

KINGSTON MAURWARD SYSTEM
KMS



KMS 865 Freedom of Speech and Expression



Created by:	Deputy Principal Curriculum & Quality	Review Date:	September 2019
Approved by:	Strategic Management Team	Responsibility for Review:	Deputy Principal Curriculum & Quality
Date Approved:	January 2016		

KINGSTON MAURWARD SYSTEM

KMS

1. Introduction

- 1.1 Kingston Maurward College recognises and endorses that freedom of speech and expression within the law has fundamental importance for institutions as places of education, learning and the disinterested pursuit of truth. In particular, institutions are obliged under section 43 of the Education (No. 2) Act 1986 to take reasonable measures to protect freedom of lawful speech.
- 1.2 In addition, a principle of freedom of lawful expression is enshrined in Article 10 of the European Convention on Human Rights.
- 1.3 Kingston Maurward College is also required under Article 15 of the Instrument and Articles of Government 2015 to have regard 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 at risk of losing their jobs or any privileges they may have at Kingston Maurward College. Institutions have a responsibility, so far as is reasonably practicable, to protect and advance the principle of academic freedom.
- 1.4 This Code of Practice sets out the rights and obligations inherent within the principles of freedom of speech and expression and academic freedom and the Code shall be construed and applied in the spirit of upholding those principles wherever reasonably practicable within the law.
- 1.5 The Code of Practice covers freedom of speech and expression in whatever form that may take including but not limited to speeches, debates, meetings, demonstrations, written publications and through the use of social media.
- 1.6 The Code's rights and obligations shall apply to:
- 1.6.1 Kingston Maurward College, including members of the Governing Body;
 - 1.6.2 All persons whether academic staff or otherwise working for Kingston Maurward College whether for payment or otherwise;
 - 1.6.3 All duly enrolled students of Kingston Maurward College whether full or part-time;
 - 1.6.4 All students studying with Kingston Maurward College whether full or part-time under an agreement with a partner organisation of Kingston Maurward College e.g. a college or school even if not enrolled as students at Kingston Maurward College;
 - 1.6.5 All visitors/individuals who use premises for conferences, weddings and other functions;
 - 1.6.6 The students' union and any societies, clubs or associations which normally operate on Kingston Maurward College premises; and
 - 1.6.7 All persons invited to speak and/or express views whether in person or otherwise including through the use of social media and/or otherwise take part in activities which take place on or are planned or proposed or due to take place on Kingston Maurward College premises or through its ICT systems in accordance with the provisions of section 3 of this Code.
- 1.7 References in the Code to Kingston Maurward College premises and/or Kingston Maurward College facilities include premises and/or facilities which are owned by Kingston Maurward College, premises and/or facilities which Kingston Maurward College does not own but over which it exercises some degree of control, and premises and/or facilities occupied or controlled by Kingston Maurward College students' union whether or not Kingston Maurward College owns or has control of such premises and/or facilities.



Created by:	Deputy Principal Curriculum & Quality	Review Date:	September 2019
Approved by:	Strategic Management Team	Responsibility for Review:	Deputy Principal Curriculum & Quality
Date Approved:	January 2016		

**KINGSTON MAURWARD SYSTEM
KMS**

1.8 References in the Code to any institutional employee e.g. Deputy Principal Curriculum & Quality and the Principal & Chief Executive includes reference to their nominee.

2. Freedom of Speech and Expression

2.1 Kingston Maurward College shall take such steps as are reasonably practicable to ensure that freedom of speech and expression within the law is secured for every person to whom this Code's rights apply.

2.2 Every person to whom this Code's obligations apply shall assist Kingston Maurward College in upholding this Code of Practice.

2.3 Kingston Maurward College will not suppress freedom of speech and expression, however abhorrent certain expressions may be to the majority of the members of Kingston Maurward College, provided that:

- such speech and expressions do not go beyond the articulation of points of view and are within the law and do not constitute incitement to riot, insurrection, racial hatred, religious hatred, sexual harassment or other activities which are likely to cause a breach of the peace or public disorder, significantly increase the risk of an individual being drawn into terrorism or otherwise be unlawful, and
- by allowing such views to be expressed, and by allowing the activity to take place in the format proposed for example, a non-religious event being held with men and women in segregated seating, Kingston Maurward College would not be failing in its wider legal duties, in particular to have due regard in carrying out its functions to the need to—
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it and
 - d) prevent people being drawn into terrorism and extremism, including non-violent extremism.

