

CODE OF PRACTICE RELATING TO UNIVERSITY OF SUNDERLAND STUDENTS' UNION

1. Introduction

- 1.1 Section 22 of the Education Act 1994 (the "Act") requires governing bodies of universities to take such steps as are reasonably practicable to secure that any students' union at the university operates in a fair and democratic manner and is accountable for its finances.
- 1.2 This Code of Practice has been published by the Board of Governors of the University of Sunderland in accordance with the requirements of S22(3) of the Act which provides that the Board of Governors shall prepare and issue and, where necessary, revise a code of practice setting out details of arrangements made to secure observance of the requirements under the Act relating to Students' Unions.
- 1.3 The requirements set out under the Act comprise matters relating to :
 - Constitution
 - Membership
 - Elections
 - Finance
 - Affiliations
 - Complaints
 - Notification requirements

2. Constitution / Articles of Association

- 2.1 The Students' Union, now a company limited by guarantee, has been established and conducts and manages its affairs under Articles of Association ("Articles") approved by the Board of Governors of the University in accordance with the provisions of Article 12 of the University's Articles of Government. The Articles replace the previous constitution that was approved by the Board of Governors for the Union as a previously unincorporated association.
- 2.2 The Constitutional Committee of the Union will review the Articles at regular intervals and make any proposals for amendment to the Articles to the Union's Board of Trustees as deemed appropriate. Any amendments to the Students' Union Articles must be submitted to and approved by the Board of Governors before any such amendments can take legal effect.
- 2.3 In addition to the above, the Board of Governors has resolved to review and, where necessary, revise the Students' Union Articles in consultation with the Students' Union every five years and have instructed the Clerk to the Board of Governors accordingly.

3. Membership

- 3.1 Any registered student has the right not to be a member of the Students' Union if he/she wishes and not to be unfairly disadvantaged by reason of having exercised that right.
- 3.2 Students wishing not to be members of the Students' Union must indicate that wish in writing by completing and returning the relevant form (available from the Students' Union reception) in accordance with the procedure for opting out of membership as set out in the Union's bye-laws. The decision to opt out of membership will remain

effective for the duration of their current academic year unless they take specific action to resume membership. Students wishing to opt out in following academic years will need to complete the form again at the start of each academic year. Students may opt out only once in each academic year but can opt back in again within 60 working days of opting out. Those wishing to resume membership should do so by indicating their wish in writing to the President of USSU, c/o the Students' Union Chief Executive.

- 3.3 The Students' Union Chief Executive will forward to the Clerk to the Board of Governors copies of all correspondence requesting membership withdrawal or resumption within five working days of their receipt.

4. Elections

- 4.1 Elections to all Students' Union offices shall be by secret, cross-campus ballot in which all members (as so permitted by the Articles) are entitled to vote and conducted in accordance with the election arrangements set out in the Union's Bye-Laws.
- 4.2 The Board of Governors will satisfy itself that elections are fairly and properly conducted and be advised thereon by the Clerk to the Board of Governors who will receive an annual report from the Students' Union Chief Executive in the capacity of Returning Officer.
- 4.3 The Articles of the Students' Union require all elections to be by secret, cross-campus ballot and conducted in accordance with the election arrangements set out in the Union's Bye-Laws and sets out the responsibilities of the Students' Union Chief Executive in his/her capacity as Returning Officer.
- 4.4 Any student who believes that the approved electoral arrangements have not been fairly and properly conducted should raise the matter with the Students' Union Chief Executive as Returning Officer. Issues so raised will be included in the Students' Union Chief Executive's annual report. Where the issue relates to the Returning Officer the matter should be raised with the current President.
- 4.5 No person shall hold sabbatical office or paid elected union office for more than two years in total at the University.

5. Finance

- 5.1 The Students' Union, through its Board of Trustees, is responsible for the proper conduct of its financial affairs and for ensuring that funds provided to it by the University are used only in accordance with the Education Act 1994 and other statutory and charity requirements as applicable.
- 5.2 The Students' Union shall require the Students' Union Chief Executive to satisfy the University that all such requirements are complied with and to advise the Students' Union if at any time action or policy is being considered which appears to the Students' Union Chief Executive to be incompatible with the terms of this Code of Practice relating to Finance and Affiliations. Should the Students' Union nevertheless decide to proceed, the Students' Union Chief Executive is required to inform the University in writing.

