

# University of Aberdeen

## Code of Practice to Ensure Compliance with Part II of the Education Act 1994

### Introduction

The Education Act 1994 requires governing bodies of universities to take such steps as are reasonably practicable to secure that any students' union operates in a fair and democratic manner and is accountable for its finances. The Act requires universities to prepare and issue a Code of Practice setting out the manner in which the requirements of the Act will be effected and in relation to each of the requirements, details of the arrangements in place to secure its observance. This document has been prepared to satisfy this requirement and replaces previous versions of the Code. The University Court is responsible for ensuring implementation of the Code and monitoring adherence to its provisions.

The obligations of the University and the Students' Association under the Act are set out below. The Students' Association is registered as a separate Charity under the Charities and Trustee Investment (Scotland) Act 2005 and as such is subject to a number of restrictions, most notably that it must only operate in accordance with its charitable objects and powers as stated within its constitution. In addition to the requirement for the University to meet its obligations under the 1994 Act, the University provides an annual grant to the Students' Association. The conditions of grant include the Students' Association confirming to the University Secretary that the Association has complied with the requirements of the 1994 Education Act.

<b>Requirement of Section 22 (2) (a) to (n) of the Education Act 1994</b>	<b>Procedure for Compliance</b>
(a) The union should have a written constitution	AUSA has in place a written constitution which is available to all members. It was approved by the Court of the University in autumn 2020.
(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	<p>Any proposed amendments to the constitution should be intimated to the University Court by the AUSA Board of Trustees. The constitution shall be submitted for review as required by the Court and at intervals of not more than five years. It is the responsibility of AUSA to review its constitution, in consultation with the University.</p> <p>Any amendments to byelaws to the AUSA constitution that relate to the 1994 Act shall be submitted to the University Secretary for comment prior to adoption.</p>
(c) A student should have the right not to be a member of the union, or 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.	<p>The AUSA constitution provides for the right of students to exercise their right to opt out of membership of the Association.</p> <p>The University will make all students aware of their right to 'opt out' as part of matriculation procedures and how to exercise that right. The decision to opt-out may be made at any point after matriculation and shall remain in effect, unless otherwise withdrawn, for the remainder of the academic year; thereafter it shall require to be renewed.</p>

	<p>The University will advise AUSA of the names of students who have 'opted out'. A student who has 'opted out' is excluded from participation in AUSA as a voter, electoral candidate or officer. In accordance with the AUSA constitution, a student who has 'opted out' shall be entitled to enter Students' Association premises for the purpose of student services not otherwise available, subject to any charges or other conditions as may be deemed appropriate by the Student Association Trustee Board.</p>
<p><b>(d)</b> Appointment to major union offices should be by election in a secret ballot in which all members are entitled to vote</p>	<p>The AUSA constitution (Clause 37) and its Byelaw 17 provides for this.</p>
<p><b>(e)</b> The governing body should satisfy themselves that the elections are fairly and properly conducted.</p>	<p>AUSA byelaw 17 requires that in any AUSA election a Returning Officer will be appointed by the AUSA Elections Committee to be responsible for overseeing the efficient, fair and correct running of the election and for verifying the outcome of the election in accordance with this Act. The Returning Officer shall also produce a report on the elections which shall be made available to the Court through the University Secretary.</p>
<p><b>(f)</b> A person should not hold sabbatical office, or paid elected union office, for more than two years in total at the establishment.</p>	<p>The AUSA constitution provides for this (Clause 39).</p>
<p><b>(g)</b> 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.</p>	<p>AUSA will provide a Business and Budget Plan on an annual basis to the Student Experience Committee (or such other Committee of Court as the Court deems appropriate). AUSA will provide reports to the University Secretary on income and expenditure compared with budget.</p> <p>This is in addition to any further requirements regarding the conditions of disbursement grant from the University to AUSA as may be required between the University and AUSA on an annual basis.</p>
<p><b>(h)</b> 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, a list of the external organisations to which the union has made donations in the period to which the report relates, and details of those donations.</p>	<p>AUSA shall publish its audited Financial Statements annually (including the information specified by the Act) and make these available to all students via the AUSA website, and via the Student Experience Committee (reporting to Court) and to the University Secretary (Clause 97 of the Constitution refers).</p>

