



The
University
Of
Sheffield.

University
Secretary's
Office.

Council 26 April 2021

**Report to the Council of the University of Sheffield on a 2021
Review of the Sheffield Students' Union Constitution**

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1. Introduction

- 1.1. The University's Council is required under the Education Act (1994) to ensure that the SU has a written constitution, and that the constitution is reviewed at intervals of not more than five years.
- 1.2. The previous constitutional review took place in October 2015. At its meeting in October 2020, Council agreed the establishment of a Task and Finish Group and confirmed that its terms of reference were to review the SU Constitution and governance arrangements in line with the University's responsibilities under the Education Act.
- 1.3. The Report prepared for the Council, produced by the Group, is attached. The Annexes to the Report are in the Council Reading Room. This cover document draws out the actions specifically referred to the University which have been considered and agreed by the University Executive Board.

2. Recommendations

- 2.1. The Council is asked to:
 - i. Note that the review had been undertaken and assurance given to the Council as to the extent of legal compliance with the Education Act;
 - ii. Note that the Student Administration Service will draw certain matters to the attention of students on registration as required under the Education Act 1994;
 - a. the SU Code of Practice relating to the requirements under the Education Act 1994 referred to under the section on membership rights;
 - b. the restrictions imposed on the activities of the SU as a matter of charity law, e.g. in relation to political campaigning, which are set out in the SU Code of Practice; and,
 - c. the Code of Practice on free speech which the University is obliged to produce under section 43 of the Education Act (No 2) 1986.
 - iii. Note that the Chief Financial Officer has been delegated by UEB to consider what financial support (if any) the University might offer to facilitate the decision of the SU to legally incorporate;
 - iv. Note UEB agreement for the University Secretary's Office to amend the UEB Health & Safety Group's terms of reference to:
 - a. remove the requirement to receive updates on statutory compliance from the SU,

- b. The SU Officer's role as a member of UEB Health & Safety Committee should be clarified, i.e. to represent the student interest in University health and safety matters rather than as a representative of the SU per se,
 - c. The SU Staff member of the UEB Health & Safety Group should be moved to an "in attendance" or observer status.
- v. Note that the SU and University (Sport Sheffield) have been asked to develop criteria identifying which organisation is responsible for which clubs and societies and how the relevant organisation's policies and procedures are consistently applied;
- vi. Note that two matters raised by the SU were considered to be out of scope for the constitutional review and will be separately considered, as follows:
 - a. how the SU and the University worked in partnership and whether any formal agreements were needed,
 - b. the SU's lease of premises from the University which is due to expire during 2021.
- vii. To note that the next review is due to take place no later than 2026. The SU constitution is likely to be further reviewed and substantially amended if the SU moves towards incorporation, at which point a further review by Council should take place.

University Secretary,
March 2021.



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Report to the Council of the University of Sheffield on a 2021 Review of the Sheffield Students' Union Constitution.

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1. Executive Summary

A Task and Finish Group was established by the University of Sheffield governing Council (see Annex 2) to carry out a quinquennial review of the Students' Union (SU) constitution as required by the Education Act 1994 (the Act).

The review established that Council's obligations under the Act are being appropriately and adequately discharged, with the following minor exceptions:

- (a) Council had not formally determined a process whereby SU members could request a review of any external affiliations that the SU had entered into; and
- (b) The University did not have a process for drawing certain matters specified in the Act to the attention of students annually, which is now being addressed.

The review also identified a number of more detailed actions or advice, set out in the substantive sections of this report, some of which are for the SU Trustee Board to consider further and, where appropriate, incorporate into an action plan, and a more limited number of actions for University management to consider and take forward.