2.4 Kingston Maurward College shall ensure, so far as is reasonably practicable, that the use of its premises and facilities is not denied to any individual or body of persons on any ground connected with:

2.4.1 the beliefs or views of such individual or any member of such body; or

2.4.2 the policy or objectives of such body.

2.5 Every person to whom this Code's obligations apply shall refrain from organising or engaging in or otherwise being associated with any conduct (other than by lawful, reasonable and peaceful persuasion) intended to prevent the enjoyment of rights under this Code of Practice.



Created by:	Deputy Principal Curriculum & Quality	Review Date:	September 2019
Approved by:	Strategic Management Team	Responsibility for Review:	Deputy Principal Curriculum & Quality
Date Approved:	January 2016		

KINGSTON MAURWARD SYSTEM KMS

- 2.6 Kingston Maurward College shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the obligations under this Code of Practice are complied with.
- 2.7 Vulnerable Students - Special regard will be paid to vulnerable students who may have an increased risk of being targeted for radicalisation by extremist groups.

3. The Holding of Activities

- 3.1 References in the Code to activities include, but are not limited to, meetings, demonstrations, events and publications through whatever media (including social media) which take place or are proposed or planned or due to take place on Kingston Maurward College premises or through its ICT systems.
- 3.2 Kingston Maurward College has the responsibility to take reasonable steps to maintain good order on its premises. It has the right and the power to regulate and, if necessary, to impose conditions or restrictions upon activities which take place or are planned or proposed or due to take place on its premises or through its ICT systems. The organisation and holding of any such activities, and the arrangements therefore, must comply with this Code of Practice.
- 3.3 Any person to whom this Code's rights apply must submit a request, in writing, to the Deputy Principal, Curriculum & Quality of Kingston Maurward College for permission for an activity to take place where it is reasonably foreseeable (in the reasonable opinion of the Deputy Principal, Curriculum & Quality) that the activity may be attended by one or more people and will raise issues which may be controversial in some way.

Any such request should be submitted to Deputy Principal, Curriculum & Quality not less than fourteen days before the proposed date of the activity and must contain details of the proposed subject matter and the purpose and format of the activity, including seating arrangements, the name and identity of any speakers or authors and the proposed timing and location of the activity.

- 3.4 Any organisers of any activity shall, if there is any doubt as to whether the activity may, in the reasonable opinion of the Deputy Principal Curriculum & Quality, be controversial, consult the Deputy Principal Curriculum & Quality at the very earliest opportunity so that the correct procedures may be followed.
- 3.5 Save in exceptional circumstances where more time is required before a decision can be made, within five of working days of receiving a written request providing all of the information required by paragraph 3.3 above the Deputy Principal, Curriculum & Quality shall issue a written decision in reply which shall either grant or withhold permission for the activity to take place on Kingston Maurward College premises or through its ICT systems.

Where the required information is not provided the Deputy Principal, Curriculum & Quality will issue a decision (which is likely to be refusal to allow the activity to go ahead) before the date of the planned activity.

Until permission is received no activity subject to this Code may take place.

Permission granted under this Code may be subject to such conditions or restrictions (for example, as to security precautions, payment of charges, limits on numbers of people to be



Created by:	Deputy Principal Curriculum & Quality	Review Date:	September 2019
Approved by:	Strategic Management Team	Responsibility for Review:	Deputy Principal Curriculum & Quality
Date Approved:	January 2016		

KINGSTON MAURWARD SYSTEM KMS

admitted, seating arrangements or form of publication) as the Deputy Principal, Curriculum & Quality reasonably sees fit.

