Statement on Academic Freedom and Freedom of Speech

Section 1 - Purpose

(1) Charles Sturt University (the University) is committed to upholding the principles of academic freedom and freedom of speech, ensuring the search for and delivery of knowledge is not constrained beyond any limitations specified in this statement.

(2) The promotion of free inquiry is a key object cited in the University's Act. The Enterprise Agreement also provides protection for intellectual freedom. Further relevant statements are expressed in university policies, including the Code of Conduct and Student Charter, and other government legislation.

(3) In maintaining this commitment, the University has established this statement, outlining the principles by which academic freedom and freedom of speech must be upheld.

(4) The purpose of this statement is to affirm the University's objective that staff, students and visitors have the right of lawful free speech and academic freedom, without unnecessary burden or restriction.

Scope

(5) This statement applies to:

a. University Council, Academic Senate and their members,
b. all staff members of the University,
c. all students of the University including student representative bodies,
d. invited visiting speakers,
e. external visiting speakers, and
f. others attending activities of, or performing activities for, the University, including contractors, visitors, adjunct staff, emeritus appointees and volunteers.

(6) This statement does not apply to those acting in a personal or non-University capacity, where it is clear that any lawful public comment is not being made as a representative of the University.

Section 2 - Glossary

(7) Academic freedom means:

a. the freedom of academic staff to teach, discuss, and research and to 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 higher education provider in which they work or are enrolled,

d. the freedom of academic staff to participate in professional or representative academic bodies,
e. the freedom of students to participate in student societies and associations, and
f. the autonomy of the higher education provider 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.

(8) Academic staff – those employed by the University or its partners to teach and/or conduct research, those who provide teaching services and/or conduct research at the University, and adjunct academic staff.

(9) Duty to foster the wellbeing and ensure the safety of staff, students and visitors:

a. includes the duty to ensure that no member of staff, no student and no visitor suffers unfair disadvantage or unfair adverse discrimination on any basis recognised by law including race, gender, sexuality, religion, disability and political belief,
b. includes the duty to ensure that no member of staff, no student and no visitor is subject to threatening or intimidating behaviour by another person or persons on account of anything they have said or proposed to say in 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, intimidate, harass or bully and which is intended to have any of these effects, and
d. does not extend to a duty to protect any person from feeling offended or shocked or insulted by the lawful speech of another.

(10) External visiting speaker – any person who is not an invited visiting speaker and for whom permission is sought to speak on the University's land or facilities, or at a University meeting or event.

(11) Freedom of speech – the right to hold opinions, and seek, receive and impart information and ideas of all kinds without interference, but subject to restrictions provided by law and necessary to protect others (clause 32).

(12) Intellectual freedom – the rights attached to academic freedom and freedom of speech.

(13) Invited visiting speaker – any person who has been invited by the University to speak on the University's land or facilities, or at a University meeting or event.

(14) Reasonable grounds – exist where the content of a speech is or is likely to be unlawful, inhibit the University's duty to foster the wellbeing of staff, students or visitors, or involve the advancement of theories or propositions which fall below scholarly standards to such an extent as to damage the University's character as an institution of higher learning.

(15) Speech – all forms of expressive conduct including oral, written, artistic, musical, performing and social media; the word 'speak' has a corresponding meaning.

(16) Staff – includes all employees of the University or its partners, irrespective of employment type, whether full-time or part-time and whether or not academic staff.

(17) Unlawful – means in contravention of a prohibition or restriction or condition imposed by law.

Section 3 - Policy

Principles

(18) Academic freedom and freedom of speech are a defining value, critical to the pursuit of knowledge through

scholarship, research, teaching and academic excellence.

(19) Unlawful speech and conduct is not permitted under any circumstances.

(20) Informed views derived through scholarly standards, academic rigour and ethical conduct may be presented, even though they may be contentious, uncomfortable or unpopular.

(21) The lawful exercise of academic freedom and freedom of speech will not attract any adverse action or penalty solely due to its content.

(22) Visitors should not be refused permission to use University land or facilities, or speak at a University meeting or event, based solely on the lawful content of their proposed speech.

(23) The University must take steps to ensure there are no conditions attached to third party arrangements or donations that may unnecessarily burden or restrict academic freedom and freedom of speech.

(24) The University shall have regard to this statement in carrying out its functions and this statement shall prevail in the event of any inconsistency with non-legislative rules, codes, policies, procedures, guidelines or similar instruments of the University or any of its bodies or organs. Otherwise, in the event of any inconsistency, this statement does not have overriding legal effect on any statutory rule, code, policy, procedure, guideline or similar instrument of the University, or delegated legislation, employment contract or industrial agreement.

(25) Any power or discretion conferred on the University either by a law made by the University, or under any contract or workplace agreement, shall be exercised so far as either that law allows, or as is consistent with the terms of that contract or workplace agreement, in accordance with the Principles of the Model Code.

