

On Academic Freedom and Responsibility

Although the Education Act 1989 requires universities to “accept a role as critic and conscience of society” (section 162(4)(a)(v)), the issue of what academic staff and students may or may not say is often a vexed one. Expressions of particular views by members of the University occasionally lead to complaints that those views are “unreasonable” or “hurtful to others”. In extreme cases they may lead to calls for the individual expressing the views to be censured by or dismissed from the University.

The following comments are offered in an attempt to help people think about issues for which there are no hard and fast rules as to what is or is not acceptable.

In New Zealand, the concept of academic freedom is enshrined in legislation. Section 161 of the Education Amendment Act 1990 states:

161 Academic Freedom

1. *It is declared to be the intention of Parliament in enacting the provisions of this Act relating to institutions that academic freedom and the autonomy of institutions are to be preserved and enhanced.*
2. *For the purposes of this section, **academic freedom**, in relation to an institution, means –*
 - a. *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;*
 - b. *the freedom of academic staff and students to engage in research;*
 - c. *the freedom of the institution and its staff to regulate the subject-matter of courses taught at the institution;*
 - d. *the freedom of the institution and its staff to teach and assess students in the manner they consider best promotes learning;*
 - e. *the freedom of the institution through its chief executive to appoint its own staff.*
3. *In exercising their academic freedom and autonomy, institutions shall act in a manner that is consistent with-*
 - a. *the need for the maintenance by institutions of the highest ethical standards and the need to permit public scrutiny to ensure the maintenance of those standards; and*
 - b. *the need for accountability by institutions and the proper use by institutions of resources allocated to them.*
4. *In the performance of their functions the councils and chief executives of institutions, Ministers, and authorities and agencies of the Crown shall act in all respects so as to give effect to the intention of Parliament as expressed in this section.*

Several important points arise from these provisions.

First, there is a clear intention that these academic freedoms be *preserved and enhanced*. They are critical to the functioning of a democratic society, and should not be given up or restricted lightly. Such privileges are essentially unknown in many societies.

Second, it is the provision that academic staff and students are accorded the freedom to to *question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions* that causes the greatest amount of debate, and sometimes complaints of misconduct. What one person regards as a *new idea* or *controversial or unpopular opinion*, another may regard as “patently false” or “insulting” or even “hate speech”.

Third, the exercise of these freedoms must be conducted *within the law* and to the *highest ethical standards*. Those voicing opinions are not immune to - for example - the laws of slander or libel, or Human Rights legislation.

Thus when considering whether a particular communication is appropriate, we need to balance the rights accorded academic staff and students under the Education Act against the constraints imposed by other aspects of New Zealand law, and the obligation that we all have as members of a civilised society to treat each other with respect and do no unnecessary harm.