversely affect the health and safety of other persons. Academic staff and students are expected to

exercise their academic freedom in a manner that is consistent with these legal obligations.

The university, through the auspices of the Vice-Chancellor or delegate has the right to withdraw any prior approval given to an external speaker considering new information that leads the university to reasonably believe that the external speaker might contravene its policies or the law.

External Speaker Notifications

It is expected that the event organiser will undertake a preliminary risk assessment for all external speakers. Where the risk assessment is medium or high it is recommended the relevant university officer is contacted so that they can either be advised and/or provide advice at least two weeks prior to the speaker's engagement.

The risk assessment should consider and address at least the following:

- Will the event be open to the public?
- Will the event be broadcast, streamed, or offered for download by the organisers and be available to the public?
- Does the proposed title or theme of the event present a potential risk where views or opinions expressed by speakers may be in breach of the university's policies?
- Will the event contravene, undermine, or diminish the rights and responsibilities or the University's commitment to upholding the Te Tiriti o Waitangi/the Treaty of Waitangi and the status of Māori as Mana Whenua and Tangata Whenua?
- Has the speaker previously been prevented from speaking at Massey University or another university or similar establishment, or previously been known to express views that may be in breach of Massey University policies?
- Is the subject matter or the speaker likely to attract protest, negative media coverage or otherwise be a potential threat to the reputation of the university?
- Is there any possibility of a situation arising in which people might experience harassment, intimidation, verbal abuse, or violence, or that those in attendance might be incited to engage in harassment, intimidation, verbal abuse, or violence directed at others, as defined within law and within the university's policies governing bullying and harassment and those of New Zealand?

While it is the responsibility of the event organiser to assess and address risks, generally:

- if the answer to all the questions above is NO, it is considered to indicate a LOW RISK.
- if the answer to any of the questions is unclear, or the answer to any of the first three questions above is YES, it is considered to indicate a MEDIUM RISK.
- if the answer to one or more of the last three questions above is YES, it is considered to indicate a HIGH RISK.

The event organiser should indicate clearly that:

- they have provided the correct information to the University so that the relevant university officer can fully consider possible risks associated with having the speaker at an event. Consideration should be given, amongst others, to physical, reputational, and mental harm to students, staff and/or visitors; and
- they have read both these Guidelines and the Policy and confirmed that they will share these with their external speaker(s) prior to arrival at the event so that both the event organiser and the speaker are aware of the university's policies and expectations; and
- if there is a change of topic or should the speaker have been replaced or is no longer able to attend the event, they will notify the relevant university officer.

The relevant university officer, and if required in consultation with the Deputy Vice-Chancellor University Services, will consider possible risks associated with the speaker, including physical, reputational and mental harm to students, staff and visitors, and the risk that the external speaker could contravene university policy or the law, before making a decision. If there are concerns regarding the physical, reputational and mental harms to students, staff and visitors, further advice may be sought from the Director, Governance and Assurance and/or the event organiser.

Should the matter need to be escalated beyond the relevant university officer, and the Director, Governance and Assurance concludes that the external speaker poses a significant risk to health and safety and other considerations noted in the Policy, the matter should be referred to the Incident Group, who will determine if the event should proceed.

An event organiser may appeal the outcome of a decision if they believe the decision was reached unfairly. In such case the event organiser should submit a detailed explanation of the grounds of any appeal by email directly to the Vice-Chancellor.

Considerations in preparation for the event

Guidance in relation to preparing and assessing a request may vary depending on whether the event organiser is a staff member or student, or whether the event relates to an internal or external booking.

An external speaker considered medium or high risk should not be confirmed until the event organiser has discussed this with the relevant university officer.

The university understands that circumstances relating to an external speaker notification may change, even at the last minute. In this case, it is the responsibility of the event organiser to inform the University, via the relevant university officer, or the relevant member of Students' Association staff, immediately if there is:

- a change in the arrangements which may lead to the contravention of university policy or the law;
or
- a change in external speaker or their topic.

If the University considers there to be a significant change in the attendant risks, the decision approving the event may be revised.

During an event

If, during the event, the event organiser or an attendee considers that the external speaker is contravening university policies or the law, or if there is a physical threat to those attending the event, they should inform University Security immediately.

After an event

If, after an event, it comes to light that the external speaker contravened university policies or the law, or if there was a significant risk to the university, its members or guests, then the relevant university officer who considered the possible risks associated with the event, and if required in consultation with the Deputy Vice-Chancellor University Services, may conduct a post-event review, the outcome of which may result in the university taking such action as may be appropriate in the circumstances.

Definitions:

- An **‘external speaker’** is any individual (or organisation) who is not a student or staff member of Massey University.
- **‘The relevant university officer’** in the context of this document refers to any member of the university’s Senior Leadership Team (SLT).
- An **‘event’** in the context of this policy is considered as a major university event; that is, any publicly-advertised meeting or activity organised by a staff or student member of Massey University or an external party that is considered by the university *not* to be associated with formal research or learning outcomes or does *not* form part of (or directly support) a credit-bearing programme of study offered by the university *and* is expected to attract a significantly large public audience *and* requires a central room or space booking.
- An **‘event organiser’** in the context of this policy is the staff or student member or external party who organises an event.
- The **‘incident group’** for the purposes of this document includes the Provost, the Director Governance & Assurance, and the Executive Director Marketing & Communications.
- The **‘review’** is the process by which the university will consider possible risks posed by an external speaker and mitigating actions that may be required in order to reduce the level of risk. The outcome of this review will be communicated to the event organiser who may appeal the decision. It is extremely



unusual for the university to refuse a request for a speaker, but there are occasions on which measures need to be taken to ensure that the event can take place safely and within appropriate conditions.

Audience:

All staff, students, visitors and external bodies within the university community.

Relevant legislation:

- New Zealand Bill of Rights Act 1990
- Human Rights Act 1993
- Amendments Injury Prevention, Rehabilitation Compensation Act 2001
- Health and Safety at Work Act 2015
- Harmful Digital Communications Act 2015
- Education and Training Act 2020

Legal compliance:

The Health and Safety at Work Act 2015 requires Massey University Te Kunenga ki Pūrehuroa to take all practicable steps to identify hazards in the workplace and to ensure that people working or visiting the university premises are not harmed from any hazard in or arising in the workplace. Accordingly, the university has a duty of care to staff, contractors and visitors taking part in any event on our campus.

Related procedures / documents:

- Policy on Academic Freedom
- Student Disciplinary Regulations
- Event Management Policy
- Risk Management Policy
- Internet Use and Digital Communications Policy
- Emergency Management Policy
- Policy on Staff Conduct
- Health, Safety and Wellbeing Policy

Document Management Control:

Prepared by: Provost



MASSEY
UNIVERSITY
TE KUNENGA KI PŪREHUROA

UNIVERSITY OF NEW ZEALAND

Massey University Policy Guide
External Speaker Guidelines – Page 6

Authorised by: Provost
Approved by: Council
Date issued: September 2022
Next review: September 2025