

Code of Practice on the Student Union, issued by the University's Council under the provisions of section 22 (3) of the Education Act 1994

1. The Code of Practice

Section 22 (3) of the Education Act 1994 requires Council, as the executive governing body of the University, to publish a Code of Practice as to the manner in which the requirements of the Act are to be carried into effect in relation to any students' union for students at the establishment, setting out in relation to each of the requirements details of the arrangements made to secure its observance. Part 2 of this code sets out Council's general duty under the Act and the framework established for its performance. Part 3 of the code summarises each of the specific requirements of the Act and gives details of the arrangements made to secure their observance.

The Code of Practice will be published annually, together with information as to restrictions imposed on the activities of the Oxford University Student Union by the law relating to charities, and the provisions of section 43 of the Education (No. 2) Act 1986 relating to freedom of speech and any code of practice issued under it relevant to the activities of the union. The attention of all students will be drawn to this information by Proctorial notices issued once a year.

2. General duty of Council

Section 22 (1) of the Education Act 1994 requires Council, as the executive governing body of the University, to 'take such steps as are reasonably practicable to secure that any students' union for students at the establishment operates in a fair and democratic manner and is accountable for its finances'.

This duty is fulfilled through the requirements of the statute concerning consultation with Student Members (Statute XIII, Part A), through the provisions of the present Code of Practice, and through those of the constitution of the Oxford University Student Union. The operations of the Oxford University Student Union will be monitored by Council through its Education Committee's Joint Sub-Committee with Student Members.

3. Specific requirements of the Education Act 1994

Section 22 (2) of the Education Act 1994 requires Council, as the executive governing body of the University, to 'take such steps as are reasonably practicable to secure that the following requirements are observed by or in relation to any students' union for students at the establishment':

(a) The student union should have a written constitution and the provisions of that constitution should be subject to the approval of the governing body at intervals of not more than five years.

Council for its part has approved a written constitution for OUSU and will review its provisions every five years. Draft amendments to the constitution are submitted to the Joint Sub-Committee (of Education Committee) with Student Members and require the ratification of Council before coming into effect.

(b) Students should have the right not to be members of the union and students who exercise that right should not be unfairly disadvantaged, with regard to the provision of services or otherwise, by reason of their having done so.

It is provided in the OUSU constitution that all Student Members have the right to opt out of membership of OUSU. This right may be exercised by sending notification to OUSU at any time using the on-line form at <https://www1.ox.ac.uk/students/studentselfservice/ousu/optoutform/>. The Student Member will then cease to be a member of OUSU until he or she has sent written notification to the President of his or her desire to assume membership.

OUSU has agreed that all its services will be made available to Student Members whether or not they are members of OUSU. Student Members who have opted out of membership of OUSU will not, however, be entitled to attend meetings of OUSU committees or stand or vote in elections to office in OUSU.

(c) Appointment to major union offices should be by election in a secret ballot in which all members are entitled to vote. The governing body is required to satisfy itself that the union elections are fairly and properly conducted.

The term 'major union office' is defined in the OUSU constitution. The election to all sabbatical posts is by secret ballot.

OUSU's election standing orders and regulations will be subject to ratification by the Joint Sub-Committee (of Education Committee) with Student Members. The Returning Officer will make a report on the conduct of the election to the Proctors who shall also have the power to investigate any complaints concerning the conduct of elections and, where a complaint is upheld, to take such measures as may be required to secure effective redress. Complaints concerning OUSU elections will normally first be considered by the Returning Officer, with provision for reference to be made to the OUSU Election Tribunal and a Senior Tribunal. The report of the Returning Officer and of any Proctorial action will normally be transmitted to the Joint Sub-Committee (of Education Committee) with Student Members.

(d) A person should not hold paid elected union office for more than two years in total.

The OUSU constitution prevents the same person from holding paid elected office for more than one year.

(e) The financial affairs of the student union should be properly conducted and appropriate arrangements should exist for the approval of the union's budget and the monitoring of its expenditure by the governing body.

The OUSU constitution requires OUSU to prepare a draft budget for the coming financial year and an amended budget for the current financial year. It also requires it to publish audited accounts for the previous financial year. The draft budget is submitted to Council for approval, following detailed examination by its Joint Sub-Committee (of Education Committee) with Student Members. The audited accounts are submitted to Council for information, again, following examination by the Joint Sub-Committee.

The expenditure of OUSU's funds is governed by financial standing orders which will be reviewed by the Joint Sub-Committee (of Education Committee) with Student Members. OUSU's financial transactions are recorded by the University Chest and details of its income and expenditure account are available for inspection by university officers. OUSU's accounts are audited by the University Auditor.

