

COU17D004

Title: *Code of Practice Relating to Students' Union*
Date: 27 September 2017
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Agenda: COU17A001
Status: Open

Issue

The Student Union has suggested updates to the Code of Practice, required under S22 of the Education Act 1994. The amendments:

1. Recognise that the Graduate Students Association (GSA) is no longer in existence and
2. Makes the Code of Practice less prescriptive (particularly in terms of financial management) and gives more flexibility to Council and the Registrar to determine the detail of, for example, requirements necessary for ensuring prudence in the Union's financial dealings. Much of the detail has now been moved to the Memorandum of Understanding between the University and the Union which is a document which is more readily updated to reflect changing circumstances.

Recommendations

Council is invited to approve the amendments to the Code of Practice shown as tracked changes in the attached document. (A clean copy is attached for convenience.)

Resource Implications

N/A

Risk Implications

N/A

Equality and Diversity

N/A

Timing of decisions

The changes will have immediate effect.

Further Information

Further information is available from the Registrar and Secretary (b.summers@uea.ac.uk)

Attachments

The Code of Practice Relating to Students' Union (a tracked change version and clean version).

Code of Practice Relating to Students' Unions approved by the Council of the University of East Anglia

Amendments following review November 2016

1. Preamble

- 1.1. Section 22 of the Education Act 1994 (the Act) lays a duty on the governing body of the University to:
 - 1.1.a. 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;
 - 1.1.b. in particular take such steps as are reasonably practicable to secure that certain requirements are observed by or in relation to any student union at the establishment; and
 - 1.1.c. prepare and issue a code of practice as to the manner in which the requirements are to be carried into effect and setting out details of the arrangements made to secure the observance of each requirement.
- 1.2. In pursuance of its duties under the Act, the Council of the University (the Council) has approved this Code of Practice Relating to Students' Unions. This Code will prevail over any other agreements with the Union.
- 1.3. This Code will be reviewed from time to time and revised as necessary. It will be published annually and copies will be made available to staff and students.

~~1.4. The Council has determined that t~~This Code applies to-

~~1.4.a.1.4.~~ the Union of UEA Students (the Union); ~~and~~
~~1.1.1.~~ the Graduate Students' Association (the GSA).

~~1.2.~~ Unless explicitly stated, all references to the Union shall also apply to the GSA, mutatis mutandis.

- 1.5. In this Code the Union includes all members, officers and staff of that organisation.
- 1.6. In this Code references to the Registrar & Secretary ~~will be deemed to include~~ a reference to any nominee.

2. Union Constitution

- 2.1. The Union is required to have a written Constitution, which must incorporate, inter alia, the following provisions:
 - 2.1.a. appointment to major Union Offices ~~(defined by the Council as Officer Trustees of the Union)~~ to be by election in a secret ballot in which all Union members are entitled to vote;
 - 2.1.b. prohibition on any one individual being a Full-time Student Officer for the Union for more than two years in total at the University;
 - 2.1.c. the stated availability ~~at identified locations within the Union and the University online~~ of notices and Minutes of all Union meetings at which Union policy and/or action is or may be determined; and
 - 2.1.d. arrangements regarding the holding of referendum on external affiliations. (See clause 6.1d) below).
- 2.2. Proposals made to the University by the Union for amendments to its Constitution as approved by the Council shall be:
 - 2.2.a. approved by the Union in accordance with its Constitution; and
 - 2.2.b. approved by the Council or any body to which the Council decides to devolve these powers. ~~For the time being Council has established a Committee comprising the Pro-Vice-Chancellor (Academic), the Registrar & Secretary and the Dean of Students to approve amendments and to carry out the periodic review of the Constitution.~~

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- 2.3. The Students Unions may make Bye-Laws or Regulations pursuant to the provisions of the Constitution or add Appendices setting out more detailed policies, procedures or protocols. Such Bye-Laws, Regulations or Appendices may be amended in accordance with the terms of the Constitution but must always be submitted to the Registrar & Secretary who will have the power of veto over such amendments where they will have a material effect on the democratic operation of the Students' Unions, their financial accountability or compliance with aspects of this Code.
- 2.4. In considering recommendations regarding the Union's Constitution, the bodies referred to in clauses 2.2 and 2.3 shall have regard to the provisions of this Code.

