



Consultation Submission

Education (Freedom of Association) Amendment Bill

Education and Science Committee,
New Zealand Government



national union of students

Introduction

"Students' associations have never been more important. We are all well aware of the recession's impact on public spending and the need for tertiary institutions to do more with less. Students, now more than ever, need strong and accountable representatives who will stick up for their rights and work with institutions to deliver the best possible student experience. As the Australian experience shows us, VSM will devastate the student experience and set back quality and equality in the education system a decade. I caution the New Zealand Government against pursuing this ideological crusade in the face of overwhelming evidence that well-resourced and effective student representative organisations are a critical check and balance on institutional power and a vital voice in the system as a whole."

- Wes Streeting, President, National Union of Students UK

The National Union of Students (NUS) welcomes the opportunity to contribute to the select committee's deliberations on the Education (Freedom of Association) Amendment Bill 2010. Should the committee require additional detail or oral evidence, NUS would be happy to do so via telephone or video conferencing.

As the national body that represents all affiliated students' unions in tertiary education in the United Kingdom, the National Union of Students (NUS) NUS represents the interests of more than seven million learners. NUS' interest in global student issues is reflected in its membership of the European Student Union (ESU) as well as its strong networks with student organisations throughout the world.

NUS offers this submission to provide an international perspective on the importance of well funded and supported student representative organisations to an effective education system and to share with the Committee a different perspective on how effective regulation of students' representation can be achieved.

In considering a change of this magnitude proposed by this legislation, we believe it is critical that the Committee consider the international context, both the disastrous effect of VSM in the Australian education system and the evolution of regulation here in the UK.

This submission is structured into three parts. Part one looks at the history and current regulatory framework for students' unions in the United Kingdom. Part two outlines the attempts to introduce Voluntary Student Membership in the UK and details why, following Parliamentary debate the value of student' unions to their members, host institutions and their

communities' was reaffirmed. Finally, Part Three discusses recent developments in the governance and funding of students' unions and how attitudes to students' unions have shifted in recent years.

PART ONE: Students' Unions in the UK

Students' Unions (SUs) in Higher Education (HE) form a recognised and valued sector of organisations that act both as representative and campaigning bodies, and providers of social, cultural and welfare facilities. They are regarded as a key component of the distinctive offering of Higher Education across the UK. In addition to advocacy, campaigning, representation and carrying out other representative activities, most students' unions facilitate student activities (societies, volunteering opportunities, and sport), peer-led support (through advice centres, help lines, job shops and more), as well as commercial services (retail, catering outlets, leisure/recreation and social venues to bring their members together). In the UK due to legislative arrangements, student union revenue comes largely through the institution rather than directly from individual levies – however student unions operate as autonomous bodies independent of the institution, as we understand they do in New Zealand and student union funding is not conditional on the union's activities.

Existing Regulation of Students' Unions

Students' Unions are constituted under Section 2 of the Education Act 1994 as democratic bodies. Similarly to the New Zealand system all students are automatically members of the students' union unless they "opt out" of membership, and the ultimate purpose of students' unions is to democratically represent the interests of their members. Students' unions in England and Wales are, at present, principally regulated by the institution to which they are related under the terms of the Act. The legislation places a duty on institutions to, amongst other things, ensure the union runs in a manner that is fair and democratic, and is accountable for its finances.

Higher Education Institutions: Risk and Mission Delivery

Beyond the principal legal duties, however, an institution has a general duty to ensure that the funds distributed to the students' union are applied for purposes that are broadly consistent with the institution's own strategic objectives. Students' unions are therefore autonomous bodies acting within the corporate ambition of the institution, and the grants given to students' unions can be considerable (amounting to an estimated £70m per annum across the sector); the activities undertaken by the union can be of significant importance to the HEI in delivering its strategic plan. In terms of institutional governance, therefore, the funding given represents an area of great potential (which should be realised).

The contribution of students' unions

It is widely accepted that students' unions play a key role in contributing to the improvement of the student experience within the institution. Students' unions carry out activity that directly contributes to the extra-curricular (and quasi-curricular) experience, such as the provision and organisation of social activity, volunteering opportunities and clubs and societies. They also play a central role in co-ordinating and channelling the response of students to their curricular and broader educational experience and needs; students' unions are also of critical importance within the arrangements made within the sector for quality assurance (through student written submissions and other mechanisms).

Charity Regulation

Since the 1980s Students' Unions have been legally recognised as charities exempt from registration. Whilst most carry out advocacy and campaigning activity, the primary charitable purpose is education given the centrality of students' unions to the education mission and provision inside UK HE. In recent years charity regulation has been modernised (and is now remarkably similar to that in NZ) which has resulted in students' unions being made subject to direct regulation by registration with the Charity Commission for the first time, along with a new requirement to demonstrate public benefit. The additional layer of regulation, and the new expectations that come with it, have strengthened confidence in the way students' unions are governed and managed.

PART TWO: Voluntary Students' Unionism: Why was it not introduced in the UK?

In the early nineties the UK conservative party attempted to introduce voluntary students' unionism, something that been attempted at other points throughout the 80s. The proposals included wanting students to be able to opt in and pay separately for all but essential services and introduce codes of practice on democracy.

The Government began a consultation process and sent a circular out to universities in July 1993 inviting comment on the use of space, the cost of facilities, the legal status of what was termed non-core activity. The funding of equal opportunities groups, charity fundraising and student community action all appeared to be under threat. It was suggested that colleges introduce systems of 'audit - tracking' to monitor in detail how student union officers spent their time.

