

Code of Practice relating to the Operation of the Abertay Students' Association

1. Introduction

Section 22 of The Education Act 1994 (the 1994 Act) sets out requirements to be observed by higher education governing bodies in relation to their student union. It states a general requirement that the governing body must take such steps as are reasonably practicable to ensure that any students' union for students at that establishment operates in a fair and democratic manner and is accountable for its finances.

Section 22(2) of the 1994 Act goes on to identify a number of specific requirements which the governing body of an HEI must ensure are observed by its students' union. These requirements are annexed in full to this Code of Practice for reference.

This Code of Practice has been produced to explain and demonstrate how Abertay University's governing body (Court) ensures that these responsibilities are discharged in relation to the Abertay Students' Association (the Association).

The Association is a separate and wholly independent charity registered with the Office of the Scottish Charity Regulator and HMRC (with registered number SC036647) under the Charities and Trustee Investment (Scotland) Act 2005. As a charity, The Association is subject to a number of restrictions, most notably that it must only operate to pursue and advance its charitable objects as stated within its constitution.

The University is party to a Memorandum of Understanding and annual Funding Agreement with the Association, which details the rights and responsibilities of each of them towards the other. The Memorandum of Understanding includes provision requiring the Association to notify and obtain consent from the University in advance of making any changes to the arrangements noted in this Code of Practice.

2. Constitution (sections 22(2)(a) and (b))

The Association must have a written constitution approved by Court, the provisions of which will be subject to review by Court at intervals of not more than five years.

A copy of the Association's constitution is available on the Association's website: <https://www.abertaysa.com/about/governance/constitution-schedules> and was most recently approved by Court on 11 November 2020.

3. Membership of the Students' Association (section 22(2)(c))

All registered students of the University are automatically full members of the Students' Association although any student has the right not to be a member. Students who exercise this right shall not be unfairly disadvantaged by having done so.

As part of the registration process, the University will make all students aware of their right to opt out and how to exercise that right. The decision to opt out may be made at any point after registration and shall remain in effect, unless otherwise withdrawn, for the remainder of the academic year; thereafter it shall require to be renewed. The Association is required to keep a written record of all students opting out of membership at all times.

Registered students of the University who choose not to become members of the Students' Association are not permitted to vote in any Students' Association elections, ballots or referenda, or to volunteer or stand as a representative or for any office on an Association club, society or group. Non-members can join Association clubs, societies or groups to participate in the activities.

4. Elections (sections 22(2)(d), (e) and (f))

The Court of the University must satisfy itself that:

- Appointment to major Association offices will be by election in a secret ballot in which all members of the Association are entitled to vote.
- Elections are fairly and properly conducted.
- A person should not hold sabbatical Association office or paid elected Association office for more than two years in total at the University.

The Court obtains assurance on these matters by:

- The Association constitution includes provision at paragraph 30 for the election of Sabbatical Officers by a secret ballot.
- The rules for Association elections are published on the Association website.
- The Association constitution includes provision at paragraph 32 that a Sabbatical Officer may not hold office for more than two years in total.

5. Financial Oversight (sections 22(2)(g) and (h))

The Court of the University will ensure that the financial affairs of the Association are properly conducted, including through the following arrangements.

The Association will discuss and receive notice of an annual grant from the Executive of the University (normally in May). This will be accompanied by a funding agreement reviewed and agreed on an annual basis by the Association and the Executive Group and reported to the Finance and Corporate Performance Committee.

The draft budget for the Association for each financial year will be submitted to the Executive Group, normally via the Director of Finance, Infrastructure and Corporate Services (FICS), who will report this to the appropriate meeting (normally May) of the Finance and Corporate Performance Committee of Court. The Director of FICS will advise the Committee whether this represents an appropriate allocation of funds. The budget for the Association will be approved by Court as part of the approval of the University's budget and financial plan in June each year.

Audited financial accounts for each financial year will also be submitted by the Association to the University and reported to the Finance and Corporate Performance Committee and then made available to Court. This must contain:

- A list of any external organisations to which the Association has made donations in the period to which the report relates; and details of such donations.

6. Societies (section 22(2)(i))

The procedure for allocating resources to Students' Association societies shall be fair and published freely to all student members through the relevant Schedule published on the Association's website.

7. Affiliation to External Organisations (sections 22(2)(j), (k) and (l))

The Students' Association shall publish a list of all external organisations to which it is currently affiliated, listing (a) the name of each organisation and (b) 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.

This list should be published in the Association's annual accounts and financial report, a copy of which shall be made provided to the Court of the University on publication in each year.

The Students' Association shall have a procedure for reviewing affiliations to external organisations.

8. Complaints Procedure (sections 22(2)(m) and (n))

The Association must adopt and implement a complaints procedure available to all students or groups of students who are dissatisfied in their dealings with the Students' Association or who claim to be unfairly disadvantaged by reason of their having exercised the right not to be a member of the Association. Such complaints procedure must ensure that all complaints are dealt with promptly and fairly and, where a complaint is upheld, there is an effective remedy.

The Association complaint procedure as set out in the relevant Schedule published on the Association's website and available at <https://www.abertaysa.com/> includes provision for an independent person appointed by the Court of the University – normally the University Secretary or their nominee – to investigate and report on complaints.

9. Publication

The University and the Association will publish the agreed Code of Practice on their websites.

10. Definitions

For the purposes of this policy document and related policy documents, terms are defined in the Policy Document Library Glossary.

11. Related Policy Documents and Supporting Documents

Legislation	Charities and Trustee Investment (Scotland) Act 2005; Education Act 1994
Strategy	Abertay Students' Association Constitution
Policy	Terms of Reference Finance and Corporate Performance Committee
Procedures	Students' Association complaints procedure
Guidelines	N/A
Local Protocol	N/A
Forms	N/A

12. Key Policy Document Information

Audience	Public
Applies to	All University Members
Classification	Corporate Governance
Category	University Governance
Subcategory	Abertay Students' Association
Approving Authority	University Court
Approval Date	18 June 2025
Effective Date	1 July 2025
Review Date	30 June 2028
Policy Document Author	Vice-Principal and University Secretary
Policy Document Owner	Vice-Principal and University Secretary

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Annex – Section 22(2) of the Education Act 1994

<https://www.legislation.gov.uk/ukpga/1994/30/section/22>

22 Requirements to be observed in relation to students' unions

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(2) The governing body shall in particular 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 union should have a written constitution;

(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;

(c) a student should have the right—

(i) not to 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;

(d) appointment to major union offices should be by election in a secret ballot in which all members are entitled to vote;

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

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

(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;

(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 the external organisations to which the union has made donations in the period to which the report relates, and

(ii) 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;

(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;

(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—

(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.

(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 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;

(n) complaints should be dealt with promptly and fairly and where a complaint is upheld there should be an effective remedy.