3. Union Elections

- 3.1. The Union is responsible for ensuring that its elections are fairly and properly conducted in accordance with:
- 3.1.a. the Education Act 1994;
 - 3.1.b. this Code; and
 - 3.1.c. the Union's Constitution as approved by the Council.
- 3.2. In accordance with its Constitution, the Union shall designate, subject to acceptance by the Registrar & Secretary on behalf of the Council, a Returning Officer who is required to satisfy the Council that the requirements specified in clause 3.1 are complied with. ~~(Unless otherwise approved by the Registrar & Secretary, Returning Officer of the Union of UEA Students shall be the relevant member of National Union of Students staff.)~~
- 3.3. The Returning Officer shall be responsible for advising the Union if, at any time, any action, policy or decision taken or under consideration by the Union, or any action taken by any candidates in Union elections or by their supporters, appears to the returning Officer to be incompatible with any part of clause 3.1 above. Should the position not be resolved by the Union to the Returning Officer's satisfaction, the Returning Officer is required to inform the Registrar & Secretary in writing.

Commented [JD4]: Not NUS anymore but usually a CEO from another SU

4. Non-Membership of the Union

- 4.1. A student has the right:
- 4.1.a. not to be a member of the Union; and
 - 4.1.b. if exercising that right, not to be unfairly disadvantaged with regard to the provisions of services or otherwise by reason of having done so.
- 4.2. A student who wishes to exercise the right conferred in clause 4.1a) should inform in writing the Chief Executive of the Union ~~and/or the Permanent Treasurer of the GSA~~, who shall provide a written acknowledgement. The student may reverse the decision (on one occasion only within an academic year) by writing to the Chief Executive ~~and/or the Permanent Treasurer of the GSA~~ stating a wish to resume membership, which will be acknowledged in writing. Otherwise, any decision to opt-out of Union membership shall hold good for the remainder of the academic year in question.
- 4.3. A student who opts out of their membership shall be able to:
- 4.3.a. use all ~~commercial~~ services and facilities provided by the Union;
 - 4.3.b. be a non-voting member of Union Clubs and Societies (see clause 4.4 below);
 - ~~4.3.c. use the Union's Advice Centre; and~~
 - ~~4.3.d. be eligible for readmission to Associate Membership of the Graduate Students' Club.~~
- 4.4. The rights and restrictions of being a non-voting member of Union Societies shall be set out in the Union's Constitution and shall be stated in writing by the Chief Executive of the Union ~~and/or the Permanent Treasurer of the GSA~~ to any student who opts out of Union membership.
- 4.5. A student who opts out of Union membership shall not be able to:

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~~4.6.4.5 a.~~ nominate, stand or vote in any Union, or ~~Union club, society or peer support~~ Student Opportunity group election or in any National Union of Students (NUS) election organised by the Union;

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~~4.7.4.6.~~ attend any Union meeting referred to in the Union's Constitution and/or any committee meeting of any Union ~~club, society or peer support~~ student opportunity group; and

~~4.8.4.7.~~ participate in the NUS via the Union.

5. Financial Affairs

5.1. The Union is responsible for ensuring that all funds available to it are used in accordance with:

- 5.1.a. the Education Act 1994;
- 5.1.b. this Code;
- 5.1.c. the Union's Constitution as approved by the Council;
- 5.1.d. advice on Students' Union expenditure as may be issued from time to time by the relevant government department or the Charity Commission; and
- 5.1.e. any restrictions imposed on the activities of the Union by law relating to charities.

5.2. The Chief Executive of the Union shall be responsible for advising the ~~Union Chair of the Union Trustee Board~~ if, at any time, any action, policy or decision under consideration by the Union is or is likely to be incompatible with any part of para 5.1 above. Should the position not be resolved by the Chief Executive they are required to inform the Registrar & Secretary in writing.