<p><b>(i)</b> 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</p>	<p>AUSA shall prepare in writing and make available to all students via the AUSA website, the procedure it employs for the allocation of its resources to any groups or clubs within its authority. Such procedures should be fair and applied properly, and to produce fair and equitable results.</p>
<p><b>(j)</b> If the union 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 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.</p>	<p>AUSA shall notify the Court, through the University Secretary, and publish a notice on its website of any decision to affiliate to any further external organisation, stating the details of the external organisation, subscription or similar fee, donation or payment made (or proposed to be made).</p>
<p><b>(k)</b> Where the union is affiliated to any external organisations, a report should be published annually or more frequently, containing 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 or since the last report, and such reports should be made available to the governing body and to all students.</p>	<p>Where affiliations exist, AUSA shall make such a report available to all students via the AUSA website, at each AGM and submit such a report to the Court via the Student Experience Committee.</p>
<p><b>(l)</b> There should be procedures for the review of affiliations to external organisations, 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%) 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.</p>	<p>The AUSA constitution provides for such a report to be considered at the AGM. (Constitution Clause 26.5 refers).</p> <p>AUSA shall have in place a procedure for the review of any such affiliations, where in the event of a requisition by a stated proportion of the membership, continued affiliation to any particular external organisation shall be decided by a secret ballot, on condition that the same organisation shall not be so treated more than once in any twelve month period.</p> <p>The AUSA constitution provides that such a referendum on affiliations may be called upon the agreement of 125 members. The University Court shall have authority to request an increase in the frequency of the reporting periods and to vary the proportion of members (not exceeding five per cent) required to make a requisition.</p>

<p><b>(m)</b> There should be a complaints procedure available to all students or groups of students who are dissatisfied in their dealings with the union, or claim to be unfairly disadvantaged by reason of their having exercised the right referred to in paragraph (c) above, which should include provision for an independent person appointed by the governing body to investigate and report on complaints.</p>	<p>The AUSA complaints procedure outlines the process by which any complaints against the Association or its officers are heard in a timeous manner. The AUSA complaints procedure can be found on AUSA's website.</p> <p>The Scottish Public Services Ombudsman Act (2002) requires the University's Complaints Handling Procedure (Academic Quality Handbook Appendix 5.19) to comply with The Scottish Higher Education Model Complaints Handling Procedure published by the Scottish Public Services Ombudsman (SPSO) in 2013. Section 2.5 requires complaints involving other organisations or contractors who provide a service on behalf of the University to be handled in line with the CHP.</p>
<p><b>(n)</b> Complaints should be dealt with promptly and fairly and where a complaint is upheld there should be an effective remedy.</p>	<p>See (m) above.</p>
<p><b>Section 22 (4)(a) Information for students</b></p>	
<p>Under Section 22(4) (a) of the Education Act 1994, the University is obliged to draw this Code to the attention of all students at least once a year, and in information which is generally made available to persons considering whether to become students at the establishment.</p>	<p>The Code will be brought to the attention of students annually as part of matriculation procedures.</p> <p>The Code and the option to 'opt out' are included in the University's admission's policy which is available on the website.</p>
<p><b>Section 22(4)(b) - Information for students</b></p>	
<p>Under Section 22(4) (b) of the Education Act 1994, the University is obliged to draw to the attention of students at least once a year any restrictions imposed on the activities of a Students' Union by the law relating to charities.</p>	<p>AUSA is a charity registered with OSCR, Reference Number SCO37971 under the Charities and Trustee Investment Act 2005 and as such is subject to a number of restrictions, and must only operate in accordance with its charitable objects and powers as stated within its constitution.</p>

**Approved by the University Court – [ 30 September 2020]**

**Date for Review - September 2023 (Every 3 years or earlier if required)**