



Writing SU Byelaws

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Introduction

I am a bureaucrat. I enjoy writing processes and rules for others and imagining how systems work. However, I also know that bureaucracy should only ever be about enhancing an experience, making things easier and allowing people to concentrate on the fun, not the rules.

Several of my clients have been working on governance reviews and often they will ask me to lead on their Articles of Constitution review while they look at the, slightly less scary, byelaws.

This document is my thoughts on creating byelaws, the questions Unions should be asking and an insight into my approach in the hope that it can be of use to others.

Icon

The icon on the front cover was made by [Payungkead](http://www.flaticon.com) from www.flaticon.com

Why the byelaw?

“Start with why” is a bit of a mantra these days but also useful advice. It is worth sketching this out before any formal drafting – just a paragraph or maybe two which explains why students might need a byelaw on the subject you are covering.

Membership

This byelaw explains what the benefits of Union membership are, its values and beliefs, the different types of membership available and also how you can stop being a member of the Union if you wish.

Try and avoid talking about the processes here and also what the Union as an organisation may want compared to a student. Take the following examples:

This byelaw explains how societies work, the sanctions committee members can face if they don't follow the procedures of the Union and the limits of what activities are allowed.

Or

Societies should provide a transformative environment for students that give them new skills and positive social experiences. This byelaw offers guidance about how they can be run in a way that engages most students safely and how the Union services will support that activity.

I'm emphasising this of course but while the top may explain what a staff member supporting societies may find most useful the second is based on what students may need to hear.

The “why” could include elements of the Union's values. If inclusion is a key value, then that might influence the rules that you are drafting. An organisation who has decided that their sports provision is based on supporting the most elite groups not the development of all sports might conduct its business in a manner that would be different if the opposite was true.

Student focused byelaws

Most students' unions have two documents – a Constitution/Articles and then their byelaws. Constitution/Articles are externally facing – they explain the legal framework of the organisation and its purpose to the general public and regulators like the Charity Commission. By necessity some of the wording within them is legalistic and, in truth, not very accessible to everyone. However, they are rarely used by students compared to the byelaws and there is an opportunity to be more relaxed in the way the byelaws are drafted and constructed.

Think of the journey of the student as they read the byelaws. Are the student facing elements put first and other sections later? In one example of byelaws I recently reviewed, the section on the Executive Committee started by explaining who could attend its meetings and then talked about what its role was (representing and supporting students).

What's the journey through each bye-law?

Considering the student lifecycle can be useful when ordering individual byelaws. Imagine you are a student entering the particular section of the Union that is being dealt with in the document. You wouldn't start a society byelaw by explaining how they can be closed. You might explain why you have societies, what they are and how one can be started before moving through their different aspects (committee positions and elections, holding an AGM etc.) before explaining how they can be wound up. I have lost count of the number of Membership byelaws I've seen that open by explaining how students can opt-out of the Union as required by the 1994 Act before explaining the benefits of being involved.

What's the byelaw for?

After outlining "Why" you have a byelaw, you should explain "What" the byelaw is dealing with before moving on to the "How". An example of this is below:

Executive Committee

This byelaw explains who the students who represent you (the Executive Committee) are, what their role is and how they will meet to decide how to represent you.

- 1) The job of the Executive Committee shall be to advance the education of students at Hartland University by representing their views to the University and others, to run campaigns for the rights and welfare of students and to provide opportunities for development.
- 2) They will do this by:
 - a. Actively seeking student feedback and opinion including, but not limited to, Student Council and the Course Representative structures.
 - b. Attending university and other meetings to represent the student view.
 - c. Running campaigns that seek to change aspects of the university or society so that student life can be improved.
 - d. Engaging with students and empowering them to take a lead in student activities that develop their skills and sense of citizenship.
- 3) The Executive Committee shall meet weekly on a Thursday afternoon to plan the week ahead.
- 4) The members of the Executive Committee shall be the Sabbatical Officers and Part Time Officers described in byelaw x
- 5) The President will be the Chair of the Executive Committee which means they will be responsible for ensuring all Officers can take part in the discussions and contribute their views and those of students whom they have engaged with...

