

Heriot-Watt University Student Union Code of Practice

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HERIOT-WATT UNIVERSITY: STUDENT UNION

CODE OF PRACTICE

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CODE OF PRACTICE

EDUCATION ACT 1994: STUDENT UNION CODE OF PRACTICE

IMPLEMENTING SECTION 22 OF THE ACT

INTRODUCTION

This code of practice is issued in accordance with the Education Act 1994: Section 22(3) and incorporating the requirements of Sections 22(2), (4) and (5) sets out the steps taken to ensure compliance.

Under the provisions of the Act, Heriot-Watt University (the University) and Heriot-Watt University Student Union (the Union) have a duty to comply with the requirements concerning the operation of the Union, in particular relating to the Union's Articles of Association, membership, elections, affiliations, paid officers, finances, complaints processes and notification requirements.

This Code of Practice shall be jointly published annually by the University and the Union, and shall be brought to the attention of all students.

In accordance with requirements, this Code of Practice shall be kept under review by Heriot-Watt University Court alongside the Student Union Articles of Association and may be updated more frequently in the light of internal or external legislative changes.

THE ACT	CODE OF PRACTICE
SUBSECTION 1: The Governing body of every establishment to which this Part applies shall take such steps as are reasonably practicable to secure that students' union for students at the establishment operates in a fair and democratic manner and is accountable for its finances.	N/A
SUBSECTION 2: (a) The union should have a written constitution;	The Union has written Articles of Association and Bye-laws which govern the way in which it operates. Copies shall be available from the Office of the Student Union or electronically via the Student Union website: http://www.hwunion.com/governance
(b) The provisions of the constitution should be subject to the approval of the governing body and to review by that body at intervals of not more than five years;	The Articles of Association are subject to approval by the Union Annual General Meeting and the Trustee Board. The Court of the University shall subsequently approve the Articles of Association which are reviewed by the Union, Trustee Board and the Court at intervals of not more than five years.

(c) A student should have the right – (i) Not be a member of the union, or (ii) In the case of a representative body which is not an association, to signify that he does not wish to be represented by it, 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;	As set out in Article 25 of the Articles of Association, all matriculated students of Heriot-Watt University, whether full-time, part-time or online distance learning, undergraduate or postgraduate, including visiting students or students on exchange, and who have not opted out of Membership by notifying the Union of their wish not to be a Member of the Union shall be Members. A student may opt out of membership by giving written notice to the Union in accordance with the Union Bye-Laws. Ordinance E2: 'Student Union' shall stipulate that Students who choose not to be members do so in accordance with the Student Union constitution. (The Ordinance currently states: "Such Students may not be entitled to the full range of services offered by the Student Union. The University shall ensure that there is no unfair disadvantage to such Students in terms of the range of University facilities made available by the University.")
(d) Appointment to major union offices should be by election in a secret ballot in which all members are entitled to vote;	As set out in the Union Bye-Laws (5, 'Elections'), appointment to major Union offices are by election in a secret ballot in which all members of the Union are entitled to vote. http://www.hwunion.com/governance
(e) The governing body should satisfy themselves that the elections are fairly and properly conducted;	As set out in the Union Bye-Laws (5, 'Elections', section 5.1.1 a)) the Union ensures that elections are fair and properly conducted. The National Union of Students Scotland provides a Returning Officer (or one or more nominated deputy) who is responsible for overseeing and co-ordinating all elections, supervising vote counting etc, announcing the results of elections, and submitting an account on the conduct of the elections to the Secretary of the University. http://www.hwunion.com/governance The annual report of the Student Union to the Court should contain a statement confirming that elections in the year have been conducted in accordance with Bye-Law 5.
(f) a person should not hold sabbatical union office, or paid elected union office, for more than two years in total at the establishment;	This stipulation shall be contained within an Ordinance. Ordinance E2: 'Student Union' (para 9), stipulates that; "The Court, in accordance with the Constitution and the Bye-Laws and on the recommendation of the Trustee Board, may from time to time designate as sabbatical one or more of the posts of office-bearers of the Student Union and may by resolution determine the conditions applying to any such post, provided that no member of the Student Union may hold sabbatical office during more than two years and provided also that no member of the Student Union may hold any such post unless at the time of his or her election he or she is a Student."
(g) the financial affairs of the 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;	As set out in Union Bye-law 7.3.2, The Court of the University shall approve an allocation to the Union in the Second Semester of each academic year. The Trustees shall prepare and approve a budget for the year. The agreed budget (set out in the Financial Memorandum between the University and the Student Union) shall be submitted to the Director of Finance of the University for onward transmission to the Court.