Rights

(26) Staff have the right to:

a. express opinions, pursue truth and understanding, engage in open and robust debate, undertake research and publish, and
b. undertake the activities in clause 26a without fear of being harassed, intimidated or vilified, or being subject to unnecessary burden, restriction, adverse action or penalty.

(27) Students have the right to:

a. express opinions, pursue truth and understanding in the context of their courses and university experience, engage in open and robust debate, and research and publish in the context of their courses, and
b. undertake the activities in clause 27a without fear of being harassed, intimidated or vilified, or being subject to unnecessary burden, restriction, adverse action or penalty.

(28) Invited visiting speakers and external visiting speakers have the right to:

a. seek permission to use University land or facilities, or speak at a University meeting or event,
b. express opinions and engage in open and robust debate, and
c. undertake the activities in clauses 28a and 28b without fear of being harassed, intimidated or vilified, or being subject to unnecessary burden, restriction, adverse action or penalty.

(29) The University has a right to:

a. determine the terms and conditions by which invited visiting speakers and external visiting speakers may use University land and facilities or speak at a University meeting or event,

b. refuse or withdraw permission, based on reasonable grounds, for any invited visiting speaker or external visiting speaker to use University land and facilities or speak at a University meeting or event, and
c. require those seeking permission to use University land or facilities to contribute in whole or in part to the cost of security and other measures in connection with any event an external visiting speaker is to speak, in order to maintain public safety and order.

Responsibilities

(30) Staff, students, invited visiting speakers and external visiting speakers have the responsibility to:

a. act within the law and in accordance with the University's strategy, policies, procedures and similar instruments,
b. comply with the University's conduct requirements necessary to discharge its teaching and research activities,
c. comply with any terms and conditions in their offers of admission, employment contracts, or invitations,
d. adhere to any terms and conditions set by the University for the use of its land or facilities,
e. allow others to express themselves, and to hear and receive information and opinions, and
f. clearly identify whether their views are being made in a personal capacity or as a representative of the University, including whether the views expressed are their own and not that of the University.

(31) The University has a responsibility to:

a. act within the law and in accordance with its policies, procedures and similar instruments,
b. foster the wellbeing and ensure the safety of staff, students and visitors,
c. uphold the principles of academic freedom and freedom of speech,
d. investigate complaints regarding breaches of this statement and claims of unnecessary burden or restriction of academic freedom or freedom of speech, and
e. support staff whose right to academic freedom and freedom of speech is threatened in the lawful performance of their duties.

Restrictions

(32) There may be circumstances where the University's upholding of the principles of academic freedom and freedom of speech cannot extend interminably due to:

a. the requirement to act within the laws prohibiting discrimination, bullying, harassment, intimidation, vilification and defamation,
b. the requirement to act within the laws protecting contracts, privacy, confidentiality and intellectual property,
c. the responsibility to foster the wellbeing and ensure the safety of staff, students and visitors,
d. the right to determine terms and conditions by which University land and facilities may be used, including requiring users to contribute in whole or in part to relevant costs, and
e. reasonable and proportionate regulation of conduct necessary to discharge the University's teaching and research activities.

Section 4 - Procedure

(33) Complaints regarding breaches of this statement and claims of unnecessary burden or restriction of academic freedom or freedom of speech shall be managed according to the Complaints Management Policy and Complaints Management Procedure. The University Ombudsman shall nominate the Vice-Chancellor to act as the complaint manager.

(34) Requests to use University land or facilities to hold a speaking event must be processed through the University's Events Page.

Section 5 - Guidelines

(35) Nil.

Section 6 - Resources and Acknowledgement

(36) Charles Sturt University acknowledges the following resources used to assist in the creation of this statement:

a. Griffith University Academic Freedom and Freedom of Speech Policy
b. University of Newcastle Code for the Protection of Freedom of Speech and Academic Freedom
c. Federation University Academic Freedom Policy
d. La Trobe University Protection of Freedom of Speech and Academic Freedom Policy
e. University of Technology, Sydney Academic Freedom and Freedom of Speech website and Academic Freedom and Freedom of Expression Policy
f. UNSW Academic Freedom and Freedom of Speech Code of Conduct
g. University of Tasmania Academic Freedom and Free Speech Policy
h. University of Canberra Academic Freedom Policy
i. James Cook University Academic Freedom Policy
j. University of Melbourne Freedom of Speech Policy
k. University of Wollongong Council Statement on Academic Freedom
l. Higher Education Support Amendment (Freedom of Speech) Act 2021
m. Model Code for the Protection of Freedom of Speech and Academic Freedom in Australian Higher Education Providers (as revised by Chancellors' Council Working Group, June 2019) (the Model Code)
n. Australian Human Rights Commission – Freedom of information, opinion and expression

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