Council is therefore asked to:

- i. note that the review had been undertaken and gave assurance as to the extent of legal compliance with the Education Act;
- ii. adopt the specific recommendation in relation to SU external affiliations;
- iii. note the action being taken to discharge Council's obligation to draw certain matters in to the attention of students;
- iv. note the additional suggested actions and advice, for the SU and UEB to consider further, in particular to note and support the decision of the SU to legally incorporate

2. Summary of recommendations, action and advice to the SU

Recommendation to Council

- i) To resolve that the SU membership should be able to request a review of continued affiliation of external organisations annually by referendum in accordance with the SU's established rules for referenda.
- ii) To note that the information provided to students on registration will be amended to cover all matters required under the Education Act 1994.

Advice to and actions for the SU and/or University Management

- iii) The SU should review all external organisations with whom the SU has a relationship to assess whether they meet the criteria for an "affiliation" as set out in this report. If they do, they should also be reported in the Students' Union annual report and be included in the automatic annual referendum on the affiliation to the NUS.
- iv) The SU should ensure that their Delegated Authority Matrix is updated as part of the ongoing review of the SU's trading subsidiary governance.
- v) The SU and UEB should implement the specified changes to membership and terms of reference for UEB Health and Safety Group and SU Health & Safety Committee.
- vi) The SU and UEB should agree and set out the criteria by which it is determined whether the University or the SU has responsibility for which student clubs and societies, ensuring that all aspects of the student experience relating to such clubs and societies are appropriately covered.

3. Background, scope and methodology

Background

The University's governing body is required under the Act to ensure that the SU has a written constitution, and that the constitution is reviewed at intervals of not more than five years. It is also has a responsibility to ensure that the SU operates in a fair and democratic manner and is accountable for its finances. The Act also requires Council to issue and when necessary revise a Code of Practice setting out in relation to each of the requirements of the Act details of the arrangements in place to ensure compliance.

The last constitutional review took place in October 2015. A summary of the actions taken by the SU in response to that review is attached at Annex A.

At its meeting in October 2020, Council agreed the establishment of a Task and Finish Group (the Group) and confirmed that its terms of reference were to review the SU Constitution and governance arrangements in line with the University's responsibilities under the Education Act (1994), taking into account:

- the SU's continuing objective to simplify its governance structures to encourage further student involvement in democracy;
- the desire to build on the already strong relationship between the SU and the University;
- the need for compliance with both the Education Act (1994) and the Charities Act 2011;
- the formal registration of the SU as a charity, in particular (i) its impact on campaigning activity on behalf of students; and (ii) the relationship between SU Council and Trustee Board

The terms of reference and membership of the Group are attached at Annex B. The Review was supported with legal advice from Shakespeare Martineau, with Smita Jamdar (Partner and Head of Education) attending the Task and Finish Group meetings.

Council agreed that the Group should report the outcome of the review and any recommendations to University Council, SU Council and the SU Trustee Board.

Scope

At its first meeting the Group agreed the review should concentrate on delivering and providing assurance over the core legal requirements, and specific institutional priorities or risks as follows:

- The list of requirements under the Act that appears in Annex C to this report;
- Clarity of decision-making between SU Council, Trustee Board, Officers, trading subsidiary and senior leadership team;
- Assurance that the SU had appropriate arrangements relating to freedom of speech and political campaigning;
- The SU's position in relation to incorporation, having regard to the advantages and disadvantages of this step;
- The arrangements for governance of the SU's trading subsidiary;
- How responsibility for health and safety is shared between the SU and the University; and
- How responsibility for student sport and clubs is shared between the SU and the University.

The following matters were considered by the Group to be out of scope for the purposes of this review:

- Consideration of how the SU and the University worked in partnership and whether any formal agreements were needed, which should be referred to the University's Professional Services Leadership Group.
- The SU's approach to crisis governance and the effectiveness of its own board, including its constitutional arrangements and delegations, which were a matter for the SU.
- The SU's lease of premises from the University which is due to expire during 2021, which should be referred to the University's Professional Services Leadership Group
The SU's compliance with charity law, except those aspects that were of institutional significance to the University, e.g. political and campaigning activity, freedom of speech and expression.

The Final Scope for the work of the Group is attached at Annex C.