	The Court shall monitor the expenditure of the Union through receipt of a summary of the audited accounts for the preceding year presented alongside the Student Union Annual Report. Should there be any qualified auditor judgement against the accounts, the Finance Committee of Court should receive the full accounts for scrutiny and the committee should report on its consideration of the Accounts to the Court at the meeting at which Court shall receive the summary report of the audited accounts. (The Financial year of the Union runs from 1 August to 31 July each year.)
h) financial reports of the union should be published annually or more frequently, and should be made available to the governing body and to all students and each such report should contain, in particular (i) a list of external organisations to which the union has made donations in the period to which the report relates, and (ii) details of those donations;	The Annual Accounts of the Union shall be published annually on the Union website which shall include a list of external organisations to which the Union has made donations and details of those donations.
i) 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;	As set out in Union Bye-Law 10.3, each affiliated society or club may apply for financial support from the Activities Committee. The criteria and procedures for the allocation of resources shall be agreed by the Trustees, set down in writing, and accessible to all students. Copies shall be made available through the distribution of the Society Affiliation Pack and also shall be available from the Office of the Student Union.
(j) If the union decides to affiliate to an external organisation, it should publish notice of its decision stating – (i) The name of the organisation, and (ii) 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 any such notice should be made available to the governing body and to all students;	If the 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 paid or proposed to be paid, and of any donation made or proposed to be made, to the organisation through the publication on the Union website of the Executive Committee meeting minutes at which the decision was made and the President of the Union will report this information to the next meeting of the Court.
(k) Where the union is affiliated to any external organisations, a report should be published	The Union shall include in the Annual Report to the Court, a list of the external organisations to which the Union is currently affiliated and details of subscriptions or similar fees paid, or donations made, to such organisations in the past year. This Report shall be submitted to the Court annually and published on the Union website.

annually or more frequently containing – (i) A list of the external organisations to which the union is currently affiliated, and (ii) Details of subscriptions or similar fees paid, or donations made, to such organisations in the past year (or since the last report), And such reports should be made available to the governing body and to all students;	
(l) There should be procedures for the review of affiliations to external organisations under which – (i) The current list of affiliations is submitted for approval by members annually or more frequently, and (ii) 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;	The Annual General Meeting of the Student shall approve the current list of affiliations at least annually. Re (l)(i) Article 41.4 (under 'Notice of general meetings) in the Articles of Association explicitly states that business transacted shall include approving the list of affiliations of the Union. Re (l)(ii) This will be considered as part of the review of the Financial Memorandum to be undertaken in 2016/17.
(m) There should be a complaints procedure available to all students or groups of students who – (i) Are dissatisfied in their dealings with the union, or (ii) Claim to be unfairly disadvantaged by	The Union shall maintain a Complaints Procedure. (Complaints relating to students which do not fall within the jurisdiction of the Student Union are covered by the University Complaints Policy.) The Complaints Procedure shall be available to all students who are dissatisfied in their dealings with the Student Union, or claim to be unfairly disadvantaged by reason of their having exercised the right referred to in paragraph (c)(i) or (ii) above.