The debate raged on, with the Minister including a reference to the issue in his speech to Conservative Party Conference in October 1993;

"....Last year I promised this Conference that I would end one of the remaining closed shops in this country - that of student unions. We said we would do it and we will do it very shortly in three ways by the introduction of the voluntary principle as the basis of student union membership through a tough new code of practice to prevent victimisation and by putting an end to the scandal of tax payer's money being used to fund political campaigns. Promises made Promises kept..... "

NUS issued a press release that argued that students should not have to pay for representation, denying that students were victimised and noting that only 1% of student union funds was spent on campaigning.

The Government started to find it increasingly difficult to justify the changes they were seeking. First, they had failed to understand the extent to which "union" services were an essential part of the UK HE "offer" and the sheer breadth of educational activity being carried out. Second, they had not understood that students' unions were already regulated as charities, ruling out excessive "political" activity and ensuring that all funds were put towards educational objects. Thirdly, they had over estimated the number of students that were itching to "pull out". They had tried to frame membership as compulsory, when in truth it was merely automatic.

The final text Act contained three clauses, Clause 20 that defined student unions; Clause 21 that outlined the establishments to which the Act applied and Clause 22 which laid down the duties that were to be imposed on governing bodies in relation to their students' unions.

The key change in the final legislation was the introduction of an "Opt Out" procedure. The Act stated that students who exercised the option to opt out should not be "unfairly disadvantaged". The duty of publicising the opt out option was placed upon institutions, the take up was very slow and the tiny minority that did exercise their right on religious grounds and others for reasons that could not be identified.

There was a good deal of debate as to exactly what opt out meant. In the guidelines the Universities put out in September 1994 there was an acceptance that opting out had to mean something;

".....Students must expect opting out to have some consequences or it is meaningless. That is what choice is about; weighing up the pros and cons of alternative course of action but the options must be fairly balanced..... "

In practice opt out generally means that a student can still access most student union service as the unions funding is not affected by the student opting out. However students who opt out are generally excluded from democratic processes such as elections.

Other key elements of the final legislation include:

- Duties upon institutions to ensure student unions are run in a fair and democratic manner
- All constitutions had to be ratified by institutions Governing bodies.
- Election to full time office holders was restricted to a maximum of two years
- Student union accounts were required to be audited
- The Act insisted that the system for allocating funds to clubs and societies was fair
- Codes of practice were agreed which NUS and student unions had indicated all along they welcomed, and would have welcomed without legislation. \
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It is important to note that most of these "changes" in the Act were already standard practice in most institutions, even to the extent that many student unions already allowed students to opt out prior to the legislation. The truth was student unions and NUS were not as extreme or as undemocratic as their critics had portrayed them and most of the criticism was ill informed in relation to their actual day to day practice.

In summary the Act passed affirmed student unions central place in the education sector and embedded in legislation what was in fact common practice in most student unions. Once the government better understood the work and activities of the student unions their minds were changed and the final legislation was the inverse to what was initially introduced.

PART THREE: Since the Early 90s

Funding of students' unions and changing circumstances

It was once the case, circa 1985-1995, that students' unions had created a mixed economy in which institutional grants were extensively supplemented with commercial surpluses.

In the period since then, there has been a broad reduction in commercial revenue due to changes in the demographics and the market, and most students' unions have seen a decline in commercial income as a result. This means core funding has become more important to delivery of core services and highlights the vulnerability of relying on commercial services to fund student union activities.

Governance of UK students' unions

During the past two to three years, a new agenda on improvement in students' union governance has begun to emerge in the sector, in view of the new charities legislation, but also because of a general desire to ensure better governance and management.

This has focussed on combining democratic principles with effective scrutiny and risk management. NUS runs the Students' Union Evaluation Initiative, a quality model for students' union improvement that enables unions to explore their internal effectiveness and the success of the member-facing work they do. Subscription to the scheme is becoming more widespread, and its development has met with support from within central government.

The changing view of students' unions:

Since the debate in the early 1990s, the stance of the UK Conservative Party has changed significantly. Its HE spokesman David Willets recently said:

"Student unions are often viewed by wider society as the place where Marxist-Leninists have hard-fought ideological battles with Leninist-Marxists. There are still some union members who use them as an opportunity to posture. There are new threats as well; radical Islam has emerged on some of our campuses - and student unions cannot be expected to deal with it on their own. However, this is not typical. These days, students are more likely to have posters of Boris Johnson than Che Guevara. The social interaction and fiery political debate that went on when I was an undergraduate was - and still is - important. But students' unions offer so much more to students and to the communities they live in. Welfare and advice services provided by students, for students, are at the heart of what student unions have to offer."

"Participation in student societies is, nowadays, a feature of the ambitious graduate's CV. Students' unions nurture these societies, which, regardless of whether they seek to promote the Conservative Party (or to destroy it) all help students to learn vital skills for the workplace. These might include event organisation, financial management, public speaking, marketing, fundraising and even sales."

"Out in the communities that surround our universities, student community action groups are bringing real benefit to the lives of others. Students' unions are playing their part in their local communities: Charitable fundraising; university governance; sports and fitness training; examination guidance; job centres; equality campaigning. I could go on. The Party has recently rediscovered its commitment to social responsibility – or what I have called 'Civic Conservatism'. It is an interest in institutions which help build a strong society. To local schools, hospitals, charities, friendly societies, I would add student unions".

Conclusion

The NUS believes a bi-partisan accord has been reached on student unions in the UK. Both the Conservatives and Labour support the current framework for student unions and recognise the importance of their role in quality improvement, student support and the broader student experience.

While all parties started from different places the establishment of a consensus position and the stability that allows has been beneficial to all and has provides sustainable student support and representation.

We urge the New Zealand government to support the status quo position in New Zealand which provides a healthy balance between student choice and sustainable student representation.

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