

STUDENT COURT 2004

University of Stellenbosch
Faculty of Law

Guidelines for Societies Constitutions

As amended by Student Court 2010

The following guidelines are aimed at assisting a society to draw up a constitution. The guidelines do not purport to be absolute requirements nor do they serve as absolute prerequisites for the passing of a constitution. The student court uses the list below as a checklist when considering whether to pass a society's constitution. It is also important to ensure that the constitution you draw up is clear and that the various provisions do not contradict each other. The constitution must in no way be in conflict with the Student Union Constitution nor the Societies Constitution.

A society wishing to draw up a constitution is advised to consult other societies constitution's as a point of departure or as a guideline only. **However, another society's constitution may not simply be copied and passed off as the constitution of the society drawing up their constitution.** The list of guidelines below is not a closed list and therefore a society drawing up their own and unique constitution may include any other information that they should deem relevant or necessary. The guidelines can and must be adapted to fit the needs of each particular society and do not have to appear in the same chronological order as below.

STRUCTURE:

A. General:

1. A Constitution must have a heading clearly stating the name of the Society.
2. NO bullets are allowed.
3. Check spelling and grammar.
4. Be precise and clear.
5. Be professional.
6. Numbering must be correct and consistent throughout the document.
7. If another Society's constitution is used as a guideline, provisions pertaining to the other society must be deleted or amended correctly.
8. Where procedures are required, such as in the election of office bearers, discipline and amendment of the constitutions, provide clear procedural steps. This is very important.

B. Content:

1) Preamble

- 1.1) This should include a definition of the society; its aims, purpose and objectives. Please put the aims purpose and objectives in the same section.

2) Mission statement

- 2.1) In practical terms describe why the society was formed and what it plans to do.

3) Definitions

- 3.1) Of terms that have the potential to create ambiguity, uncertainty or that are open to various meanings.

- 3.2) Define terms specific to the Constitution.
- 3.3) A good idea would be to first write the whole Constitution and then look at it and determine whether or not terms need to be defined.
- 3.4) Examples of definitions:
- a) Quorum – the percentage of the total members of the society needed to consent to decisions requiring a vote,
OR $\frac{3}{4}$ of the entire body need to participate in election
OR the numbers of members that need to be present at a meeting to take a decision.

(This definition is very important. It means that a meeting requires a certain number of members to be present to take a decision/to vote.)

- b) Common majority – 50% plus 1 of members present who are voting.
 - c) General or ordinary member – registered student who fits the profile of membership to the society.
 - d) Associate member – someone who works with the society but who does not qualify as a general or ordinary member.
 - e) Honorary member – founder, patron, donor of the society.
- 3.5) Also provide definitions for terms such as:
- a) AGM
 - b) Special/Extraordinary Meeting
 - c) Active member

4) Membership

- 4.1) Remember that membership may not be denied to any registered student who professes a sincere intention to be part of the society.
- 4.2) In terms of the Societies Constitution 85% of all the members of the society need to be registered students of Stellenbosch University.
- 4.3) Who may become a member?
- Defining who may become a member may not be unfair or discriminatory against any person.

- If there are requirements these must be stated in the constitution. Keep in mind 4.1 if there are requirements.
- 4.4) Annual membership fee – the amount does not need to be specified (it is better if an amount is not given as the constitution will need to be amended if the amount changes). It might be necessary to include a section stating that if a member pays the membership fee and during the year terminates membership or is expelled from the society that the membership fee is non-refundable.
- 4.5) Voluntary termination of membership:
- If a member of the society no longer wants to be a member what do they need to do?
 - For example, the member must notify in writing a member of the executive if they should decide to no longer be a member of the society.
- 4.6) If necessary distinguish the levels of membership of a society – general or ordinary, associate, honorary.
- 4.7) Rights of members is important to include if the society has levels of membership:
- What is each level of membership entitled to do?
 - Is each level of membership entitled to different privileges or subject to different duties?
- 4.7) Responsibilities of members:
- This becomes important if as a society you wish to enforce regular participation in meetings for example or if it is felt that each member of the society must be responsible for familiarising him/herself with the content of the 'Studente Regelement', 'Studente Unie Grondwet' and/or of that society's individual constitution.

5) Office bearers: The executive committee – The management of the society

- 5.1) Composition of the executive committee:

- How many members on the executive?
- What portfolios are available? E.g.: Chairperson, vice chairperson, treasurer, secretary, advertising, social events co-ordinator etc.