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~~5.3. The Registrar & Secretary will determine, from time to time and following consultation with the Union such reasonable requirements as are necessary for the monitoring of the Union's finances and to ensure appropriate prudence in the Union's plans and operations. The Union has agreed with the Registrar and Secretary a memorandum setting out requirements is required in respect of all funds available to it (including those attaching to any subsidiary companies which it owns) to which ensure:-~~

- ~~5.3.a. ensure that accounts and accounting records are kept in accordance with normal professional accounting principles;~~
- ~~5.3.b. maintain the maintenance of a sound system of internal financial management and control; appropriate processes for financial planning plan and conduct its financial affairs so as to ensure that its total income is at least sufficient, taking one year with another, to meet its total expenditure and that its financial solvency is maintained;~~
- ~~5.3.d. obtain the prior written consent of the Registrar & Secretary to any transaction in excess of such sum as the Council shall from time to time specify, not being less than £50,000, involving land, buildings or equipment and to the borrowing of any money for a period in excess of 12 months;~~
- ~~5.3.d. refrain from giving any guarantees or indemnities incurring contingent liabilities other than in the normal course of business; and~~
- ~~5.3.d. maintain maintenance of adequate insurance cover as specified in a Memorandum of Agreement on Property and Financial Arrangements between the University and the Union;~~
- ~~5.3.d. prepare provisional budgets for the following financial year;~~
- ~~5.3.d. obtain the approval of the Union to such budgets in accordance with the provisions of its Constitution and submit them for scrutiny and approval by the Registrar and Secretary at such times as the University may from time to time reasonably determine;~~
- ~~5.3.d. obtain the prior written consent of the Registrar & Secretary to any expenditure not contained in a budget approved by the Registrar & Secretary in excess of such sum as the Council shall from time to time specify not being less than £25,000;~~
- ~~5.3.d. prepare audited accounts and financial reports normally within four months of the end of the financial year or by such other dates as the University may from time to time reasonably determine;~~
- ~~5.3.d. obtain the approval of the Union to such accounts in accordance with the provisions of its Constitution, notify their availability at identified locations to all students and submit them to the Registrar & Secretary at such times as the University may from time to time reasonably determine;~~
- ~~5.3.d. provide reports of income and expenditure against budget for consideration by the Union and the University annually, and at such other times and for such periods as the University~~

Commented [JD10]: This is all covered in the financial section of the MOU. The wording left reflects what is required to comply with EA94.

~~may from time to time reasonably determine, and notify their availability at identified locations to all students;~~

~~5.3.e. publication within the annual accounts and financial reports;~~

~~5.3.e.1. a list of currently affiliated external organisations relevant to the generality of students~~

~~— details of subscriptions or similar fees paid to such external affiliated organisations in organisations in the past year on behalf of the generality of students~~

~~5.3.e.2. details of any donations made to external organisations, whether affiliated or not; and~~

~~5.3.e. establishment in accordance with the provisions of its Constitution written procedures for the allocations of resources to clubs, societies and peer support groups which must be clear, fair and freely accessible to all students. The procedures shall be provided to the Registrar & Secretary upon request.~~

6. External Affiliations

6.1. The Union is required to:

6.1.a. publish notice of any decisions to affiliate, on behalf of the generality of students, to an external organisation stating the name of each such organisation and details of any subscription, fee or donation paid or proposed to be paid;

6.1.b. publish lists of such affiliations, payments and donations as specified in clause 5.4n) above;

6.1.c. submit the current list of such affiliations on behalf of the generality of students for approval by the annual meeting of Union Council, in accordance with the provisions of its Constitution;

6.2. hold a referendum in accordance with the provisions of its Constitution on the question of continued affiliation to any particular organisation;

6.2.a. if a motion to that effect is ~~made proposed by a minimum of one thirtieth of the ordinary members and carried by a minimum of one thirtieth of the ordinary members;~~ and

6.2.b. provided that no other referendum relating to that particular organisation has been held in the preceding twelve month period.

