

APPENDIX B - YUSU MEDIA CHARTER 2015

1. Introduction

The University of York Students' Union (YUSU) has a diverse and vibrant group of Media Societies which add much to the student experience whilst at the University.

This document, as an appendix to the YUSU Bye-Laws, aims to clarify the relationship between YUSU and the student media which it funds and supports, as well as setting out guidelines for the avoidance of legal and ethical difficulties for student media. The document contains complaints procedures for those with a grievance against student Media Societies.

2. Managing legal risk

- 2.1 YUSU Media Societies are as capable of incurring legal liability as any mainstream media outlet. As such, it is important that procedures are in place to avoid these risks. This means that each of the Media Society Chairs must have a good working knowledge of the potential risks and how to avoid them.
- 2.2 Media Societies should note that legal risk could be incurred for their print, online or broadcast output as well as posts on linked social media accounts. The social media activity of students could also incur legal risk in as far as they are working for the various publications and programmes.
- 2.3 Training will be provided to make Media Society Chairs and other members aware of the legal risks involved. It is compulsory that members of the societies, particularly those fulfilling an editorial role, attend such training. Please also see Item 1, below, which lists some of the main legal risks that can occur. This is for guidance, and is not a replacement for the training that will be provided.
- 2.4 YUSU's President (hereafter "the President") is ultimately responsible for all YUSU communication including the content and material produced by all YUSU Media Societies. To maximise efficiency, the President will delegate members of YUSU staff to ensure that such material is produced accordingly to this Media Charter.
- 2.5 Media Society Chairs, if they believe items carries legal risk, should seek early advice from the President or appointed member of YUSU staff who, when necessary, will seek legal consultation in order that risks are avoided and production of an edition is not delayed or halted.
- 2.6 In order that legal risks are detected and minimised, copies of publications and individual articles for publication online, must be made available, in their entirety, to the President or appointed member of YUSU staff as early as possible, before they go to print or are published online. Agreements on what segments and sections this applies to for each publication may be made with the President or appointed member of YUSU staff.
- 2.7 If any legal risk is identified, the articles must be modified to make them safe or withdrawn from publication and replaced. In this, each of the Media Society Chairs, via

the President or appointed member of YUSU staff may receive opinion from the YUSU legal consultant.

- 2.8 It is possible, on rare occasions, that articles cannot be made legally safe without rendering them unfit for print or publication online and the article may need to be omitted by the editor so that further work can be done to try to make it legally sound.
- 2.9 Omission of articles will not take place unless, after relevant advice is sought, they are deemed to be carrying a legal risk or infringing the welfare of YUSU members (see section 2.14).
- 2.10 Final decision in this rests with the President or appointed member of YUSU staff, as YUSU is the organisation liable for any such legal risk incurred.
- 2.11 Notwithstanding the above, situations may arise where legal risk is unidentified until an edition is distributed. Where such risk is deemed imminent and financially grave, YUSU, as the publisher, has the right to withdraw editions from circulation or order that articles are removed from websites. The President or appointed member of YUSU staff should seek to obtain a legal opinion from the relevant YUSU legal consultant prior to such action being taken.
- 2.12 Publications should be retained by the Media Societies involved until legal advice is returned. Once the legal threat has been removed, copies can be redistributed.
- 2.13 It is clear that the above has limited application to broadcast media, where material cannot be withdrawn once broadcast. It is therefore of even greater importance that they are aware of legal risk. The societies must have procedures in place to make sure that all students broadcasting are fully aware of legal risks; senior members of the society are responsible for overseeing and approving content for broadcast by other members and should check for legal risk at this stage. This may also mean seeking legal opinion before broadcasting certain items. Attendance at training events is, again, necessary for members, particularly those involved in broadcasting.
- 2.14 In addition to safeguarding its legal position, YUSU has the duty to protect the welfare of all its members. Therefore YUSU, via its President or appointed member of YUSU staff, can prevent or discontinue the publication of any articles which may threaten the welfare of any of its members.
- 2.15 Media Society Chairs should discuss with the President or appointed member of YUSU staff any articles or broadcast material which may be questionable on the grounds of welfare with a view to seek advice on their appropriateness as early as possible to avoid delays in production.

