

# York St John University and Students' Union Code of Practice

## 1 Introduction

- 1.1 Part II of the Education Act 1994 places a range of responsibilities on the governing bodies of university institutions in regard to the organisation of students' unions. In particular, the governing body shall prepare and issue, and when necessary, revise, a code of practice as to the manner in which certain requirements of the Act are carried into effect.
- 1.2 This Code of Practice sets out how the University carries out its responsibilities under the Education Act 1994 in relation to its Students' Union (SU).
- 1.3 The University's Board of Governors is responsible for:
- ensuring that the SU operates in a fair and democratic manner and is accountable for its finances; and,
  - publishing a Code of Practice which sets out how the requirements of section 22 of the Education Act 1994 are put into effect and bringing the Code of Practice to the attention of all students at least annually.
- 1.4 The requirements and the arrangements made to comply are detailed below.

## 2 SU requirements

### 2.1 Constitution

*Requirement: the SU should have a written constitution that is reviewed and approved by the University's governing body at intervals of not more than five years.*

- 2.2 The SU is incorporated as a private company limited by guarantee and has articles of association as its written constitution. The SU's Articles of Association are reviewed every five years by the University's Board of Governors, usually at its meeting in July.

### 2.3 Membership

*Requirement: students should have the right not to be a member of the SU and should not be unfairly disadvantaged (with regard to the provision of services or otherwise) by reason of exercising this right.*

- 2.4 The SU's byelaw on Membership expressly states that any student can exercise their right to opt out of SU membership without affecting their rights of access to services and facilities of the Students Union. The byelaws confirm that there shall be no distinction between opted out students and members of the SU in accessing Union services, but opted out students will have no right to:
- vote in any elections or referenda
  - stand for elected positions
  - attend any SU meetings
  - join clubs and societies.

## **2.5 Appointment of SU officers**

*Requirement: appointment to major SU offices should be by election in a secret ballot in which all members are entitled to vote, and a person should not hold sabbatical SU office, or paid elected SU office, for more than two years in total.*

- 2.6 The SU's Articles of Association provide for sabbatical officers to be elected by secret ballot by the members of the SU at an election held in accordance with the byelaws, and specify that sabbatical officers shall remain in office for a term of one year and may be re-elected for a maximum further term of one year.

## **2.7 Election conduct**

*Requirement: the governing body should satisfy themselves that the elections are fairly and properly conducted.*

- 2.8 The SU reports annually to the University's Board of Governors on the election process and the outcome; furthermore, the University Secretary is invited to attend the meetings of the SU Elections Committee.

## **2.9 Financial affairs**

*Requirement: the financial affairs of the SU should be properly conducted and appropriate arrangements should exist for the approval of the SU's budget, and the monitoring of its expenditure, by the governing body.*

- 2.10 The financial affairs of the SU are conducted in accordance with its Financial Regulations, set out in byelaw 11.

- 2.11 The SU's budget is reviewed and approved annually by the University's Finance & Capital Development Committee on behalf of the Board of Governors. The SU's annual accounts are reviewed and approved by the University's Board of Governors, which enables the monitoring of the SU's expenditure.

## **2.12 Financial reporting**

*Requirement: financial reports of the SU should be published at least annually and made available to the governing body and all students, and should contain a list of all external organisations to which the SU has made donations in the period to which the report relates and details of those donations.*

- 2.13 The SU publishes its [annual reports and accounts](#) on its website for public inspection (also available on the Register of Charities), and these will contain the required details of any donations made in that period.

## **2.14 Allocation of resources**

*Requirement: the procedure for allocating resources to groups or clubs should be fair and should be set down in writing and freely accessible to all students.*

- 2.15 The SU's procedure for allocating resources to student groups is set out in section 3 of Byelaw 11.

## **2.16 External affiliations**

*Requirement: if the SU decides to affiliate to an external organisation, it should publish notice of its decision stating the name of the organisation and details of any subscription, donation or similar fee paid or proposed to be paid. Such notice*

*should be made available to the governing body and all students. The SU must publish reports at least annually which list the external organisations to which the SU is currently affiliated and details of any subscription, donation or similar fee paid or proposed to be paid. There should be procedures for the review of affiliations to external organisations and the current list of affiliations should be submitted for approval by members at least annually.*

2.17 The list of external organisations to which the SU is affiliated is submitted at the SU's Annual Student Members Meeting for approval by members. The SU's procedures for reviewing its external affiliations will be published on the SU website, under 'Documents/Governance'.

### **2.18 Charity law**

2.19 The SU is a registered charity and is subject to the range of legal and regulatory requirements relating to charities.

2.20 In particular, the activities of the SU are restricted by the law relating to political activity and campaigning by charities. Consequently, the SU cannot be established for a political purpose and must not seek to advance the interest of a political party, but it may seek to influence policy / opinion on issues relating directly to its own charitable purposes, provided such activity is within its powers. The way in which charities may or may not legitimately engage in political activity is set out in guidance published by the Charity Commission: [Political activity and campaigning by charities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/political-activity-and-campaigning-by-charities).

### **2.21 Freedom of Speech and academic freedom**

2.22 The University is responsible under section 43 of the Education (No.2) Act 1986 for the provision of such steps as are reasonably practicable to ensure freedom of speech within the law is secured.

2.23 The University is required under section 202 of the Education Reform Act 1988 when exercising its functions to make certain that regard is had to the need to ensure that academic staff have freedom within the law to test academic wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges.

### **2.24 Addressing harassment and sexual misconduct**

2.25 The Office for Students (OfS) 'Statement of expectations for preventing and addressing harassment and sexual misconduct affecting students in higher education' was published in April 2021. It provides a set of recommendations to support higher education providers in England to develop and implement effective systems, policies and processes to prevent and respond to incidents of harassment and sexual misconduct.

2.26 An OfS Condition of Registration to ensure that students are protected from harassment and sexual misconduct is expected to be announced in 2024.

### **2.27 Complaints procedure**

*Requirement: there should be a complaints procedure available to all students or groups of students who are dissatisfied in their dealings with the SU or claim to be unfairly disadvantaged by reason of having exercised their right not to be a member. The procedure should include provision for an independent person appointed by the governing body to investigate and report on complaints, and*

*complaints should be dealt with promptly and fairly. Where a complaint is upheld there should be an effective remedy.*

2.28 The SU publishes its [complaints procedure](#) on its website for public inspection.

2.29 Under the Higher Education (Freedom of Speech) Act 2023, the Office for Students operates a free speech complaints scheme for the making and investigation of complaints relating to the duties of registered higher education providers, their constituent institutions and students' unions in respect of freedom of speech and academic freedom. A complaint that is determined by the OfS to be justified in full or part may lead to recommendations for the student union to do anything specified (including payment of sums specified) or refrain from doing anything specified.