Here the byelaw explains *what* the Executive Committee is before the mechanics of *how* it is composed and *how* they operate.

Does it need to be in there?

I have never found a byelaw that stipulates that the sabbatical officers cannot murder the university vice-chancellor. I have seen countless byelaws that repeat elements of company, charity or education law and even minibuses protocols that explain that specific elements of the highway code must be obeyed. There's a temptation here in giving students all the information that they might need in one place but there are two dangers here. One is simply that the byelaws become too unwieldy and the other is the impression that students could possibly change the law of the land as expressed in their documents. I've seen unions with commercial premises byelaws explaining that alcohol can't be sold to under 18s as if a 2/3rds vote of Council could see that altered to 16.

If you are concerned you can always have a simple line saying

In addition to the byelaws here, all members are expected to obey any laws relating to this activity.

Student leadership, student followership

Of course, all Unions are different and their cultures vary widely. However, one question I often ask about byelaws is whether they are there to allow power and leadership or set boundaries for it. I'm not trying to position this as a moral or philosophical value – simply some Unions are more comfortable with an elected member making decisions with occasional checks and balances to hold them accountable and others want their byelaws to be more prescriptive for their leaders.

Unions sometimes bounce backwards and forwards on this and often a byelaw is rewritten to deal with a specific issue that has happened. The classic example of this is, of course, election byelaws. For example, one year the issue of posters causes lots of issues and in a summer student council the byelaw is updated to prescribe the exact paper size (A4 not letter) to be used. The next year a line is added about t-shirts and in the third there's a complete rewrite.

More prescriptive byelaws tell the students everything that they may need to know but can also be unwieldy and leave little room for flexibility. This can cause particular headaches for areas like elections where a Returning Officer will have to decide whether the use of a letter-size piece of paper is a significant enough breach of regulations to cause a sanction. Looser byelaws place more power on those who are interpreting them. As a general rule I am a fan of giving as much power to students at the lowest possible level, but going down that road means you need to have proper checks and balances. A good place to start are the infamous questions from Tony Benn on democratic power:

“What power have you got?”
“Where did you get it from?”
“In whose interests do you use it?”
“To whom are you accountable?”
“How do we get rid of you?”

As an example on how this may be answered:

The Chair of the Societies Federation will run all Soc Fed meetings, interpret its rules and represent its activities to the Executive Committee. They are elected by a vote of all Society Presidents and their role will be to increase participation in student activities and increase collaboration between them. They will report to each Soc Fed meeting on the work they have done and can be removed by a 2/3rds vote of that body.

Talking of which – who interprets the byelaw?

If you use the NUS Model governing documents your Constitution or Articles will identify who can deal with any conflicts of interpretation (usually the President / Chair or Trustees or the Board as a whole). In practice, however, individual sections of the byelaws will be “owned” by particular individuals. The president is likely to defer to the VP Welfare or Diversity on the liberation committee byelaws, for example, and the chair of council will be responsible for its procedures.

Some unions identify who will be the first point of contact for each byelaw at the start of the section so that students know where to go for advice. This will never override the power in the Articles or Constitution but can help to put a human face on the rules and clearer accountability for decisions.

I love governance so don't ask me

When asking a PhD student what their thesis was about they stopped me and asked if I wanted the real answer or something I could understand. This may have been a comment on my intelligence, but the point they were making was that they were so invested in the project that their take was possibly unhelpful in the casual context I was asking in. My masters was in Children's Literature and I have to check myself not to dive into a critique of the Derridean approach when someone asks me what to get their 2 year old nephew for his birthday.¹

Similarly, you should get? student input in reviewing draft byelaws, but be careful about the choice here. If the byelaws are about increasing access to the Union for those who aren't involved already,

¹ *We are all Born Free* (from Amnesty International) or *Julian is a Mermaid* are solid choices.

then asking a seasoned Council member may not give you what you want. Equally, the elections byelaws probably require some expertise so as not to lead to unexpected consequences.