3. Managing Ethical Risk

- 3.1 The University of York is a relatively small community which is very well-served by media. The impact of attention by media on individuals can be very positive, or in some situations it can have a disproportionately negative impact. In assessing the effect of

media coverage on their subjects, the Media Society Chairs and contributors should always carefully consider the ethical implications of publication/broadcast.

- 3.2 The print Media Societies will adhere to the principles set out in the Press Complaints Commission (PCC) Code of Practice. In so far as ethics are concerned, YSTV will abide by the principles of the National Student Television Association (NASTA) and URY will adhere to principles set out by Ofcom.
- 3.3 All students writing for student media must be given a copy of the Independent Press Standards Organisation's Editors' Code of Practice and confirm, that in obtaining the information for publication and in writing it, they have adhered to its clauses. Likewise students on broadcast media must all be aware of the regulations that apply to them and the restrictions that they impose.
- 3.4 Particular attention should be paid to clauses regarding accuracy, right of reply, privacy, harassment, gender, ethnicity and sexual orientation.
- 3.5 When approaching individual students for interview, particular attention should be paid to the IPSO code clause on harassment, and in the event of a refusal to be interviewed, that decision should be respected. Where an interview has been refused, making repeated requests, in person, via phone, email or social media would constitute harassment under the Editors' Code of Practice.
- 3.6 Where such matters arise special attention should be paid to the balance, accuracy and fairness of articles, including right of reply.
- 3.7 The *anonymisation* of individuals in articles is poor journalistic practice and should be avoided unless at the specific request of a subject. Very often subjects are identifiable to colleagues and friends, even though an attempt at anonymity has been made. Anonymity of a subject should not be used to avoid the need for proper balance within an article or to forego the subject's right of reply.
- 3.8 Balance and fairness does not apply to individual opinion articles where a writer, broadcaster, interviewee or guest is expressing what is, clearly, their own opinion. However, where such opinion features subjects such as gender, ethnicity and sexual orientation, editors should pay close attention to the content so as not to transgress anti-hate laws or the YUSU Code of Conduct. Furthermore, in the interests of balance, editors may wish to give due prominence to counterbalancing opinion in that edition/broadcast or one soon after.
- 3.9 Situations may arise in which there is a possible conflict between the interests of the subject of an article and the public interest of the wider community in knowing the content of the article. The President or appointed member of YUSU staff will make the decision using the codes mentioned above as a guide; an appeal to the decision of the President or appointed member of YUSU staff will be considered by the Trustee Board.

4. Complaints Procedures

- 4.1 All print media shall publish in each issue a complaints procedure, and shall include details of the procedure on their website. Broadcast media shall display procedures in an accessible location. Any person wishing to complain about any item printed/broadcast within the student media should make the complaint to the appropriate Media Society Chair. In the first instance the appropriate Media Society Chair will deal with the complaint. If in the first instance the complaint is made to the President, another YUSU Officer or YUSU staff member, the complainant will be referred to the appropriate Media Society Chair, unless the nature of the complaint requires specific training or knowledge.
- 4.2 If the complainant remains unsatisfied with the response, the complainant can refer the complaint to the President. At the discretion of the complainant, appropriate Media Society Chairs and their members may be present to clarify details. Where appropriate the President or appointed member of YUSU staff may be available in an independent capacity to mediate discussion between the complainant and the media society.
- 4.3 If a satisfactory conclusion to the complaint is still not reached, it is then referred to a panel chaired by the President and comprising of a student who doesn't hold an elected sabbatical position, and a YUSU staff member. Attempts will be made to ensure that there is no conflict of interest within the panel. All Media Society Chairs will recognise the authority of the panel to recommend actions to resolve complaints. These may include such recommendations as the suspension of funds and/or resources until the cause of the complaint has been addressed, removal of a Media Society Chair from post and other disciplinary actions within the society. It is the responsibility of each society to resolve internal recommendations.
- 4.4 Where appropriate and if the complaint remains unresolved the matter may be referred to the University of York Academic Registrar.
- 4.5 Where a complaint involves legal action being sought against a society or individual, YUSU will have responsibility to provide the society or individual with appropriate legal support.
- 4.6 Further details about how a complaint can be made is outlined in Section 5.
- 4.7 The resolution of any complaint upheld shall be published or broadcast with due prominence by the society concerned.