(f) The student union is to publish a financial report annually or more frequently. The report is to be made available to the governing body and to all students and should contain, in particular, a list of external organisations to which the union has made donations during the period to which the report refers and details of those donations.

OUSU publishes an annual financial report which includes a list of external organisations to which it has made donations. The report is to be made available to Council and will normally be scrutinised by the Joint Sub-Committee (of Education Committee) with Student Members. The report will be made available for reference by Student Members at the offices of OUSU and copies will also be made available to OUSU Council representatives of each college Junior and Middle Common Room or equivalent organisation.

(g) The procedure for allocating resources to groups or clubs should be fair and should be set down in writing and be freely accessible to all students.

The constitution of OUSU provides that the procedure for allocating allowances to committees, groups, and other organisations should be specified in Standing Orders. The Standing Orders will be scrutinised by the Joint Sub-Committee (of Education Committee) with Student Members and copies will be made available for consultation at the OUSU offices and will also be available to OUSU Council representatives of each college Junior and Middle Common Room or equivalent organisation.

(h) If the student union decides to affiliate to an external organisation it must publish notice of its decision, stating the name of the organisation and details of any subscription or similar fee paid or proposed to be paid and of any donation made or proposed to be made to the organisation and such notice is to be made available to the governing body and to all students.

OUSU Standing Orders make provision for these procedures. Notice to the governing body will be given to the Joint Sub-Committee (of Education Committee) with Student Members on behalf of Council, and notice to students will be by circulation of notices for display in colleges.

(i) When a student union is affiliated to any external organisation there are to be procedures for the review of affiliations under which the current list of affiliations is submitted for approval by members annually or more frequently, and at such intervals of not more than a year as the governing body may determine, a requisition may be made by such proportion of members (not exceeding 5 per cent) as the governing body may determine, that the question of continued affiliation to any particular organisation be decided upon by a secret ballot in which all members are entitled to vote.

OUSU Standing Orders make provision for these procedures. Approval of the current list of affiliations will be sought by means of approval of the annual report on affiliations by the OUSU Council. Council has determined that the proportion of members required to secure a secret ballot shall be 5 per cent, and that the result of such a ballot shall be binding for one year.

(j) There is to be a complaints procedure to be available to all students or groups of students who are dissatisfied in their dealings with a union or claim to have been unfairly disadvantaged by reason of their having exercised the right to opt out of membership of the union. This complaints procedure is to include provision for an independent person appointed by the governing body to investigate and report on complaints. Complaints should be dealt with promptly and fairly and where a complaint is upheld there should be an effective remedy.

The Standing Orders of OUSU provide for a two-stage internal complaints procedure. If this procedure has been exhausted without the complaint having been resolved to the satisfaction of the complainant, the matter may be referred in writing to the secretary to the Joint Sub-Committee (of Education Committee) with Student Members. Council will appoint an independent person to investigate and report on complaints. The independent person will have, after due consideration, the power to report that the complaint should be rejected summarily or to decide that a full investigation should be undertaken and a report made to Council. If a complaint is upheld at this stage, OUSU is required by the terms of its constitution and the statutes of the University to make an effective remedy.

Guidance on Student Unions issued by the Department for Education and Employment (September 1995)

1. This guidance supersedes the Attorney General's Guidance on expenditure by students' unions which was issued in 1983.

2. 'Students' union' is defined in section 20 of the Education Act 1994. It includes a body representing or promoting the general interests of students at a university or at a college or hall of

a university. It does not need to be called a 'students' union'. For example a Student Representative Council, which represents the generality of students in matters concerned with the government of the institution would be a students' union. It does not include associations concerned with a single purpose, such as sport.

3. Most students' unions are charities. This is because they exist to further the educational purposes of the universities or colleges to which they are attached. You should assume that the students' union at your university or college is a charity unless you have been told otherwise by the governing body or by the Charity Commission.

4. If a students' union is a charity, its objects (as set out in its constitution) normally cannot be changed so as to make them non-charitable, even by a unanimous vote of the union.

5. The officers of a students' union are in the position of charity trustees. This also applies to anyone else who is responsible for the general control and management of the union; for example, the members of a management committee. The rest of this guidance uses the word 'officers' to describe those who in fact have control and management of the union, whatever they are called.

6. The officers are responsible for ensuring that union funds are only used for purposes which are permitted by the union's constitution and promote the charitable objects of the union. If funds are used improperly, the officers who allowed the expenditure may be personally liable to repay the money. The misuse of funds can also lead to the loss of tax benefits which derive from the union's charitable status, and the officers may be liable to repay to the union any extra tax which has to be paid; see paragraph 21.