Methodology

The Group met on three occasions, on 3 December, 14 January and 4 February. At its first meeting, having agreed the scope described above, the Group allocated responsibilities for identifying and/or producing the sources of assurance required for each of the relevant area set out in Appendix C. The sources of assurance were analysed by the external advisor in advance of the meeting on 14 January and at that meeting areas of clarification were discussed and further necessary information was obtained. A draft report was produced to the Group on 4 February. Further amendments were agreed and the final version of the report was produced on 25 February.

4. Matters where Council's obligations are considered fully and appropriately discharged

The Group considered the evidence in relation to every item set out in Appendix C and concluded that Council's obligations were being adequately discharged except in relation to two minor areas, where action is recommended by the Group, which are set out in section 5 below.

The Group's overall conclusions in relation to the Council's oversight obligations are as follows.

The SU operates in a fair and democratic manner

This is the overarching requirement in respect of which Council needs to assure itself under the Act and is considered by the Group to be fully met. In addition to the specific assurances relating to elections and democracy set out below, there is additional evidence that the SU is operating in a fair and democratic manner as following:

- The SU held a referendum in January 2021 and agreed changes to the Officer roles. Significantly the changes improve the democratic representation of by creating six part time officer roles representing specific cohorts of students. These are paid roles, held alongside the officers' studies and have full voting rights on the both SU Student Executive Committee and Council.]
- SU Complaints over the last three years do not reveal any unresolved concerns about fairness and democracy, with nearly all complaints being resolved within the SU and only two students since 2016 seeking to appeal to the University Secretary; of the two, one was ineligible, the other not upheld.

The SU's constitution

The SU has a written constitution which was last reviewed by Council in 2017, within the five year review period required by the Act. The constitution is likely to be further reviewed and substantially amended as the SU moves towards incorporation, at which point a further review by Council should take place.

Elected positions

There are elections for appointments to major union offices which are conducted by secret ballots in which all members are entitled to vote. A report is produced by the Returning Officer to enable Council to satisfy itself that elections are fairly and properly conducted. The report seen by the Group set out the process and any complaints or concerns about the conduct of the election in detail.

The Group noted that the percentage turnout in elections had fluctuated in recent years, from a high point of around 37% in 2013 -14 to 27% in 2018-19, although it was estimated to have increased again to 30% in 2019-20. Benchmarking against figures collated by the NUS for 2016-2020 suggested that turnout rates in these years for SU elections were well above the sector averages. The differences in turnout between years was explained by the SU representatives on the Group as being due to election-specific factors such as the number of candidates and the diversity of positions adopted by the candidates.

Elected positions are currently held for one year, within the two year maximum stipulated in the Act. The SU will make sure that the arrangements for tenure for the proposed part-time positions will remain compliant with this requirement.

The SU's finances and budget

There are appropriate arrangements for the University Council to be satisfied that the SU is conducting its financial affairs properly. The SU's accounts and budget are submitted to the University's Finance Committee and Council annually.

The SU produces and publishes an annual financial report which is available to Council, to students and indeed the public.

Membership rights

Students are notified by the SU of their right not to be a member of the SU and of the fact that this will not result in them being unfairly disadvantaged with regard to access to services by a prominent and clear statement on the SU website.

There is a published procedure for the allocation of resources by the SU to groups and clubs.

There is complaints procedure available to all students and groups of students who are dissatisfied with their dealings with the SU or who consider themselves to have been unfairly disadvantaged as a result of a decision not SU. This includes provision for an appeal to the University Secretary, as the independent person nominated by Council.

An annual report on complaints to the SU is provided to Council, which enables Council to be satisfied that complaints are dealt with appropriately.

There is a Code of Practice, reviewed annually and available to students, which sets out how the requirements of the Act are discharged by the SU and the University.