6.3. For the purposes of clauses 5.4n) and 6.1 above, references to affiliation to an external organisation, on behalf of the generality of students, include any form of membership of, or formal association with, an organisation whose purposes are not confined to purposes connected with the University of East Anglia.

7. Complaints Procedure

7.1. Any student or group of students who is

7.1.a. dissatisfied with their dealing with the Union or

7.1.b. claims to be unfairly disadvantaged by reason of their having exercised the right referred to in clause 4.1 above

~~7.2.~~ may make a complaint, which should be dealt with promptly and fairly with an effective remedy if upheld.

~~7.3-7.2.~~ A student or group of students making a complaint under para 7.1 shall state it in writing to the postholder specified in the Union's Constitution.

~~7.4-7.3.~~ On receipt of a complaint under clause 7.1, the Union shall investigate and respond to the complaint(s) in accordance with the provisions of its Constitution and shall notify the complainant(s) in writing of the outcome (including specification of any remedy if upheld) within twenty working days of the date of receipt of the complaint.

~~7.5-7.4.~~ If dissatisfied with the action taken by the Union, the complainant(s) may within ten working days of the date of its notification appeal directly to the ~~Dean of Students~~ Director of Student Services who shall investigate the matter and issue a written report of findings to the

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complainant(s) and to the Union (including specification of any remedy if upheld) within ten working days of the date of receipt of the appeal.

~~7.6-7.5.~~ If dissatisfied with the action taken by the ~~Dean of Students~~ Director of Student Services, either the complainant(s) and/or the Union may within ten working days of the date of its notification request the Director of Student Services ~~Dean of Students~~ to refer the report to the Registrar & Secretary with a recommendation that the Council appoint an independent person to investigate and report on the complaint.

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~~7.7-7.6.~~ On receipt of such a recommendation, the Registrar & Secretary shall consult the Chairman of the Council who shall, unless the Chairman determines the complaint to be frivolous, make the appointment referred to in clause 7.5 above on behalf of the Council.

~~7.8-7.7.~~ At the Chairman's sole discretion and depending upon the nature of the case, the independent person appointed so may be asked to:

- ~~7.8.a-7.7.a.~~ determine the matter on behalf of the Council; or
- ~~7.8.b-7.7.b.~~ make recommendations to the Council for its determination.

~~7.9-7.8.~~ The independent person shall as soon as practicable prepare a written report on the complaint (including specification of any remedy if upheld) and send it to the Registrar & Secretary who shall:

- ~~7.9.a-7.8.a.~~ inform the complainant(s), the Union and the Dean of Students of the contents of the report
- ~~7.9.b-7.8.b.~~ submit the report to the Council at the next available opportunity:
- ~~7.9.c-7.8.c.~~ for information if clause 7.7a) applies
- ~~7.9.d-7.8.d.~~ for determination if clause 7.7b) applies

~~7.10-7.9.~~ The decision made under clauses 7.7 and 7.8 above on the outcome of the complaint and upon any remedy if upheld shall be final.

8. Sanctions

- 8.1. Failure to comply with this Code or any statutory requirements may require the repayment in whole or in part of funds paid by the University to the Union, together with interest in respect of any period during which a sum due to the University under this or any other condition remains unpaid.
- 8.2. Breaches of this Code may lead to disciplinary procedures within the University and may also be dealt with in the Courts if they involve breaches of the law.

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Amendments following review November 2016

1. Preamble

- 1.1. Section 22 of the Education Act 1994 (the Act) lays a duty on the governing body of the University to:
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 - 1.1.c. prepare and issue a code of practice as to the manner in which the requirements are to be carried into effect and setting out details of the arrangements made to secure the observance of each requirement.
- 1.2. In pursuance of its duties under the Act, the Council of the University (the Council) has approved this Code of Practice Relating to Students' Unions. This Code will prevail over any other agreements with the Union.
- 1.3. This Code will be reviewed from time to time and revised as necessary. It will be published annually and copies will be made available to staff and students.
- 1.4. This Code applies to the Union of UEA Students (the Union)
- 1.5. In this Code the Union includes all members, officers and staff of that organisation.
- 1.6. In this Code references to the Registrar & Secretary includes any nominee.