In particular, the Students' Union is required to:

- a Maintain accounts and accounting records in accordance with normal professional accounting principles.

- b Maintain a sound system of internal financial management and control.
- c Plan and conduct its financial affairs so as to ensure that its total income is at least sufficient, taking one year with another, to meet its total expenditure and that its financial solvency is maintained.
- d Obtain prior written consent of the University to the borrowing of any money for a period in excess of twelve months.
- e Not give any guarantees or indemnities incurring contingent liabilities other than in the course of normal business.
- f Maintain adequate insurance cover for Students' Union assets and public and employee liabilities.
- g Make available the accounts and accounting records of the Students' Union to the University for inspection on request.
- h Operate at all times in accordance with the financial procedures set out in the Union's bye-laws and any other Financial Regulations as may be approved by the Board of Trustees from time to time provided always that the Students' Union ensures such procedures as a minimum comply with the requirements of the Education Act 1994, the Charities Act 2006 and this Code of Practice.

Failure to comply with the financial procedures in this Code of Practice or in any statutory requirements may result in the repayment by the Students' Union of the whole or part of the funds paid to it by the University, including any interest as appropriate.

5.3 Approval of Budgets

The Students' Union shall present its proposed annual budget to the Vice-Chancellor and the University's Director of Finance by the end of March prior to the beginning of the financial year to which the budget will apply. The budget and related advice and recommendations shall be considered for approval by the Board of Governors at the next appropriate meeting and, in any event, prior to the commencement of the new financial year.

5.4 Monitoring of the Students' Union's Expenditure

The Students' Union shall provide periodic monitoring reports of income and expenditure against budget, covering both general and commercial activities, to the University's Director of Finance in a form to be prescribed and at a frequency no less than quarterly. These reports will be made available to the University's Board of Governors for information.

5.5 Financial Reports

The Students' Union is required to:

- a Prepare audited accounts in accordance with generally accepted accounting principles and submit to them to the University no later than 31 October each year.
- b Obtain the approval of the Student's Union Board of Trustees to such accounts.
- c Make copies of the Annual Financial Report and Audited Accounts available for

inspection in the offices of the Students' Union and the office of the Clerk to the Board of Governors.

The audited accounts shall include a note listing:

- i All external organisations to which the Students' Union has made donations in the period to which the accounts relate and the amounts paid to each.
- ii All external organisations to which the Students' Union is/was affiliated and details of subscriptions, fees or donations made to such organisation in the period to which the accounts relate.

If the University has not received the audited accounts by 31 October following the end of the financial year, it may require an explanation from the President and/or the Chief Executive of the Students' Union and may then determine an appropriate course of action to ensure receipt of the audited accounts.

5.6 Allocation of Resources to Groups, Clubs and Societies

The procedures and rules for allocating resources to groups, clubs and societies must be fair and set out in the bye-laws of the the Students' Union . Details can be obtained from the Students' Union Chief Executive.

6 Affiliations to External Organisations

- 6.1 If the Students' Union decides to affiliate to an external organisation, it shall publish notice of its decision stating the name of the organisation and details of any subscription or similar fee or donation paid or proposed to be paid. A list of new affiliations shall be included in each quarterly financial report submitted to the University. This list shall also be presented to the Board of Trustees and to Union Council on a quarterly basis and displayed on designated Students' Union notice boards.
- 6.2 The Students' Union shall maintain a register of all current affiliations containing details of all subscriptions, fees or donations made to such organisations in the past year.
- 6.3 Ratification shall be sought for all affiliations currently in force at each Annual General Meeting (AGM) of the Students' Union.
- 6.4 The Students' Union shall set out and publish procedures in its bye-laws, under which a requisition may be made to the Union Council no more than once a year, that the question of continued affiliation to any particular external organisation be decided by a secret ballot in which all members (as so permitted under the Articles) are entitled to vote. Any such requisition must be made by a minimum of 300 (or 500 where it is a question of NUS affiliation) members of the Students' Union to take effect.

7 Complaints

- 7.1 The Students' Union, following approval from the University, has set out in its bye-laws a Complaints Procedure available to all students or groups of students who:
 - i Are dissatisfied in their dealings with the Students' Union, or
 - ii Claim to be unfairly disadvantaged by reason of having exercised their right not to be a member of the Students' Union.