Freedom of Speech and political campaigning

The Group is satisfied that the current arrangements for ensuring freedom of speech within the law and for ensuring that the SU complies with restrictions relating to political campaigning are legally compliant. However, it was noted that the high-profile nature of the political and public focus on freedom of expression on university campuses (evidenced most recently in the Secretary of State's latest guidance

to the OfS dated 8 February 2021 and subsequent announcements which describe free speech as a specific priority and outline proposed new measures) represented potential reputational risk to both the SU and the University. There is the distinct possibility of further legislation and/or regulation in this area and, accordingly, it is important that compliance in this area is kept under review and that SU and University policies and procedures remain aligned. The Students' Union provided evidence to support the recent WonkHe report aimed at securing and championing campus free speech. The Trustee Board will discuss this issue further at its meeting in March.

5. Matters requiring further consideration and/or action

External affiliations and donations

The concept of an affiliation is not defined in the Act, except to state that it includes “any form of membership of, or formal association with, an organisation whose purposes are not confined to purposes connected with that establishment” (section 22(8)). The ordinary dictionary definition of the word simply means “a close or official connection” with another organisation.

In relation to any such external affiliations, the SU is obliged to:

- (a) Publish a notice of its decision to affiliate along with any subscription fee or donation to be paid;
- (b) Publish at least annually a list of all external organisations to which the SU is affiliated and the subscription fees or donations paid; and
- (c) Submit the list of external organisations to the membership for approval at least annually;
- (d) Establish a process for allowing a proportion of the membership (to be determined by Council but not to exceed 5% of the membership of the SU) at intervals of no more than a year (the precise interval to be determined by Council) to request that the question of continued affiliation to any external organisation is put to the membership.

At present, the only external organisation the SU considers itself to be affiliated to is the NUS. There are, however, a number of other external organisations with whom the SU has links, and **these should be considered to ensure that they do not meet the criteria for an “affiliation” as set out above. If they do, they should also be reported in the annual report.**

Details of the affiliation with and the donations made to the NUS are published in the SU's annual report. The question of continued affiliation to the NUS is the subject of an automatic, annual referendum put to members at the same time as the annual elections to SU offices. This meets the requirement to submit the question of continued affiliation with external organisations for approval annually (see (c) above). **This should be extended to any other existing affiliations the SU identifies through the process recommended above or any it enters into in the future.**

There is currently no process as described in (d) above. **Council is therefore asked to resolve as follows:**

That the SU membership should be able to request a review of continued affiliation of external organisations annually by referendum in accordance with the SU's established rules for referenda.

Council's obligation to draw certain matters in relation to the SU to the attention of students

Under the Education Act 1994, Council has an obligation to bring to the attention of all students the following:

- (a) The SU Code of Practice relating to the requirements under the Education Act 1994 referred to under the section on membership rights above;
- (b) The restrictions imposed on the activities of the SU as a matter of charity law, e.g. in relation to political campaigning, which are set out in the SU Code of Practice; and
- (c) The Code of Practice on free speech which the University is obliged to produce under section 43 of the Education Act (No 2) 1986.

The Group is satisfied that this information is published and reviewed regularly. It appears in the University Calendar, and all students have access to this. However, it was not clear that these updates are brought to the attention of students, although the existence of the Calendar is drawn to the attention of new and continuing students on registration. **Council is asked to note that the Student Administration Service intends to add a specific reference to these matters to the information provided to students on registration.**

Incorporation

The SU is currently an unincorporated association, and has for some time been considering incorporation. The challenges faced as a result of the Covid-19 pandemic have confirmed to the SU trustees the risks of personal liability posed by unincorporated status. The SU has therefore concluded that it would like to incorporate. On the balance of institutional risks and benefits, articulated in a briefing paper which University representative on the Group have considered, the Group supported the SU's intention to incorporate, subject to consideration by UEB of how the University might support the SU to achieve this. **Council is asked to note and support this approach.**

