

POLICY ON ACADEMIC FREEDOM, FREE SPEECH AND FREEDOM OF EXPRESSION

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Purpose

Fundamental to our mission as academic and professional staff at Massey University is a commitment to the values of academic freedom, 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 marginalised in the past.

At the very 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 our mission and we do not privilege one type of discipline or approach over another.

Accordingly, this policy defines the core principles of free speech and the freedom of expression within the context of the academy and Massey University. It also outlines the responsibilities of both staff and students in exercising these freedoms.

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 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.

Policy

Academic Freedom and Freedom of Expression

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 we 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 our role in contributing to the advancement of knowledge.
2. New Zealand universities and their staff are further mandated in this by the Education Act 1989, particularly in relation to fulfilling our role as ‘critic and conscience’ of society. Academic freedom is clearly defined in s161 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 policy affirms academic freedom as it is stated in the Act.
3. In addition, 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 the responsibility to ‘speak truth to power’.
4. 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 citizens in and contributors to the communities we serve. In short, the plurality of views and the ability to express these views characterises universities.
5. Massey University considers that academic staff should do all they can to affirm and encourage such freedoms; as teachers, researchers, professional staff and managers, and as public intellectuals.
6. At our University, the culture of freedom of research, teaching and expression 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. Free speech is fundamental to these roles and outcomes.
7. It is generally recognised 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 evidence and scholarship.
8. 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 experience.

9. The University has a duty of care towards students and that this includes ensuring equal access to the right to free speech, including providing an environment, spaces, opportunities and platforms where all voices can be heard, including the opportunity for those who may feel attacked or marginalised to reply. It follows then that the University will provide support to 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.
10. The freedoms affirmed in this Policy are also asserted in sec 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.
11. There is the risk that the *definition* of the concepts of academic freedom, free speech and freedom of expression may be viewed as a constraint on their meanings or applications. While noting that the unintended consequence of any such codification may be seen to limit rather than encourage the notions of academic freedom and free speech, it should also be noted that all freedoms come with responsibilities.

Responsibilities of Academic Staff and Students in Exercising Academic Freedom of Expression

12. As noted in 7 and 8 above, 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 respectful, meaningful and 'mana-enhancing' dialogue is the right to express opinions in a robust and open way, but also in a manner that encourages learning and recognises that others might hold very different views.
13. 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.
14. The freedom of expression and the exchange of views are critical to who we are. In the context of the statutory duty of a university, it is integral to our identity and our mandate 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/'race', gender and sexual diversity, religion, national origin, ability or age, or other identities (as appropriate). We should not limit the freedom of others through intimidation, fear or suppression.
15. 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 sec 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.’

16. Inevitably, at times, there is a fine line between speech that contributes to robust debate and that which stigmatises and silences. We need to reflect the diversity of the communities we serve as public institutions, 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 through speech which is ill-informed or disparaging.
17. 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 should be respectful and should not seek to disparage, marginalise, stigmatise or incite hostility.
18. 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 Te Tiriti o Waitangi elements in the *Massey University Strategy*.

Ko Te Kunenga ki Pūrehuroa te kaupapa e tū ngātahi ai tātou hei waihanga i ngā momo mātauranga ki te pae o angitu. He ara putanga taurā, he ara e hua ai ngā tini kaupapa ki Aotearoa puta noa i te ao whānui. Kia toi te mana motuhake o te iwi Māori, kia toi te reo Māori, kia toi te ora o te tangata, te rangi me te whenua mā reira e whakatinana ai te mana o Te Tiriti o Waitangi.

Te Kunenga ki Pūrehuroa is the foundation upon which we stand together in partnership enabling the creation of knowledge that reaches the highest possible levels of advancement and attainment. It provides a pathway for students to embark upon journeys of knowledge acquisition and embraces knowledge relevant to our country and to our wider world. We promote the determination of Māori-led aspirations, the active use of Te Reo Māori, the vitality and wellbeing of all people and our environment in order give full and authentic expression to the eminence of Te Tiriti o Waitangi.

19. In addition to affirming the University’s commitment to promoting academic freedom and freedom of speech within the law, this policy also outlines circumstances in which academic freedom and freedom of speech might properly be restricted.
20. 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; 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.

21. The University, through the auspices of the Vice-Chancellor or delegate, retains the right to refuse permission for invited speakers to speak on campus when their remarks are likely to be unlawful or make no meaningful contribution to scholarly activity.

Audience:

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

Relevant legislation:

- Education Act 1989
- Human Rights Act 1993
- New Zealand Bill of Rights Act 1990
- Health and Safety at Work Act 2015
- Amendments Injury Prevention, Rehabilitation Compensation Act 2001
- Harmful Digital Communications Act 2015

Legal compliance:

The Health and Safety at Work Act 2015 requires Massey University 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, Massey University has a duty of care to staff, contractors and visitors taking part in any event on our campus.

Related procedures / documents:

- Student Disciplinary Regulations (currently under revision)
- Event Management Policy
- Risk Management Policy
- Event Application Form (Manawatū)
- Event Application Form (Albany, Wellington and off-campus)
- Event Health and Safety Form
- Internet Use and Digital Communications Policy
- Emergency Management Policy
- Policy on Staff Conduct
- Health, Safety and Wellbeing Policy

Document Management Control:

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