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- 2.1. The Union is required to have a written Constitution, which must incorporate, inter alia, the following provisions:
 - 2.1.a. appointment to major Union Offices to be by election in a secret ballot in which all Union members are entitled to vote;
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 - 2.1.c. the stated availability online of notices and Minutes of all Union meetings at which Union policy and/or action is or may be determined; and
 - 2.1.d. arrangements regarding the holding of referendum on external affiliations. (See clause 6.1d) below).
- 2.2. Proposals made to the University by the Union for amendments to its Constitution as approved by the Council shall be:
 - 2.2.a. approved by the Union in accordance with its Constitution; and
 - 2.2.b. approved by the Council or any body to which the Council decides to devolve these powers.
- 2.3. The Students Unions may make Bye-Laws or Regulations pursuant to the provisions of the Constitution or add Appendices setting out more detailed policies, procedures or protocols. Such Bye-Laws, Regulations or Appendices may be amended in accordance with the terms of the Constitution but must always be submitted to the Registrar & Secretary who will have the power of veto over such amendments where they will have a material effect on the democratic operation of the Students' Unions, their financial accountability or compliance with aspects of this Code.
- 2.4. In considering recommendations regarding the Union's Constitution, the bodies referred to in clauses 2.2 and 2.3 shall have regard to the provisions of this Code.

3. Union Elections

- 3.1. The Union is responsible for ensuring that its elections are fairly and properly conducted in accordance with:
 - 3.1.a. the Education Act 1994;
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- 3.2. In accordance with its Constitution, the Union shall designate, subject to acceptance by the Registrar & Secretary on behalf of the Council, a Returning Officer who is required to satisfy the Council that the requirements specified in clause 3.1 are complied with.
- 3.3. The Returning Officer shall be responsible for advising the Union if, at any time, any action, policy or decision taken or under consideration by the Union, or any action taken by any candidates in Union elections or by their supporters, appears to the returning Officer to be incompatible with any part of clause 3.1 above. Should the position not be resolved by the Union to the Returning Officer's satisfaction, the Returning Officer is required to inform the Registrar & Secretary in writing.

4. Non-Membership of the Union

- 4.1. A student has the right:
 - 4.1.a. not to be a member of the Union; and
 - 4.1.b. if exercising that right, not to be unfairly disadvantaged with regard to the provisions of services or otherwise by reason of having done so.
- 4.2. A student who wishes to exercise the right conferred in clause 4.1a) should inform in writing the Chief Executive of the Union, who shall provide a written acknowledgement. The student may reverse the decision (on one occasion only within an academic year) by writing to the Chief Executive stating a wish to resume membership, which will be acknowledged in writing. Otherwise, any decision to opt-out of Union membership shall hold good for the remainder of the academic year in question.
- 4.3. A student who opts out of their membership shall be able to:
 - 4.3.a. use all services and facilities provided by the Union;
 - 4.3.b. be a non-voting member of Union Clubs and Societies (see clause 4.4 below);
- 4.4. The rights and restrictions of being a non-voting member of Union Societies shall be set out in the Union's Constitution and shall be stated in writing by the Chief Executive of the Union to any student who opts out of Union membership.
- 4.5. A student who opts out of Union membership shall not be able to:
 - 4.5.a. nominate, stand or vote in any Union, or Student Opportunity group election or in any National Union of Students (NUS) election organised by the Union;
- 4.6. attend any Union meeting referred to in the Union's Constitution and/or any committee meeting of any Union student opportunity group; and
- 4.7. participate in the NUS via the Union.

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- 5.1. The Union is responsible for ensuring that all funds available to it are used in accordance with:
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 - 5.1.b. this Code;
 - 5.1.c. the Union's Constitution as approved by the Council;

- 5.1.d. advice on Students' Union expenditure as may be issued from time to time by the relevant government department or the Charity Commission; and
 - 5.1.e. any restrictions imposed on the activities of the Union by law relating to charities.
- 5.2. The Chief Executive of the Union shall be responsible for advising the Chair of the Union Trustee Board if, at any time, any action, policy or decision under consideration by the Union is or is likely to be incompatible with any part of para 5.1 above. Should the position not be resolved by the Chief Executive they are required to inform the Registrar & Secretary in writing.