reason of their having exercised the right referred to in paragraph (c)(i) or (ii) above, which should include provision for an independent person appointed by the governing body to investigate and report on complaints;	The Complaints Procedure shall include provision for an independent person appointed by the governing body (the Court) to investigate and report on complaints. (The Student Union complaints policy will be reviewed in 2016/17. The revised version will make this provision).
(n) Complaints should be dealt with promptly and fairly and where a complaint is upheld there should be an effective remedy.	The Complaints Procedure shall include the requirement for complaints to be dealt with promptly and fairly and where a complaint is upheld for there to be an effective remedy.
SUBSECTION 3 The governing body of every establishment to which this Part applies shall for the purposes of this section prepare and issue, and when necessary revise, a code of practice as to the manner in which the requirements set out above 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.	The Court shall prepare and issue, and when necessary revise, this Code of Practice as to the manner in which the requirements set out above are to be carried into effect in relation to any Union for students at the establishment, setting out in relation to each of the requirements details of the arrangements to secure its observance.
SUBSECTION 4 The governing body of every establishment to which this Part applies shall as regards any students' union for students at the establishment bring to the attention of all students, at least once a year – (a) The Code of Practice currently in force under subsection (3), (b) Any restrictions imposed on the activities of the union by the law relating to charities, and (c) Where the establishment is one to which section 43 of the Education (No.2) Act 1986 applies (freedom of speech in universities and colleges), the provisions of that section, and of any code of practice issued	The Court shall be responsible for ensuring that: The Code of Practice currently in force under subsection (3) shall be included in enrolment and re-enrolment information for each student; and any restrictions imposed on the activities of the Union by the law relating to charities which shall be included as Appendix A to this Code of Practice. (The provisions of the Education (No.2) Act 1986 (freedom of speech in universities and colleges) applies only to England and Wales. There is long standing common law recognition of the general right to free speech in Scots Law. In addition the Human Rights Act 1988 has enshrined into UK law a number of European Convention on Human Rights provisions relevant to freedom of speech and expression. Under Section 26 of the Further and Higher Education (Scotland) Act 2005, HEIs in Scotland must have regard to the desirability of ensuring academic freedom for those engaged in teaching, the provision of learning or research. The Equality Act 2010, and the Public Sector Equality Duty (PSED) set out therein, requires public bodies, in the exercise of their functions, to have due regard to the need to: eliminate discrimination, harassment, victimisation and any other prohibited conduct.)

under it, relevant to the activities or conduct of the union.	
SUBSECTION 5 The governing body of every establishment to which this Part applies shall bring to the attention of all students, at least once a year, and shall include in any information which is generally made available to persons considering whether to become students at the establishment – (a) Information as to the right referred to in subsection (2)(c)(i) and (ii), and (b) Details of any arrangements it has made for services of a kind which a students' union at the establishment provides for its members to be provided for students who are not members of the union.	The Court shall be responsible for ensuring that:, at least once a year, the attention of all students and potential student applicants is directed to information on the University web-pages, including: (a) Information as to the right referred to in subsection (2)(c)(i) and (ii). (The same services are available to students who are not members of the union as to students who are members of the Union, with the exception of participation in elections where a student who is not a member cannot be a member of the constituency eligible to vote.)

APPENDIX A

RESTRICTIONS IMPOSED ON THE ACTIVITIES OF THE UNION BY CHARITY LAW

The Union is subject to charity law, as defined in the Charities Act 2006, and as such, resources of the Union including that given by the University in the form of an annual grant, shall be used to further the objectives of the Union as outlined in the Articles of Association, in respect of representation and furthering the interests of students as to enhance the educational aims of the University for students whilst at the University.

All purposes of the Union must be exclusively charitable; it cannot have some purposes which are charitable as well as others which are not. Purposes cannot be political, although political activity and campaigning can be carried out in order to support charitable purposes. However, a Charity must stress its independence and ensure that any involvement it has with political parties is balanced.

Charities can:

- Engage in activities that support the delivery of its' charitable purposes;
- Campaign for change in law, policy or decisions which would support the charity's purposes, including ensuring that existing laws are observed; and
- Support specific policies advocated by political parties which would help achieve its charitable purposes.

Charities cannot:

- Engage in political campaigns that are the sole activity of the charity for an unreasonable period;
- Exist for a political purpose, i.e. any purpose directed at furthering the interests of any political party, or securing or opposing a change in the law, policy or decisions either in this country or abroad;
- Give support or funding to a political party, candidate, politician or similar; and
- Become a vehicle for the expression of the political, religious or similar views of any individual trustee or staff member.

For example:

A charity can campaign for or against a bill progressing through Parliament, if this can be reasonable expected to support the delivery of the charitable purposes. It may comment on possible changes to the law or proposed policy, and can debate the issue.

It can also promote the need for new legislation and can do what any individual may acceptably do, i.e. can write to or meet government ministers explaining concerns, brief MPs, and supporters to help, but must not incite people to violence or defame people.

If any student is in doubt as to whether the Union is operating properly within its charitable purposes, then it is suggested that that student should contact a member of the Union's Executive. A student may also initiate a complaint against the Union under the Student Union complaints procedure.

March, 2016