5. Making A Complaint

- 5.1 The complaints procedure is explained in Section 4. This Section is aimed at helping individuals or groups to make a complaint in the most efficient manner.
- 5.2 If an individual or group wishes to complain about any material published by any YUSU Media Society they must contact the appropriate Media Society Chair in the first instance.

- 5.3 If the complaint refers to a comment made by an individual who has been quoted within the article the appropriate Media Society Chair will refer the complainant to the appropriate procedure, outlined in the YUSU Code of Conduct, Bye-Law 12.
- 5.4 It is recommended that any complaint is made as soon as possible but within three weeks of the publication or broadcast.
- 5.5 Any formal complaint should be done according to the following steps to ensure that complaints are dealt with quickly and efficiently:
- It should refer to this Media Charter and relevant Codes of Practice to determine what may have been breached and it should state the nature of the complaint.
 - It should summarise the nature of the complaint and include any relevant correspondence in support of the complaint.
 - When possible, it should enclose a copy of the complete article including the name of the publication and the date.
 - If the complaint is about a broadcast, the date and time of the broadcast and the name of the broadcaster should be supplied.
- 5.6 Receipt of complaints should be acknowledged immediately and replied to within 10 working days of receipt.

6. Print and broadcast apologies

- 6.1 Any apology should be in compliance with the PCC Code of Practice or Ofcom procedures. Each Media Society and YUSU should retain a copy of these procedures.
- 6.2 Copies of the apologies should be kept by the Media Society concerned and by the President or appointed member of YUSU staff.

7. Media contact with YUSU Officers

- 7.1 Due to their responsibilities, YUSU Officers will understandably be a source of information, articles and comment for the media societies.
- 7.2 This can give rise to conflict of interest on the part of Officers, and on the part of societies writing and broadcasting about the organisation which funds them.
- 7.3 YUSU Officers should make themselves available for such interview where it does not directly conflict with their responsibilities as an officer.
- 7.4 If an Officer believes an inquiry to be in conflict with their responsibilities, they should refer the media inquiry to the President, rather than refuse to comment.
- 7.5 Media Societies acknowledge that the Officers' duties are diverse and that they will not always be able to comment as quickly or fully as the societies might wish. Good

journalistic practice will involve finding a number of sources for articles rather than relying solely on comment from YUSU.

- 7.6 Where an officer is commenting in a personal capacity or offering opinion, they should make it clear they are doing so, and it should be made clear in any publication or broadcast.

8. Media coverage and contact with YUSU employees

- 8.1 As well as enabling and funding student media YUSU also has a duty of care to its employees.
- 8.2 Every employee of the Students' Union is entitled to dignity at work and employees should not be the subject of unfounded allegations.
- 8.3 Any coverage of or requests for interviews with YUSU employees would only be in exceptional circumstances and by explicit agreement of YUSU Senior Management and the President. This is in order to avoid potential liability being incurred by YUSU in relation to any coverage.

9. Media Financial Liability

- 9.1 To help limit expenditure of societies, YUSU will take the following responsibilities.
- 9.2 YUSU will hold the account with any printers and take responsibility for ordering the papers once editors have submitted the order form for the finished edition. The print run will only go ahead when YUSU is sure its media societies have sufficient funds to cover the cost of the print run, and only at this point YUSU will place the order.
- 9.3 YUSU will take into account any agreed income from advertising, but only if YUSU Finance Office has received an order form, contract or advertising agreement signed by the advertiser, including digital signatories for electronic correspondence.
- 9.4 When an advertiser has signed a contract and/or advertising agreement and/or order form with a media society, YUSU will take on the responsibility for invoicing and ensure that the advertiser fulfils its financial duty.
- 9.5 If a print Media Society has inadequate funds to print an edition, the President or appointed member of YUSU staff can deny the right to print.