The SU trading subsidiary and governance

Related to the SU's unincorporated status are the concerns that it has identified in connection with its trading activities. It has already commissioned a review into its trading subsidiary. This has made recommendations in relation to the constitution of the Board of Directors of the subsidiary, and how the SU's trading activities should be managed. From a charity law perspective it is important that commercial activities are managed properly, and that the SU only engages in primary purpose trading with any commercial activities being done through the subsidiary. Failure to manage this could create tax liabilities and, in extreme circumstances, jeopardise the SU's charitable status. The SU intends to complete by the end of the 2020-21 academic year a review of all commercial activity to determine whether it (a) is primary purpose trading that delivers the SU's charitable purpose; (b) trading to raise funds for the SU (non-primary purpose); or (c) trading services provided by full members of the SU (beneficiaries). It will then review which body should carry out each activity. **The Group supported this approach and noted that the Delegated Authority Matrix would also need to be amended to include the delegations related to the trading subsidiary.**

Health and safety

Although both the SU and University were clear that they were responsible for health and safety with respect to their own respective premises, staff and students, a failing in either organisation created a significant reputational risk for the other, and especially for the University. It was important to note that, in the event of a health and safety failing, the Health and Safety Executive and/or the Police would seek to establish what role each organisation had in relation to the breach. Therefore, if both had played a role that could or should have prevented the breach, both could potentially be liable, even though they were separate organisations. Where the parties worked together to ensure that reputational risks were mitigated, for example by the University providing services, oversight or supervision to support the SU to discharge its responsibilities effectively, there was a risk that the legal separation of responsibility might become blurred.

The SU Chief Executive has already had a discussion with the University's new Director of Health & Safety about these issues, and how they might be addressed.

The Group agreed with the proposed approach to managing health and safety and the attendant risks and recommends that, to ensure the approach was reflected in the practical arrangements for managing health and safety, the following changes should be implemented:

- The UEB Health & Safety Group's terms of reference should be amended to remove the requirement to receive updates on statutory compliance from the SU.
- The SU Officer's role as a member of UEB Health & Safety Committee should be clarified, i.e. to represent the student interest in University health and safety matters rather than as a representative of the SU per se.
- The SU Staff member of the UEB Health & Safety Group should be moved to an "in attendance" or observer status.
- The University staff member of the SU Health & Safety Committee should be moved to an "in attendance" or observer status.

Student clubs and societies

The University and the SU draw a distinction between a student club, which is a sporting group administered and supported by the University, and a student society, which falls within the purview of the SU. Though by no means unique in the sector, the Group noted that other institutions had adopted other models for establishment and oversight of sports clubs, for example where all clubs and societies are administered by the SU.

The Group discussed which clubs and societies were the responsibility of each organisation, how this was decided, and the associated benefits, risks and mitigations. The issues raised by student clubs and societies included not just health and safety, but student conduct, and as a result a range of University and SU policies and procedures were relevant, such as respective Disciplinary Procedures, the SU Alcohol Code of Practice, and equality and diversity policies which club and society committee members needed to promote. It was agreed that these were important arrangements, and the rationale for them needed to be transparent and clearly understood and understandable for staff and students.

The Group therefore recommended that the SU and University should develop criteria identifying which organisation would be responsible for which clubs and societies and how then the relevant organisation's policies and procedures would be consistently applied.

University Quinquennial Review of the Students' Union's Constitution

Final Report by the Students' Union on the University's 2015 Review

1. Introduction

The University is required, under the Education Act 1994, to undertake a review of the Students' Union's Constitution every 5 years. In addition, the University has a responsibility to ensure that the Students' Union operates in a fair and democratic manner and is accountable for its finances.

The last review was undertaken in 2015, covering both the constitution and governance arrangements. The 2015 Report contained 19 recommendations, of which 14 are completed and embedded, 3 are in progress and no progress has been made on 2 of the recommendations.

The Students' Union provided a progress update to University Council, Students' Union Council and the Students' Union Trustee Board in 2017 and 2018. No report was required in 2019.

2. Review 2015/16 – Final Report

(a) Completed and Embedded

The following recommendations, made in the 2015 Review, are completed and embedded:-

Rec 1: That consideration be given to simplifying and reducing in size the Constitution and Bye-Laws including by lessening the amount of procedural detail in the bye-laws and holding these in process guidance notes.

