Appendix 5

EDUCATION ACT 1994: CODE OF PRACTICE IMPLEMENTING SECTION 22

Section 22(3)

The Education Act 1994 (Section 22(3)) requires universities to issue a code of practice, setting out the manner in which the requirements of section 22(1) and (2) of the Act, relating to the organisation and activities of the Students’ Union, are to be put into effect. Set out below are the requirements of the Act, together with the steps taken by the University of Huddersfield (“the University”) to ensure compliance.

Section 22(1)

The governing body of every establishment to which this Part applies shall 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.

The steps taken are set out below.

Section 22(2)

(a) The union should have a written constitution

The University of Huddersfield Students’ Union (“UHSU) has a written constitution which has been approved by the University Council. Copies of the UHSU constitution are available from the Students’ Union and on its website (http://www.huddersfield.su/).

(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.

Any amendments to UHSU's constitution require the prior approval of the University Council (Clause 11).

Clause 8 of UHSU’s constitution requires the University Council and UHSU’s Trustees to review the constitution every five years. Following the adoption of a revised constitution in 2009, the latest review was in 2014.

(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 of otherwise, by reason of their having done so.

All full and part-time students at the University are entitled to become members of UHSU, unless they opt-out of membership. Membership of UHSU is without charge (except that clubs and societies of UHSU may levy a membership fee on their members). Members of UHSU shall be all students of the University who haven’t opted out and the Officer Trustees of the Union. Students who opt out of UHSU membership have the right to access union welfare and trading services, together with any clubs and societies and participate in student activities. (Bye-Law One).
(d) Appointment to major union offices should be by election in a secret ballot in which all members are entitled to vote.

The procedures relating to the elections are set out in UHSU's constitution (mainly Bye-Law six) and comply with this requirement.

(e) The governing body should satisfy themselves that the elections are fairly and properly conducted.

An external and independent returning officer is appointed by the Trustees of UHSU on an annual basis to ensure that the elections are carried out in a fair and democratic manner. The University Secretary is notified in writing of the appointment of the returning officer. The returning officer also reports the results to the NUS.

(f) A person should not hold sabbatical office, or paid elected union office, for more than two years in total at the establishment.

This is provided for under Clause 37 of UHSU's constitution.

(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.

UHSU shall conduct its financial affairs in accordance with the provisions of its constitution.

The Trustees of UHSU are jointly responsible for overseeing all of UHSU’s activities and for ensuring that its financial practices and procedures at all times comply with the requirements of the constitution, this code of practice and all laws governing Students’ Unions and unincorporated associations. UHSU shall incur no expenditure, or take any other action, which is inconsistent with the law relating to charities.

UHSU shall maintain a system of internal financial planning and control, which shall be subject to periodic review by the University’s internal auditors. Management accounts prepared by UHSU shall be subject to monthly review with the University’s Director of Finance.

A detailed draft budget for each financial year shall be prepared by 31 July and shall be submitted to the University for approval; the final budget will be submitted to the University by 30 September of each financial 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, 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.

The Trustees of UHSU shall comply with the requirements of charities legislation as to keeping financial records, the audit or examination of accounts and the preparation and transmission to the Charity Commission of annual reports, returns and other required filings. These documents are freely available for inspection from UHSU direct and are made available as part of the Union Accounts. UHSU shall in any event provide the
University Council with a copy of its Annual Report and final accounts, as soon as is reasonably practicable following the approval by the Trustees.

The audited accounts shall include a list of external organisations to which UHSU is affiliated and confirmation of any donations that have been made to any external organisations.

(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.

There is a detailed procedure contained in Bye-Law ten of the UHSU’s constitution

(j) 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.

(k) where the union is affiliated to any external organisations, a report should be published 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 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.

The audited accounts shall include a list of external organisations to which UHSU is affiliated and confirmation of any donations that have been made to any external organisations. In approving the annual accounts, the Union Council shall thereby approve the list of affiliations. The audited accounts are required to be provided to the University Director of Finance by 30 October each year and are presented to University Council in November each year.

Clauses 18-21 of UHSU’s constitution enables members to call a referenda on any issue.

(m) 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.

There is a detailed procedure contained in Bye-Law eight of UHSU’s constitution.
(n) Complaints should be dealt with promptly and fairly and where a complaint is upheld there should be an effective remedy.

The University Council ensures that grievances are dealt with promptly and fairly and that appropriate remedies are available.

Section 22(4)(b) – Information for students
Restrictions on union activities imposed by the law relating to charities

Under section 22(4)(b) of the Education Act 1994, the University is obliged to draw to the attention of students the restrictions imposed on the activities of the Student Union by the law relating to charities.

Resources provided to UHSU through the University of Huddersfield should be used only for charitable purposes, in representing and furthering the interests of students so as to enhance the educational aims of the University.

Further advice may be found in the booklet CC9: Guidance on Political Activities and Campaigning by Charities, published by the Charity Commissioners for England and Wales.