- 7.2 The approved Complaints Procedure is designed to enable complaints to be dealt with promptly and fairly and, where a complaint is upheld, for an effective remedy to be provided.
- 7.3 The approved Complaints Procedure makes provision for an independent person appointed by the Board of Governors to investigate and report on complaints.

8 Notification Requirements

- 8.1 The University will bring to the attention of all students at least once a year:
- a Information relating to a student's right not to be a member of the Students' Union and not to be unfairly disadvantaged as a consequence of having exercised that right;
 - b Details of arrangements made by the University to provide services for students who are not members of the Students' Union;
 - c This Code of Practice;
 - d Information about any restrictions imposed on the activities of Students' Unions by the law relating to charities, and
 - e The University's Code of Practice on Freedom of Speech and Lawful Assembly.

In relation to (c), (d) and (e) above, it will do this by publishing this information in the Student Handbook and on the University's website. In addition, the Students' Union will also publish this Code of Practice on its website.

- 8.2 In addition the University will, for the benefit of persons considering whether to become students at the University, include an appropriate statement in all University prospectuses which are published annually setting out the information referred to in 8.1(a) and (b) above.

- 8.3 Such statement, which will be kept under review, will be in the following terms:

"EDUCATION ACT 1994

*Under the provisions of the Education Act 1994 any student has the right not to be a member of a Students' Union and not to be unfairly disadvantaged with regard to the provision of services, or otherwise, by reason of having exercised that right. At the University of Sunderland **all** students, members and non-members alike, have in general the right of access to services provided by the University and the University of Sunderland Students' Union (USSU). However there are some rights which are not extended to non-members, and these include the following:*

- i The right to participate in USSU and NUS (National Union of Students) elections and decision-making processes, including those of clubs and societies;*
- ii The right of USSU and NUS representation;*
- iii The right of access to USSU bars, North Shore and certain USSU commercial activities, except as guests of members;*
- iv The right to commercial advantages negotiated for the benefit of USSU and NUS members."*

This statement will also be incorporated into the Student Handbook and in the

University's standard terms and conditions on its offer letters.

- 8.4 On the basis of the above arrangements, the University believes that the range of services and otherwise provided by the University and the Students' Union to students (whether members of the Students' Union or not) are sufficient to ensure that non-members are not unfairly disadvantaged within the meaning of the Education Act 1994.
- 9 This Code of Practice and the operation of arrangements contained herein will be kept under review by the Board of Governors.

RESTRICTIONS IMPOSED BY THE LAW OF CHARITIES

Under section 22(4) (b) of the Education Act 1994 the University is required to bring to the attention of all students any restrictions which the law of charities imposes upon the activities of students' unions. In 2001, the DES published operational guidance (available on the Charity Commission's website under OG 48 C3) titled "Students Unions: A Guide" which superseded the 1983 guidance issued by the Attorney General on this matter. As a general rule, expenditure of the Students' Union's funds is likely to be permitted only if it furthers the interests of the students in a way that assists in the educational aims of the University. This is primarily because the Union is a charitable body and therefore subject to charity laws which only permit a charity's funds to be used in pursuance of its charitable objects. The Student's Union's charitable objects are set out in the constitution.

The Union's funds may, for example, be used to support its clubs and societies, its recreational and sporting facilities and in some cases to fund its affiliations with certain external organisations or to make donations, but these activities are restricted:

Campaigning and political activity: Union funds may only be used if the issue affects present or future members of the Union as students. They cannot be used to promote or support campaigns of a general interest or concern but which do not affect the members of the Union as students. The examples given in the guidance where funds cannot be used are issues such as industrial disputes, environmental matters etc.

External affiliations: the Union can affiliate to the NUS or other organisations concerned with higher education training and funds can be used to attend conferences etc. In order to use funds to affiliate to any other campaigning alliance, the issues of that alliance must be of a kind which the union could campaign for directly itself.

Donations: the organisation or cause must have a connection with the welfare of students at the University if Union funds are to be used to make a donation. However, there is nothing to stop the Union fund raising specifically for a named charity with the aim of passing those funds directly to the named organisation.

All expenditure must be reasonable and must take into account the likely benefits to students and the overall financial resources and commitments of the Union.

There is no restriction however on students collecting their own funds for a purpose for which the Union's funds cannot be used.