Rec 2: That a Relationship Agreement customised to the University of Sheffield be signed annually by the Vice-Chancellor and the President.

Rec 4: That the legal advice previously obtained with regard to the use of "B funds" by political societies be re-visited; if substantiated then the Students' Union with appropriate advice should look to put in place other governance arrangements to permit the use of such funds outside the charity.

Rec 5: That once the issues have been clarified the Trustee Board should approve and continue to monitor a risk-based framework for campaigning and political activities to ensure that the Union continues to comply with its responsibilities under charity law.

Rec 6: That clear reference to the opt-out provisions should be made in the prospectus and on the Students' Union's website.

Rec 7: That the position with regard to the Senior Returning Officer be clarified immediately and a person independent of the Students' Union be appointed to this role.

Rec 8: That reports on elections be sent to the University Secretary who should also be alerted promptly about any issues arising during the course of an election.

Rec 9: That the Trustee Board should review the terms of reference and membership of its Finance, Audit and Risk Committee in the light of good governance practice in the HE sector which keeps separate the finance and audit functions.

Rec 10: That further consideration should be given by the Trustee Board to the arrangements for internal audit; if the current arrangements are to continue then the External Auditors should be tasked with providing a specific annual assurance report on the arrangements for internal audit.

Rec 11: That in future the Annual Budget should be submitted to the Students' Union Council for consideration and comment prior to submission to the Trustee Board and the University.

Rec 12: An annual report be generated summarising complaints and discipline for submission to the Trustee Board, Students' Union Council and the University.

Rec 15: That the Trustee Board should consider putting in place systematic arrangements for assessing its own performance and effectiveness.

Rec 16: That the University Secretary be invited from time to time to attend meetings of the Trustee Board as an observer.

Rec 19: That the University Secretary, after appropriate consultation, should set out a list of key and first point contacts in the University to facilitate liaison with Students' Union officers and senior executives.

(b) In Progress

The following recommendations are in progress:-

Rec 13: That consideration should be given to improving communications and the interface between the Trustee Board and the Students' Union Council.

Whilst improved reporting and information sharing between the Trustee Board and SU Council has enhanced understanding about charity governance and democratic decision-making, more progress could have been made with encouraging trustees and councillors to attend each other's meeting to deepen this understanding.

A 2019/20 review of the SU's democracy was in the process of discovering a number of inconsistencies and/or anomalies with the SU's decision-making authority as stated in its governing document (Constitution and Bye-Laws) and the legal responsibilities of the SU's charity trustees. However, implementing changes stalled due the impact of Covid-19. It is recommended that this issue is re-visited in the 2020 review.

Rec 14: That action be taken to raise the profile of the Trustee Board among the wider student membership.

The SU has recently invested in a new website and a restructure in 2020 has created a new Marketing and Communications Directorate to improve student engagement.

Rec 18: That consideration be given to how information about student feedback on the Students' Union's services is presented on the website.

Changes to the SU's complaints regulations, to simplify the process through an online reporting form, was successfully launched in 2019, and has resulted in an increase in the number and range of issues being raised by students.

The SU has recently invested in a new website and a restructure in 2020 has created a new Marketing and Communications Directorate to improve student engagement.

(c) No Progress

No progress has been made on the following recommendations:-

Rec 3: That the University and the Students' Union should draw up a Memorandum defining their operational relationship.

As reported in 2018, the SU is not clear of the need for a Memorandum and has not felt that the operational relationship has been compromised by the lack of an agreement. However, given the impact of Covid-19 on both the University and Students' Union, the SU's Senior Leadership Team, will be working closely with University colleagues to ensure that the best student experience can be provided through cooperation and partnership.

Rec 17: That the Students' Union should evaluate and if considered appropriate register for and work towards the NUS Quality Mark.

