

Academic Freedom and Freedom of Speech Policy

1. Scope

This applies to the governing body of Holmes, its officers and employees and its decision-making bodies, including those exercising academic governance responsibilities, and students and any student representative body.

2. Purpose

The purpose of this policy is to:

- 2.1 Ensure that the freedom of lawful speech of staff and students of Holmes Institute Pty Ltd (“Holmes”) and visitors to Holmes, which they share with all people, is treated as a paramount value and is not restricted nor its exercise burdened by limits or conditions other than those imposed by law or by reasonable regulation of access to and use of Holmes’ land and facilities and the discharge of its legal duties of care to those who come on to its land whether as staff, student or visitors and its duty to foster the wellbeing of students and staff.
- 2.2 Ensure that freedom of speech and intellectual inquiry as aspects of academic freedom are treated as paramount values by Holmes.
- 2.3 Affirm the importance which Holmes accords to its institutional autonomy under law in the regulation of its affairs, including in the protection of freedom of speech and 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, and research and to disseminate and publish the results of their research without restriction by established scholarly consensus or institutional policy, but subject to scholarly standards;
 - 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 Holmes free from institutional censorship or sanction;
 - d) The freedom of academic staff and students to make public comment on any issue in their personal capacities, not speaking either on behalf of Holmes or as an officer of Holmes;
 - 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; and
 - g) The autonomy of Holmes which resides in its governors, executive and academic staff 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 **External Visiting Speaker** is any person who is not an invited visiting speaker and for whom permission is sought to speak on Holmes' land or facilities.
- 3.3 **Invited Visiting Speaker** is any person who has been invited by Holmes or by a student society or association or group of students or representative body or by a member or members of the academic staff of Holmes to speak on Holmes' land or use Holmes' facilities.
- 3.4 **Speech** extends to all forms of expressive conduct including oral speech and written, artistic, musical and performing works and activity; the word 'speak' has a corresponding meaning.
- 3.5 **The Duty to Foster the Wellbeing of Staff and Students**
- a) Includes the duty to ensure that no member of staff and no student suffers unfair disadvantage or unfair adverse discrimination by reason of their inherent attributes;
 - 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 in exercising their freedom of speech;
 - c) Supports reasonable and proportionate measures to prevent any person from using lawful speech which is intended to insult, humiliate or intimidate other persons and which a reasonable person would regard, in the circumstances, as likely to have one or more of those 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.
- 3.6 **Holmes** means Holmes Institute Pty Ltd as an entity and includes its decision-making organs and officers.

4. Operation

- 4.1 This policy prevails, to the extent of any inconsistency, over any rule, code, guidelines, principles or policies of Holmes and of any of its organs and of a student representative body.
- 4.2 Any power or discretion conferred on Holmes or the student representative body including powers or discretions conferred under contract or workplace agreements or deriving from property rights, whether as to real or other property, shall be exercised, so far as is reasonably practicable, in accordance with this policy.

5. Policy Principles and Standards

- 5.1 Every member of the staff and every student at Holmes has the same freedom of

speech in connection with activities conducted on Holmes' land or otherwise in connection with Holmes related activities, as any other person in Australia subject only to the constraints imposed by:

- a) The reasonable and proportionate regulation of conduct necessary to the discharge of Holmes' teaching and research activities;
 - b) The right and freedom of all to express themselves and to hear and receive information and opinions; and
 - c) The reasonable and proportionate regulation of conduct to enable Holmes to fulfil its duty to foster the wellbeing of students and staff.
- 5.2 Subject to reasonable and proportionate regulation of the kind referred to in the previous principle, a person's lawful expressive conduct on Holmes' land or in or in connection with a Holmes activity shall not constitute misconduct nor attract any penalty or other adverse action by reference only to its content or manner of delivery.
- 5.3 The exercise by a member of the academic staff or of a student of academic freedom shall not constitute misconduct nor attract any penalty or other adverse action.
- 5.4 In entering into affiliation, collaborative or contractual arrangements with third parties and in accepting donations from third parties subject to conditions, Holmes shall take all reasonable steps to minimise the constraints 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.
- 5.5 Holmes has the right and responsibility to determine the terms and conditions upon which it shall permit external visitors and invited visitors to speak on its land and use its facilities and in so doing will:
- a) Require the person or persons organising the event to provide information relevant to the conduct of any event, and any public safety and security issues, to the Dean (Operations) and/or the Chief Executive Officer at least 10 working days prior to the event;
 - b) Distinguish between invited visitors and external visitors in framing any such requirements and conditions;
 - c) Have the right to refuse permission to any invited visitor or external visitor to speak on Holmes' land or at Holmes' facilities where the content of the speech is or is likely to:
 - i. Be unlawful;
 - ii. Prejudice the fulfilment by Holmes of its duty to foster the wellbeing of staff and students; and
 - iii. Involve the advancement of theories or propositions which do not meet scholarly standards to such an extent as to be detrimental to Holmes' character as an institution of higher learning; and
 - d) In the case of an external visitor, require the person or persons seeking permission for the use of Holmes' land or facilities 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 external visitor is speaking.
- 5.6 Subject to the preceding principles Holmes shall not refuse permission for the

use of its land or facilities by an external visitor or invited visitor solely on the basis of the likely content of the proposed speech by the visitor.

- 5.7 Consistently with this policy Holmes may take reasonable and proportionate steps to ensure that all prospective students in any of its courses has an opportunity to be fully informed of the content of those courses, and to seek advice about their content, provided that academic staff are not precluded from including content on the grounds that it may offend or shock any student or class of students.
- 5.8 Consistently with the principles set out in this policy, Holmes, in the discharge of its duty to foster the wellbeing of students, may provide special support including dedicated rooms or places for any particular group of students which is likely to benefit from such support.

Version Control and Accountable Officers

It is the joint responsibility of the Implementation Officer and Responsible Officer to ensure compliance with this policy.

Responsible Officer	Dean, Operations		
Implementation Officers	Dean, Operations in liaison with Campus Directors		
Review Date	August 2022		
Approved by			
Governing Council			
Associated Documents			
Acceptable Use of Information Technology Code of Conduct Policy Student Charter and Student Conduct Policy			
Version	Brief Description of the Changes	Date Approved	Effective Date
1	New policy	6 Dec 2019	6 Dec 2019