Practical tips for drafting byelaws

You will need to have your own approach to actually getting something down on paper, but I would suggest the following

- **Start from scratch.** It is almost always easier to create something from new rather than amend existing work. You can read through the documents and you may have a strong feeling towards (or against) certain sections, but I would almost always advise starting from nothing.
- **Start with principles.** Do you want something more prescriptive – or less? Are you basing this on a new democratic structure or keeping something in existence but simplifying processes? Before you get anything written down be clear on what you want to achieve and how the byelaws should feel and get agreement by those approving them (usually Exec committee or Student Council).
- **Build a framework and aim for brevity.** Jot down which byelaws are essential and consider where combinations can be made. Do you need separate sports, societies and volunteering rules or are the processes for them close enough to be combined as a single byelaw?
- **Gather ideas but have one drafter.** Unions will decide for themselves who will be feeding into this process, but I would highly recommend only one person drafting the document. This is because each person will have their own tone and way of crafting the byelaws which will help produce cohesion. Having one person understanding what is in each section of the document is also helpful and reduces duplication. If editing is required, after feedback the original drafter should do this wherever possible.
- **Do your research but make it your own.** “If you want to write, read” is a well-known piece of advice for aspiring novelists and while your documents may not be the next *Harry Potter* (hopefully they will be better edited), reading what other Unions have will help you decide what you like and what you don't in terms of content and, for the drafter, style. Resist the urge to just copy others, though, and think about what would work best for *your* Union.
- **Watch your language.** Drafting byelaws can be tricky and while increasing accessibility is often the aim, it's easy to fall into the trap of using unusual or vague language. This could be using acronyms, but also concepts that are unclear. Even where you have a glossary, think about precision here, too. I've seen byelaws include reference to the decisions of “The Union” without dealing with whether this means the student body in membership, the Trustees, the Executive, the building or something else altogether.
- **Take your time and space.** Drafting byelaws requires a different mindset from responding to member emails and it is difficult to work on them while juggling other tasks. Set time aside as best you can.
- **Check your working with a student.** Everyone needs to have their work checked over, if only for a fresh pair of eyes, but once you have a draft make sure that this is reviewed by someone who is not emerged in the world of SU rules and processes.

Conclusion

There probably isn't a “right way” to do byelaws but there are plenty of wrong ways. For your Union keep your students in mind not someone else's and focus on what they allow your members to do rather than what they stop them from enjoying. You might not win the accolades you deserve for a well written set of byelaws, but you can create something that allows all the Union's other work from representation & democracy to clubs and societies flourish.

My services to Unions

I've spent the past 15 years working in supporting leaders, volunteers and staff in charities and Higher Education Institutions.

My work developing model governing documents for students' unions was used as an example of good practice in the House of Lords. I have a particular background in students' unions of all sizes and the specific challenges which they face as campaigning, representing and service delivery organisations. I have held roles as Company Secretary for NUS and NUS Charitable Services, an Assistant Registrar for Governance at a Russell Group University and Executive Officer within a leading UK Medical School.

I am board Clerk to a number of Students' Unions across the UK as well as the policy website Wonkhe.com

My services include

- Democracy Reviews
- Governance and Trustee Board Reviews
- Training for Trustees, Trustee Chairs and Board Clerks
- Support for incorporation
- Trustee recruitment and interview (see www.nowgivesomethingback.com)
- Training on engaging with University power structures and getting wins in institutional meetings
- Train the Trainer
- Compliance support for areas including data protection, the 1994 Education Act and Codes of Practice
- Project Management training and tools

"Thank you Nick, we really couldn't have done it all without you"

Feedback from reviewing a set of SU byelaws and Constitution for a small SU

"Thank you for the thoughtfulness, consideration and thoroughness of your report - genuinely a joy to read and already is proving to be hugely beneficial in developing our organisations conversations... and finding ways through in this journey of reviewing and changing our structures"

SU Staff member following a governance review.

I am very happy to talk about opportunities and my rates, which I aim to keep flexible for Students' Union clients.

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