10. Copyright of work submitted to YUSU Media

- 10.1 Copyright of material produced by members of the Media Societies is owned by the students who produce it – text, imagery, layouts, headlines, video. If any students later decide to remove their material from Society websites it can be potentially very damaging. Therefore all Societies should ask contributors to sign a license – copy below.
- 10.2 It must be stressed that the student contributors still own the copyright of their work, this is not an assignment – sometimes described as a copyright grab – by the Societies or

YUSU. The student is free to sell, reuse or republish the work in any way they want – they own it. All they are doing is granting a permanent license to YUSU Media to continue to use the material on its media websites.

- 10.3 Sample licence – “This Agreement shall be effective as of (DATE HERE) The owner hereby grants YUSU media a non-exclusive, royalty-free, perpetual and irrevocable right and license to copy, distribute, display, and perform materials contributed to YUSU media by the owner in whole or in part. and to incorporate the Work, in whole or in part, into other works (“Derivative Works”) for the YUSU media’s use use, including, but not limited to, reproduction and distribution in YUSU’s printed and electronic materials and posting of the Work on the YUSU Media websites. All right, title, and interest in the Work, including copyright, shall remain with the Owner.”

ITEM 1 – MAIN AREAS OF LEGAL RISK

The notes below briefly explain some of the laws that can be broken in print, broadcast, online or via social media. It is not an exhaustive list, and if you are concerned about the legal or ethical aspects of anything you are covering, please contact the appointed member of YUSU staff to obtain advice and support from the editorial legal consultant who will be able to advise.

Often the best advice when trying to avoid problems is simply to use common sense. However, ignorance of the law is not an excuse for breaking it you need to be aware of these potential risks.

If you have any worries about something you are about to print, broadcast, post, or that you have already done so, **seek guidance**.

DEFAMATION

DEFAMATION law protects the reputation of individuals and corporations.

Defamation is punished by damages (cash) set by the court and awarded to the claimant. Even where cases are settled before court action it can be extremely expensive.

Defamatory meaning covers any suggestion of criminal activity, dishonesty, fraud, hypocrisy, immorality, lack of professionalism, incompetence, failing in a duty, sexual impropriety and bullying. This is by no means an exhaustive list.

Repetition Rule

It is important to note that it is not a defence to say you are just repeating what others have said. The rule in defamation is that anyone who repeats a libel has a liability for it. This is particularly true of sharing material online and via social media.

Main defences

- **Justification** - Truth. Truth is a complete defence against a libel action. However, the court assumes anything defamatory to be untrue and so you have to prove truth. Truth is a tough defence and if you lose it will result in heavier damages than if you tried another defence.
- **Absolute privilege** – a defence for reporting court proceedings. Your report must be fair, accurate and published when the case is in court, or very shortly afterwards
- **Qualified privilege** – a defence for reporting much of the material that comes out of government and governmental sources, such as local authorities and police. Protects reports of council proceedings agendas, documents for public information, and official statements. Your item must be fair, accurate, on a matter of public interest and published without malice.

- **Honest comment**, formerly fair comment. This is a defence of free expression of opinion. The comment must be clearly identified as an opinion and it must be based on facts that are true or privileged. This defence fails when a commenter gets their facts wrong.
- **Time limit** – In England & Wales this is 12 months from publication, broadcast or first upload of material online.

MALICIOUS FALSEHOOD

THIS is another civil wrong related to defamation, but slightly different. You commit a malicious falsehood if you recklessly publish something about someone, which is false and causes them damage.

For example, you might say someone has retired, or they are dead, when they are neither. Both suggestions are not defamatory, but if they are not true they could have a serious impact on the claimant's livelihood.

The claimant has to show that what has been said is false; caused them loss and that it was made maliciously, ie, a failure to check properly.

Penalties

Damages, which can be quite severe if substantial financial loss can be shown by the claimant.