5.2) Election of office bearers: (Very important)

- What procedures regulate the nomination of a candidate for the executive committee? Must the nomination be seconded or can someone wanting to stand for the executive nominate him/herself.
- Election process:
 - a) How long in advance must the members of the society be notified of the date for the election? For example two weeks.
 - b) When and how must a member be notified of elections?
 - c) Does voting take place by way of a show of hands, secret ballot and is an electronic vote acceptable?
 - d) **NB:** What is the quorum of members needed for voting to take place? E.g.: $\frac{3}{4}$ of all registered members to be present at voting.
 - e) Do not set the quorum too high, since it might hamper the voting process – if a quorum is $\frac{3}{4}$ and only a $\frac{1}{4}$ of the members are present then voting can not take place until $\frac{3}{4}$ of the members are present. A realistic quorum would probably be about a $\frac{1}{2}$ or $\frac{1}{4}$ of all registered members for voting to take place.
 - f) How is the executive elected? Is the chairperson the candidate with the most number of votes or does the executive committee vote for a chairperson and then choose their own portfolios?
 - g) By-elections – i.e.: how the position of an executive member is filled should a member of the executive vacate their seat, be suspended, expelled or have received a vote of no confidence.

6) The office bearers and their duties

- 6.1) Chairperson, vice-chairperson, secretary, treasurer.
- 6.2) Co-opted office bearers – in cases where it is at some stage necessary during the year to appoint extra office bearers to assist the executive in the execution of their duties.

- 6.3) The duties do not need to be in detail, since it places a heavy onus on the office bearers to comply with their duties. In broad terms formulate the general duties of the office bearers.

7) Discipline (very important)

- 7.1) The disciplinary procedures are subordinate to those compiled in the Student Union Constitution, Societies Constitution and the 'Studente Reglement'.
- 7.2) What type of conduct is regarded as unacceptable by a member or office bearer?
- 7.3) Distinguish between discipline of members and office bearers.
- 7.4) Discipline of members:
- Under what circumstances can a member be suspended, expelled or have their membership terminated?
 - Rights of members in terms of suspension and expulsion – E.g.: Any member who is suspended or expelled has the right to appeal in writing to the executive committee within 7 working days.
 - Right of appeal against suspension, expulsion or termination of membership would be to the Student Court.
 - It is possible for a society to make the discipline of their member subordinate to the Central Disciplinary Committee (CDC) of the US. Should this be done, then the CDC will handle the discipline of the members and not the executive committee of the society. If the CDC makes a decision regarding the discipline of members, the decision can not be taken on appeal to the Student Court, but the appeal committee of the CDC.
 - Thus must choose either the CDC or the Student Court.
- 7.5) Discipline of office bearers:
- Under what circumstances can a member of the executive be removed from his/her office?
 - Discipline of an office bearer can also be made subordinate to the CDC in the same manner as indicated above.

- Vote of no confidence against any member of the executive – if by a common majority (50% + 1) then the executive committee member against whom it is made must vacate his/her seat.
- The office bearer, against whom a common majority has voted in favour of a vote of no confidence, has the right to appeal against it only on procedural grounds to the Student Court.
- The procedures for filling the vacancy of the office bearer against whom the vote of no confidence has been made must be addressed under the heading by-election (see 5.2-g above).

8) Meetings

8.1) AGM:

- When, how are members notified, must the agenda be made known to members?

8.2) Special Meetings – what are the procedures for these?

8.3) Executive committee meetings.

8.4) This does not need to be detailed.

9) Constitutional Amendments (very important)

9.1) A 2/3 majority of the Executive must agree to a constitutional amendment. This assent to the amendment must be confirmed by a vote in favour thereof by 2/3 majority of the members present at the meeting with regard to a constitutional amendment.

9.2) All members of the society must be notified regarding the time and place of a meeting that will vote for a constitutional amendment. A minimum of 2 weeks notice needs to be given to all members.

9.3) Constitutional amendments must take place at a reasonable time and place.

9.4) The notice given to members needs to specify the reason for the proposed constitutional amendment.

9.5) Please note that the above procedural requirements are regarded as very important by the Student Court. Any constitutional

amendment made that does not comply with the procedural requirements will not be valid.

9.6) It is best to do a constitutional amendment at an AGM.