

Annex B

Extract taken from the Charity Commission's Operational Guidance publication, *OG 48 C3 Students' unions: a guide (A DES PUBLICATION)*¹

'The purpose of this booklet

1. Everyone who is involved with students' unions, whether as a member or an officer, needs to be aware that most students' unions are charities and that they have to comply with the law's requirements for charities. The Education Act 1994 requires governing bodies to draw to the attention of all their students at least once a year any restrictions which the law of charities places on students' unions. This booklet gives general guidance which should be sufficient for this purpose.
2. In addition to general charity law, there are also statutory requirements which affect the activities of students' unions. These are described in paragraphs 28-33.
3. This booklet supersedes the Attorney-General's Guidance on expenditure by students' unions, which was issued in 1983.

What is a students' union?

4. "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. If you are in doubt, you should approach the governing body of the university or college, via the secretary or clerk or the student representative.

Is your students' union a charity?

5. 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.
6. If a students' union is a charity, its object (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.

Union officers and others in the position of trustees

7. 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 booklet uses the word "officers" to describe those who in fact have control and management of the union, whatever they are called.

Responsibility of officers

8. 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 23.

General guidance

¹ <http://ogs.charitycommission.gov.uk/g048a001.aspx>

9. 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 booklet.

10. 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.

Bar, catering facilities, concerts etc

11. 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 profits will normally be taxable.

12. 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.

Clubs and societies

13. 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 22. However, clubs or societies may, like the students' union affiliate to a relevant external organisation in certain circumstances; see paragraph 20.

Campaigning and political activity

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

Affiliation to NUS and other bodies

19. 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.

20. 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 14 to 18. Otherwise a students' 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 17.

21. The Education Act 1994 also contains provisions about the making of donations and affiliations to representative and other external organisations; see paragraphs 22 and 29.

Donations to other charities and organisations

22. 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 a 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.

Tax benefits

23. 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.

Further guidance

24. 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.

25. The Charity Commission also publish two leaflets which you may find useful:

[CC3 Responsibilities of Charity Trustees](#)

[CC9 Political Activities and Campaigning by Charities](#)

These can also be obtained by contacting First Contact on 0845 300 0218.

26. The Charity Commission is always willing to give advice on any specific problem a students' union may have in connection with any matter discussed in this booklet and to consider the draft of any publications such as advertisements, appeals, newsletters etc on which officers have doubts.

27. If the officers of any students' union want advice from the Commission on any matter affecting their charity they should write to the appropriate address shown above. They should enclose with their letter a full copy of the governing document(s) of the charity (unless they know that the Commission already has a copy) and quote any reference number which may have been used in previous correspondence.'