Due to the NUS Quality Mark 'stalling' due to low take-up in the sector, and the SU launching an ambitious 18 year strategic plan, the SU did not identify this as an area in which to invest resources. However, core SU services such as the Student Advice Centre, Nursery, licenced premises, and community volunteering programmes all participate in externally validated quality assurance and/or safeguarding schemes. The SU has continued to be nationally, and independently, recognised as the leading SU in the UK. It is recommended that the issue of bench-marking the SU against other SU's or comparable membership, voluntary organisations and charities, is re-visited in the 2020.

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October 2020



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The Council, 19 October 2020

Periodic review of the Students' Union constitution

1. Background

- 1.1 The University's governing body is required under the Education Act 1994 to ensure that the Students' Union has a written constitution, and that the constitution is reviewed at intervals of not more than five years. It is also has a responsibility to ensure that the Students' Union operates in a fair and democratic manner and is accountable for its finances.
- 1.2 The Act also requires Council to issue and when necessary revise a Code of Practice setting out in relation to each of the requirements of the Education Act details of the arrangements in place to ensure compliance.
- 1.3 The last review was instigated in October 2015 and reported to Council in February 2016. An external adviser (Dr David Fletcher, former UoS Registrar & Secretary, independent HE consultant and a former member of the NUS Trustee Board) was appointed to advise the review task and finish group on the previous occasion. A Council task and finish group was established to have oversight of it.
- 1.4 Following discussion with the Lay Officers, Vice-Chancellor and others, it is suggested that a similar format would be appropriate for the next review and that an external adviser should again be invited to act.

2. Conduct of the 2020 review

- 2.1 Smita Jamdar of Shakespeare Martineau has informally confirmed her willingness to act as adviser to the review, subject to approval from the University Council and the Council of the Union.
- 2.2 Following consultation with the Chief Executive of the Students' Union, proposed terms of reference for the review are attached, together with the proposed membership of a task and finish group.

3. Next steps

- 3.1 Council is invited to approve the terms of reference of the review and the establishment/membership of the task and finish group.
- 3.2 It is envisaged that the review will commence in December 2020 and its outcome reported to Council in February or April 2021.

Dr Tony Strike
University Secretary

Students' Union constitutional review

Council Task and Finish Group: proposed terms of reference and membership

(a) Terms of reference

- (i) To review the Students' Union Constitution and governance arrangements in line with the University's responsibilities under the Education Act (1994), also taking into account:
- the Students' Union's continuing objective to simplify its governance structures to encourage further student involvement in democracy;
 - the desire to build on the already strong relationship between the Students' Union and the University;
 - the need for compliance with both the Education Act (1994) and the Charities Act 2011;
 - the formal registration of the Students' Union as a charity under the Charities Act (2006), in particular
 - its impact on campaigning activity on behalf of students
 - the relationship between SU Council and Trustee Board

It has been noted that any changes to the Students' Union constitution will need the support of students confirmed by referenda, and the agreement of the Charity Commission.

- (ii) To report the outcome of the review and any recommendations to University Council, Students' Union Council and the Students' Union Trustee Board.

(b) Membership

- Chair: a lay member of the University Council (Mrs Claire Brownlie),
- The Deputy Vice Chancellor,
- The University Secretary,
- The Chair of the Students' Union Council,
- The Students' Union President,
- The Students' Union Chief Executive,
- External Adviser (Smita Jamdar).

The group will consult as necessary with other parties, including the wider Students' Union Executive Committee, the Students' Union Council and Students' Union Trustees.

Support will be available from the University Secretary's Office.

Students' Union Constitutional Review 2020-21

Scope

This updated list reflects discussions at the first meeting of the Council Task and Finish Group on 3 December, building on the legal requirements under the Education Act 1994 provided in advance by Shakespeare Martineau with the addition of further points identified in discussion.