7. As a broad general rule, expenditure of union 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 or college. This includes, of course, providing facilities for recreation and leisure. Some examples of what is and is not permissible are given in this guidance.

8. The fact that a students' union is a charity does not, of course, restrict students from participating in any particular range of activities. It only prevents the use of the union's funds for purposes which are outside the objects of the charity. There is no objection to students joining together to collect their own funds for any purpose for which union funds cannot be used.

9. A students' union may operate a bar, provide catering facilities, or organise concerts etc. subject to licensing and other legal requirements. Any profits will form part of the union funds and must be applied for the purposes of the union. If the bar, catering facilities, concerts etc. are open to members of the public as well as to students, the profit will normally be taxable.

10. If a students' union owns facilities (such as vehicles or audio equipment or premises) they can be lent or hired out to students as a means of assisting students in the university or college. But the union must charge a proper commercial rate if the facilities are hired to non-students or for any other use outside the union's own purposes.

11. Union funds can be used to support a campus newspaper, a wide range of clubs and societies in the university or college. These can include political clubs and societies so long as these are dealt with in an even-handed way. Neither a students' union nor any of its clubs or societies can generally make donations to external organisations, particularly political parties, or causes; see paragraph 20. However, clubs or societies may, like the students' union, affiliate to a relevant external organisation in certain circumstances; see paragraph 18.

12. The circumstances in which funds and facilities can be used for campaigning (either on local or national issues) are very limited. The first requirement is that the issue must affect present and future members of the union as students. Examples of local issues which might fulfil this requirement would be better street lighting near the campus, more public transport at night, or the

provision of nursery places for the children of students. An example of a national issue would be student loans or grants.

13. By contrast, union funds cannot be used to promote or support campaigns on matters which may be of general interest or concern but which do not affect members of the union as students. Examples would be industrial disputes, general campaigning on environmental matters, eg environmental policies and road building, or the treatment of political prisoners in a foreign country. A students' union cannot, for instance, pay for coaches to transport students to demonstrations on such issues.

14. Funds also cannot be used to participate in party political demonstrations, or to persuade members of the public to vote for or against a particular candidate or party in local or national elections. By contrast, reasonable expenditure on debating matters of common concern is permissible.

15. Even where an issue is one which affects students as such, the connection must be sufficiently close to justify any expenditure which the union incurs. Officers need to consider carefully whether the amount being spent is reasonable (a) in relation to any benefit to students which may be expected, and (b) in relation to the financial resources of the union and its other commitments.

16. If factual information is put forward as part of a campaign which the union can properly support, officers of the union must take care that it is accurate and is not distorted in any way.

17. A students' union can affiliate to the National Union of Students or other similar organisations concerned with further and higher education and related training, and can spend money on attendance by representatives at conferences, seminars and training events organised by such organisations. This enables its members to be represented at national, regional and local levels, and helps to ensure that the union's affairs are properly conducted.

18. A students' union can affiliate to a campaigning alliance, even if the alliance includes non-charitable organisations. But the issues on which the alliance is campaigning must be of a kind which the union could campaign for directly itself, see paragraphs 12 to 16. Otherwise a student's union, or any club or society (including a political club) can only affiliate to particular campaigns or external organisations for the purposes of obtaining educational material or information to assist in the discussion and expression of views. Any affiliation fee must be reasonable, and the test of reasonableness will be similar to that mentioned in paragraph 15.

19. The Education Act 1994 also contains provisions about the making of donations and affiliation to representative and other external organisations; see paragraph 20.

20. The fact that a students' union is a charity does not mean, of itself, that donations can be made to other charities. Furthermore, neither a students' union nor any club or society can make donations to any external organisation or cause, particularly if it is political in nature - unless the organisation or cause has a connection with the welfare of students at the particular university or college. None of this prevents students' union fund raising where those funds are passed directly to the intended recipients. So, for example, there is nothing to prevent a students' union holding a rag week to collect money for various named charities or other causes and passing the money collected from students or the general public directly to the organisation concerned.

21. Like other charities, students' unions enjoy fiscal benefits, including relief from income tax. It is important that officers know about these benefits, so that tax relief is not lost. Advice on this can be obtained from the Inland Revenue.

22. If the officers of a students' union have any doubt whether any proposed expenditure is within the proper objects of the charity, they should not hesitate to consult their university or college authorities in the first instance and if necessary their legal advisers or the Charity Commission. The costs of taking such advice can properly be paid out of union funds.