- 3.6 Kingston Maurward College will not unreasonably refuse to allow activities to take place on its premises or through its ICT systems. The expression of controversial views which do not breach the law or risk a breach of the law will not of itself constitute reasonable grounds for withholding permission for an activity. Reasonable grounds for refusal would include (but are not limited to) the fact that, if the activity were to take place, a risk would arise that, within the premises of Kingston Maurward College and/or the scope of its ICT systems there would be:
- 3.6.1 Incitement to commit a criminal act;
 - 3.6.2 The unlawful expression of views;
 - 3.6.3 Support of an organisation whose aims and objectives are illegal;
 - 3.6.4 The foreseeability that an individual might be drawn into terrorism including non-violent extremism and/or
 - 3.6.5 A breach of the peace.
- 3.7 In determining whether permission for an activity to take place on the Kingston Maurward College premises and/or through its ICT system might reasonably be refused, consideration may be given by Deputy Principal, Curriculum & Quality as is appropriate in the circumstances to:
- 3.7.1 the safety of persons attending the activity or otherwise foreseeably affected by the activity and/or on Kingston Maurward College premises who might foreseeably be put at risk;
 - 3.7.2 The security of the Kingston Maurward College premises; and
 - 3.7.3 The good name and reputation of Kingston Maurward College.
- 3.8 A request for an appeal against a decision of the Deputy Principal, Curriculum & Quality may be made, in writing, to the Principal within two days of the issue of the Deputy Principal, Curriculum & Quality's decision. The decision of the Principal shall be final and binding. The Principal may also impose such conditions or restrictions on the activity taking place as they reasonably see fit.

4. Practical Measures

- 4.1 Kingston Maurward College shall permit the use of its premises and ICT systems only by organisers or other individuals otherwise involved in an activity or proposed activity who undertake in writing to comply with all lawful instructions and conditions issued by Kingston Maurward College in relation to (but not limited to) the location, arrangements, form and conduct of such activities, including adequate stewarding, chairing and provision of adequate control over entry.



Created by:	Deputy Principal Curriculum & Quality	Review Date:	September 2019
Approved by:	Strategic Management Team	Responsibility for Review:	Deputy Principal Curriculum & Quality
Date Approved:	January 2016		

KINGSTON MAURWARD SYSTEM KMS

- 4.2 In cases in which it is reasonable to assume that there is a possibility of disruption arising from the taking place of an activity, Kingston Maurward College may consult with the police. If the activity is a public one the police may be prepared to be present throughout the event to minimise any disruption.
- 4.3 Any organisers or other individuals otherwise involved with an activity to take place on Kingston Maurward College premises or through its ICT systems shall be responsible for any costs involved in organising and holding such activities and for ensuring, as far as reasonably possible, that nothing in the organisation and holding or arrangements of such activities infringes the law or any Kingston Maurward College rules, regulation or procedure in any way.

5. Sanctions and Penalties

- 5.1 Any member of the Governing Body who breaches this Code may be removed from office under clause ten of Kingston Maurward College Instrument & Articles of Government 2015.
- 5.2 Where those responsible for the breach are students or staff of Kingston Maurward College action may be taken against them under the relevant disciplinary procedure.
- 5.3 Where those responsible for the breach are students or staff of a partner organisation of Kingston Maurward College the Deputy Principal, Curriculum & Quality shall consider whether to inform the partner organisation with a view to that partner organisation taking action (whether as well as or instead of) under its relevant disciplinary procedure.
- 5.4 Where a breach of this Code of Practice takes place at an activity or as a result of an activity taking place, Kingston Maurward College may take steps to assist the police to secure identification of the persons suspected of committing offences with a view to appropriate action being taken against them.

6. Review and Amendment of Code

Kingston Maurward College acknowledges its duty under subsection 3 of section 43 of the Education (No. 2) Act 1986 to issue and keep up to date a Code of Practice on freedom of speech. With this end in view, the Governing Body will receive a report on the operation of the Code by the Deputy Principal, Curriculum & Quality, together with any recommendations for revision of it, at intervals not exceeding 3 years.

©Eversheds LLP, 2015 all rights reserved.

The Eversheds LLP Template Code of Practice on Freedom of Speech and Expression and the accompanying document on the Legal Framework for Freedom of Speech in Universities and Colleges including guidance on the Counter-Terrorism and Security Act 2015 may not be reproduced in whole or part in any material form including photocopying or storing it in any medium by electronic Means without the prior consent of Eversheds LLP, save that further education institutions which are fully paid subscribers to the Eversheds LLP Governance Subscription Plus Service are hereby licensed to copy the whole of the Legal Framework document and the Code, and to copy and adapt the Code, for internal use only.



Created by:	Deputy Principal Curriculum & Quality	Review Date:	September 2019
Approved by:	Strategic Management Team	Responsibility for Review:	Deputy Principal Curriculum & Quality
Date Approved:	January 2016		

**KINGSTON MAURWARD SYSTEM
KMS**



Created by:	Deputy Principal Curriculum & Quality	Review Date:	September 2019
Approved by:	Strategic Management Team	Responsibility for Review:	Deputy Principal Curriculum & Quality
Date Approved:	January 2016		