	Assurance required under the Education Act 1994	Evidence of compliance
1.	The SU operates in a fair and democratic manner	January 2021 Referendum Information
2.	The SU is accountable for its finances and manages its financial affairs properly.	Accounts & Budget submitted to University Finance and University Council annually.
3.	There is an SU constitution and its provisions are reviewed and approved at least every five years	https://84672b111e4fd6d89d3e-59c66545528bdb60b18996efff93708e.ssl.cf3.rackcdn.com/CONSTITUTION_March2018.pdf Last reviewed by University Council in April 2017
4.	Students are given the right to opt out and not unfairly disadvantaged in the provision of services	https://su.sheffield.ac.uk/about/su-membership
5.	There are elections to major union offices in a secret ballot of all members	https://su.sheffield.ac.uk/student-leadership/elections/results
6.	Elections are fairly and properly conducted.	The SU submits a Returning Officer report after each election to both SU Council, SU Trustee Board and the University Secretary. NUS Elections Report 2020
7.	Sabbatical or paid elected offices are not held for longer than two years	Clause 5.4.5 of the constitution restricts anyone to holding office for one, 1 year, term only: "No Full Member shall be eligible to serve as a Students' Union Officer for more than one term of office or part thereof."

8.	Arrangements exist for the governing body to approve the union's budget and monitor its expenditure	Accounts & Budget submitted to University Finance and University Council annually.
9.	The SU financial reports are published annually and include the required details of the donations made to external organisations	https://su.sheffield.ac.uk/about/reports
10.	There is a fair and accessible written procedure for allocating resources to clubs and societies	Clubs: N/A (Sport Sheffield) Societies: https://su.sheffield.ac.uk/activities/society-support/how-to-get-funding
11.	Decisions to affiliate to external organisations are published and made available to the University Council and to all students	Held within the accounts.
12.	Annual reports contain lists of external organisations to which the SU is affiliates and are made available to the University Council and all students	Yes
13.	There is a procedure for the annual review by the members of the SU's external affiliations	Automatic annual referendum on the question of NUS affiliation is put alongside the officer elections.
14.	The members are entitled at regular intervals (not exceeding a year) to put continued affiliation with any external organisation to a vote by secret ballot	Automatic annual referendum on the question of NUS affiliation is put alongside the officer elections.
15.	There is an effective complaints procedure for use by students, including provision for review by an independent person appointed by the governing body	Bye Law 15 details the procedure 2019-20 Annual Report on Complaints due to Senate
16.	There is a Code of Practice that covers the above (i.e. Review compliance with, and content of, the Code of Practice)	Code of Practice - reviewed every year
17.	The Code of Practice, the restrictions imposed on the SU under charity law and the Code of Practice on meetings on University premises are drawn to students' attention annually	The SU website has a page about the code. I am not sure how the university informs all students annually.
	Other matters identified by the Task and Finish Group (areas of institutional importance to the University)	

18.	Clarity of decision-making between SU Council, Trustee Board, Officers, trading subsidiary and senior leadership team	Delegated Authority Matrix
19.	Political activity and campaigns- i.e. impact of charitable status on political and campaigning activity, freedom of speech and expression, including the Prevent duty	https://drive.google.com/file/d/1Bzl-gj_Q-5FnpWysBmcKvgWsO2IYH146/view?usp=sharing
20.	Legal identity for the SU, limitation of trustees' liabilities, risk mitigation and ability of SU to enter into contracts in own right including proposed incorporation of the Students' Union	
21.	Review trading subsidiary governance including new Articles / Memorandum	https://drive.google.com/drive/folders/1FHfFU-6J3krYQVV5uNm5sXTa_RC7m0Pc?usp=sharing
22.	Responsibility and liability for Health & Safety	Part 1 - H&S Policy Statement - Part 2 H&S Policy Management detail
23.	Responsibilities and liability for student sport	University Council report on Sport liability and Sports Clubs constitution SU H&S Policy for Student Groups - this describes our liabilities for different types of sporting activity within the SU..

ANNEX D – List of other documents considered as part of the review.

SU short-term priorities for task and finish group

SU constitution

SU Bye laws

Code of practice relating to meetings and other activities on university premises 2020/21

Code of practice relating to the SU 2020/ 21

Reports on SU constitution and governance arrangements 2015