The Registrar & Secretary will determine, from time to time and following consultation with the Union such reasonable requirements as are necessary for the monitoring of the Union's finances and to ensure appropriate prudence in the Union's plans and operations.

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 - 6.1.b. publish lists of such affiliations, payments and donations as specified in clause 5.4n) above;
 - 6.1.c. submit the current list of such affiliations on behalf of the generality of students for approval by the annual meeting of Union Council, in accordance with the provisions of its Constitution;
- 6.2. hold a referendum in accordance with the provisions of its Constitution on the question of continued affiliation to any particular organisation;
- 6.2.a. if a motion to that effect is proposed by a minimum of one thirtieth of the ordinary members ; and
 - 6.2.b. provided that no other referendum relating to affiliation to that particular organisation has been held in the preceding twelve month period.
- 6.3. For the purposes of clauses 5.4n) and 6.1 above, references to affiliation to an external organisation, on behalf of the generality of students, include any form of membership of, or formal association with, an organisation whose purposes are not confined to purposes connected with the University of East Anglia.

7. Complaints Procedure

- 7.1. Any student or group of students who is
- 7.1.a. dissatisfied with their dealing with the Union or
 - 7.1.b. claims to be unfairly disadvantaged by reason of their having exercised the right referred to in clause 4.1 above
- may make a complaint, which should be dealt with promptly and fairly with an effective remedy if upheld.
- 7.2. A student or group of students making a complaint under para 7.1 shall state it in writing to the postholder specified in the Union's Constitution.
- 7.3. On receipt of a complaint under clause 7.1, the Union shall investigate and respond to the complaint(s) in accordance with the provisions of its Constitution and shall notify the complainant(s) in writing of the outcome (including specification of any remedy if upheld) within twenty working days of the date of receipt of the complaint.
- 7.4. If dissatisfied with the action taken by the Union, the complainant(s) may within ten working days of the date of its notification appeal directly to the Director of Student Services who shall investigate the matter and issue a written report of findings to the complainant(s) and to the Union (including specification of any remedy if upheld) within ten working days of the date of receipt of the appeal.

- 7.5. If dissatisfied with the action taken by the Director of Student Services, either the complainant(s) and/or the Union may within ten working days of the date of its notification request the Director of Student Services to refer the report to the Registrar & Secretary with a recommendation that the Council appoint an independent person to investigate and report on the complaint.
- 7.6. On receipt of such a recommendation, the Registrar & Secretary shall consult the Chairman of the Council who shall, unless the Chairman determines the complaint to be frivolous, make the appointment referred to in clause 7.5 above on behalf of the Council.
- 7.7. At the Chairman's sole discretion and depending upon the nature of the case, the independent person appointed so may be asked to:
 - 7.7.a. determine the matter on behalf of the Council; or
 - 7.7.b. make recommendations to the Council for its determination.
- 7.8. The independent person shall as soon as practicable prepare a written report on the complaint (including specification of any remedy if upheld) and send it to the Registrar & Secretary who shall:
 - 7.8.a. inform the complainant(s), the Union and the Dean of Students of the contents of the report
 - 7.8.b. submit the report to the Council at the next available opportunity:
 - 7.8.c. for information if clause 7.7a) applies
 - 7.8.d. for determination if clause 7.7b) applies
- 7.9. The decision made under clauses 7.7 and 7.8 above on the outcome of the complaint and upon any remedy if upheld shall be final.

8. Sanctions

- 8.1. Failure to comply with this Code or any statutory requirements may require the repayment in whole or in part of funds paid by the University to the Union, together with interest in respect of any period during which a sum due to the University under this or any other condition remains unpaid.
- 8.2. Breaches of this Code may lead to disciplinary procedures within the University and may also be dealt with in the Courts if they involve breaches of the law.