

The Students' Association & Political Activity

Students' Unions get involved in campaigning and in some cases in 'political activity'. But there are laws governing what they can and can't do. This is a complex area and some explanation is given below, mainly in the form of questions and answers. The answers are summaries from the relevant guidance relating to two main areas of legislation.

There are two key pieces of legislation that are relevant to Students' Unions; the Education Act 1994 and Charity Law. The Students' Association also obviously has to comply with other laws that apply to organisations and individuals when organising any activity, including campaigning.

'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. Edinburgh University Students' Association is a Students' Union in this definition and exists to represent the students of the University locally and nationally, organise services and activities to meet their needs, and further the educational purposes of the university to which we are attached.

Below are some frequently asked questions and their answers:

Can the Students' Association get involved in campaigning?

Yes

A charity must be established for a charitable purpose, and as a general principle, charities may undertake campaigning and political activity as a positive way of furthering or supporting their purposes. Charities such as the Students' Association have considerable freedom to do so, subject to the law and the terms of their governing documents.

What types of campaigns can the Students' Association get involved in?

Things that further its charitable purpose

The main rule is that any campaigning must further or support the Students' Union's charitable purpose. Campaigns could include providing information to students or raising awareness - such as how to register to vote or providing health information. They can also be focused on the operation of the University, such as campaigning for better assessment feedback or longer library opening hours. So long as the issues affect students, in their position as students (rather than general citizens), campaigns can be about local or national issues - such as better street lighting near campus, or student fees and loans. There are specific rules on political campaigning, explained further below.

What methods can the Students' Association use to campaign?

Any that are legal

So long as it is legal, reasonable in its likelihood to be effective, and reasonable in its cost the Students' Association can use a wide variety of methods to effectively campaign on an issue. A charity can campaign using emotive or controversial material where it is lawful and justifiable in the context of the campaign. Charities need to consider whether the method of campaigning on any

particular issue is likely to damage their credibility with, or support from, the public and other stakeholders for both the specific campaign but also in the wider context.

Can the Students' Association organise, or take part in demonstrations?

Yes the Students' Association may, in principle, organise different kinds of direct action in support of charitable campaign activity

Such events might include participation in marches, rallies, or peaceful picketing. Such participation might offer significant opportunities for publicising the Students' Association position on an issue, and further its purposes, or show the extent of public support for the issue. However it is important to assess the likelihood and scale of any risk of damaging public support for the charity.

Events such as demonstrations and rallies can also present real problems of control for a charity, because of the complexities of public order legislation. The nature of public demonstrations means that there is a greater risk of an offence being committed by representatives of the charity, or others taking part, compared with other campaigning activities. For this reason the Students' Association has to consider carefully what steps it can take to minimise or mitigate the risk of these offences occurring, for example through careful preparation and good liaison with the police or other authorities.

Can the Students' Association spend its money on these campaigns, and use other resources such as its building?

Yes, but there are limits

The circumstances in which funds and facilities can be used for campaigning (either on local or national issues) are limited. The main rule is that the issue must affect present and future members of the Students' Association as students, and not just as citizens.

Examples of local issues which might fulfil this requirement would be better street lighting near the campus, more public transport at night to student accommodation areas, or the provision of nursery places for the children of students. An example of a national issue would be student loans or fees.

What can't the Students' Association spend money on?

Anything that falls outside its purpose and objectives

The list may well be endless, but Students' Association 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 Students' Association 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. Even where the issue is one that does affect students as such, the connection must be sufficiently close to justify any expenditure, and the amount spent needs to be reasonable in relation to both any benefit to students and the financial resources of the Students' Association and its other commitments.

I've heard of 'ultra vires' – is that to do with spending money on political activity?

Not specifically, but it often can be

'Ultra vires' is a Latin phrase meaning 'beyond the powers'. It is often used to describe activity that is beyond the power, remit or legal ability of the Students' Association. It is not exclusively to do with campaigning or political activity, it relates to any activity. Any charity cannot use its resources (e.g. money, staff time, facilities) for things that are not within its objectives as a charity.

Both the Charity Commission and the Education Act guidance is very specific that not only can Students' Unions not spend money on things that don't benefit their members as students; but also any use of resources that is allowed must still be reasonable or proportionate to the possibility of benefit, and the available resources.

Can the Students' Association get involved in political campaigns?

Yes, but the law is complex as to exactly how

Charities, such as the Students' Association, can also carry out political activity, such as trying to change a law or government policy, until its goal has been met, but political activity cannot become the only activity of a charity indefinitely; it should be a means to an end, rather than the end itself.

Political activity might include raising public support for a change in the law, or seeking to influence political parties or independent candidates, decision-makers, politicians or public servants to accept the charity's position. It may also be responding to consultations carried out by political parties.

Can the Students' Association support a political party?

No

The Students' Association must not give its support to any one political party. It may express support for particular policies which will contribute to the delivery of its own charitable purposes, so long as its independence is maintained and perceptions of its independence are not adversely affected.

So can the Students' Association engage at all with a political party?

Yes, but only in certain ways, and circumstances

Yes, but only to the extent that the engagement furthers the Students' Association's own purposes. It must remain politically neutral and consider working with all/other parties to further its purposes. There are various ways the Students' Association can engage with political parties; for example it can lobby parties or individual MPs, provide information and briefings and take part in public debates.

But don't we have party political societies like the Labour Students and Conservative Future – how is this allowed then?

These are allowed for educational purposes; the use of Students' Association funds is very restricted, but also even handed

These societies exist for the discussion and expression of views, they can organise events that do the same. As individuals students can, of course, campaign; however they cannot use Students' Association funds for political purposes, and can only affiliate to particular campaigns and/or

organisations for the purposes of obtaining educational material or information to assist in the discussion or expression of views.

Can the Students' Association campaign for a change in the law, or against a change in the law?

Yes, but only if it the campaign supports our charitable purpose.

What about legislation that may be going through Parliament like student fees?

Yes we can campaign on that, so long as it's relevant to our purpose

A charity can support or oppose the passage of a Parliamentary Bill, if this can reasonably be expected to support the delivery of its charitable purposes. A charity may provide and publish comments on possible or proposed changes in the law or government policy, whether contained in a Green or White Paper, draft Parliamentary Bill or elsewhere. A charity may also supply to Members of either House relevant information or briefing about the implications of a Parliamentary Bill, for use in debate.

Can the Students' Association promote new legislation?

Yes, so long as it's relevant to our purpose

On the same basis a charity can also promote the need for a particular piece of legislation, subject to their purposes, charities may be able to persuade government departments to introduce or adopt legislation.

What are acceptable methods to politically campaign?

Most things, so long as they are legal

The Students' Association can do what any other body or person trying to change that law can do. For example, it can write to or meet the relevant government minister explaining its concerns, brief MPs, and ask its supporters to help. It is, of course, subject to the same restrictions. For instance it must not defame people or incite people to violence. It must obey the civil and criminal law and any relevant regulations. A charity can campaign using emotive or controversial material where it is lawful and justifiable in the context of the campaign.

What about working with others on joint events?

We can work with others, but need to take care

All charities taking part in events involving a number of organisations should consider and manage the risks of participating alongside organisations who do not share the aims of the charity itself. A charity should also seek to ensure that any event is fully under the control of the organiser (whether or not this is the charity itself) and peaceful.