The best way to deal with a malicious falsehood is prompt and prominent correction, which undoes or minimises the damage and makes legal action a less rewarding prospect for the claimant.

COPYRIGHT

Copyright is part of the laws that protects intellectual property.

You need to know how much of other people's words or photography you can use. A copyright owner can claim substantial damages for material used without permission.

What is protected?

Literary, dramatic, artistic, musical works, sound recordings, photographs, film, broadcast or typographical arrangement (layouts)

Copyright does not have to be registered – so just because there's no © sign, doesn't mean you can copy.

There is NO copyright in facts, news, ideas or information. What is copyrighted is the exact words used to express those stories or ideas.

Defences

Fair dealing for reporting current events is not breach, but you must acknowledge the author.

There is no fair dealing defence for news purposes if you use a photograph.

Length of copyright

70 years from the end of the year of the author's death. Broadcast copyright is 50 years from date of broadcast

Online and social media

The presence of material online does not make it copyright free. It is in public, but not public domain. But this makes it very easy to copy. Be careful, especially of imagery taken by professional photographers or agencies. Some of them use automated systems to detect copyright breach and charge very large bills when they find it. There are many creative commons databases which offer royalty-free imagery.

CONTEMPT OF COURT

Contempt laws protect the judicial process and a person's right to a fair trial.

For publishers contempt laws sometimes punish publication of articles that might prevent a witness giving true testimony or a jury reaching a true verdict.

For contempt to be an issue there someone needs to have been arrested, or a warrant has to have been issued for their arrest.

How is contempt breached?

By publishing something which causes:

Substantial risk of serious prejudice or serious impediment to active proceedings.

What does that mean?

Avoid the following:

Pictures, video or descriptions, 'where identity is at issue' ie the defendant is denying the offence completely and the prosecution are calling eyewitnesses. Those eyewitnesses will be involved in an ID parade and must rely on their memory of the crime, not your publication.

Assumptions of guilt – reporting that the arrested person is the one who committed the crime.

Character assassination – attacking a defendant's name, so preventing a jury from trying him fairly.

Court orders

Contempt is also committed by disobeying an order of the court, such as an injunction.

Online publication is a particular risk here. While court reporters are familiar with these orders and contempt rules, the public often are not.

Penalties

Contempt is a criminal offence, it is dealt with by a heavy fine.

PRIVACY

People who live in European countries signed up to the European Convention on Human Rights have, among others, a right to privacy.

This means that a numbers of aspects of their lives are not to be revealed unless it can be shown it is in the public interest to do so.

Matters which are often regarded by the courts as being private are:

- Family life and children
- Sexual relationships
- Health
- Religion
- Commercially confidential relationships
- Employee/employer relationships
- Religious confessions

Such information should not be misused – which often means published – without permission, or a valid public interest reason for doing so.

Penalties

Damages, or an injunction to prevent breach.

VICTIMS, CHILDREN AND OTHER VULNERABLE PEOPLE

IF you publish items on crime or court proceedings you need to be careful of laws aimed at protecting those involved.

Sexual offences

In the UK victims of sexual offences are given anonymity as soon as they report a sexual offence. That report can be to any third party – a bystander, a friend or colleague. Anonymity last for the victim's lifetime, regardless of the outcome of any subsequent trial of the offence.

Anonymity can be lifted if an adult victim gives written consent.

Defendants in sexual offence cases do not get any anonymity in the UK.

Sexual offending covers a wide range of offences and in the UK now includes new offences such as voyeurism, trafficking for sexual exploitation and grooming.

You must not publish 'any matter' that would identify someone as a victim of a sexual offence. The offence is committed if a detail is included which allows someone who knows the victim to identify them as such.

Penalties

It is a criminal offence, a sexual offence, to identify a victim of a sexual offence. Sometimes the prosecuting authorities with charge not only the publication, but also its editor, or other responsible manager. The penalty is usually a fine, but a conviction for this type of offence can have far-reaching consequences personally.

AUTHOR'S NOTE

These guidelines were produced by David Banks, media law consultant, and are to the best of my knowledge a correct statement of the law as it stood in October 2015.