

University and College Union

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To Branch and local association secretaries

Topic **Implications of rule change motions**

Action For information – to inform debate on rule change motions at Congress

Summary The NEC has decided to make the information in this circular, about the effect of some of the rule changes proposed to Congress 2019, available to branches and delegates

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Dear Colleague

Implications of rule changes to Congress: information and commentary

The Congress agenda includes 19 proposals to amend rules and standing orders.

At its meeting on 3 May, the NEC was provided with information about the implications of some of those rule changes, where their impact is particularly significant, or may not be fully apparent from the rule change as it is presented, or where there is relevant background information.

The NEC decided that the information and commentary it had received should be made available to branches and delegates to inform consideration of rule changes at Congress and is therefore set out in this circular.

Yours sincerely

Paul Cottrell

Acting general secretary

1 Motion 77 - removing the per branch cap on Congress delegates

1.1 Text of rule change:

77 Branch delegates University College London

In Rule 17.2, remove 'up to a maximum of six members' where it appears with respect to Congress and Sector Conference entitlements.

1.2 Implications:

Taking membership numbers as they apply to Congress 2019, only two branches (with 2001 members or more), both in HE, would have their delegation entitlement affected by this rule: one would move from 6 to 7 delegates, one from 6 to 8. There is one further HE branch that would require only a small increase in membership to move from 6 to 7 delegates.

2 Motion 78, 'Restoring the democratic mandate of UCU Congress' – changes to the composition of Congress and the sector conferences

2.1 Text of rule change:

78 Restoring the democratic mandate of UCU Congress University of Southampton

Rule 16.11, between 'general meetings in' and '20 branches/local associations', add 'at least'. After '20 branch/Local Associations, add ', whose total delegate entitlement would be sufficient to render the meeting quorate,'.

Rule 17.1 (composition of Congress), after '...members elected from sector committees in', delete 'English regions'. After '...branches with fewer than', delete '100', replace with '250'.

Rule 17.2 (Congress delegate entitlement), first sentence, after '...shall be one for every', delete '400 members (or part thereof)', replace with 'full 250 members'.

After '...in accordance with Rule 17.1', delete 'up to a maximum of six members'.

End of rule 17.2, After 'The number of members from branches/local associations/central groups for meetings of', delete '...Sector Conferences shall be one for every 400 members (or part thereof) up to a maximum of six members from, as appropriate, each institution/central group', replace with 'the appropriate Sector Conference shall be the same as for Congress'.

Rule 17.2.1 (regional and devolved nation committee delegates) start of first sentence, after 'Sector committees in', delete 'English regions'. Second sentence, delete 'geographical area', replace with 'nation'.

17.4 (regional and devolved nation committee observers) start of first sentence, delete 'each of the English regions'.

Rule 30.2 (rights and responsibilities of regional committees), delete i and ii:

- i. to submit motions and amendments to Annual Congress and Sector Conferences, in line with rules 16.7.5 and 16.7.3
- ii. to elect delegates to Annual Congress and Sector Conferences, in line with Rule 17.2.1

2.2 Implications:

These rule changes

- a. require the branches passing requisitions for a special congress or sector conference to have a combined delegate entitlement that would render the meeting quorate
- b. change the aggregation threshold under which branches must be aggregated from 100 to 250 members
- c. change the delegate entitlement to one per full 250 members
- d. remove the 6 delegate cap for delegation entitlements
- e. makes sector conference delegate entitlement for institutions the same as for Congress (ie by institution, not branch, and aggregation applies)
- f. remove the right of regional committees (but not devolved nations) to send delegates, observers, motions and amendments to Congress and the sector conferences.

2.3 These proposals significantly alter the composition of Congress. Based on the entitlements that would apply to Congress 2019, a comparison between the current rules and the rules as amended by 78 is set out in the following tables:

Congress delegate entitlements – comparison of current rules with 1 per full 250 and aggregation for branches under 250, no delegate cap - HE

Congress delegate entitlements - HE	<i>Current rules</i>		<i>Proposed rule changes</i>	
	Number of institutions with this entitlement – per 400 or part thereof	Resulting number of delegates – per 400 or part thereof	Number of institutions with this entitlement – per full 250	Resulting number of delegates – per full 250
HE - aggregation	42	14*	69	23*
HE – entitled to 1	49	49	36	36
HE – entitled to 2	46	92	29	58
HE – entitled to 3	13	39	12	36
HE – entitled to 4	10	40	5	20
HE – entitled to 5	4	20	7	35
HE – entitled to 6	2	12	3	18
HE – entitled to 7			3	21
HE – entitled to 8			-	-
HE – entitled to 9			1	9
HE – entitled to 10			-	-
HE – entitled to 11			1	11
Total entitlement		266		267

Congress delegate entitlements – comparison of current with 1 per 250 and aggregation for branches under 250, no delegate cap - FE

Congress delegate entitlements - FE	<i>Current rules</i>		<i>Proposed rule changes</i>	
	Number of institutions with this entitlement – per 400 or part thereof	Resulting number of delegates – per 400 or part thereof	Number of institutions with this entitlement – per full 250	Resulting number of delegates – per full 250
FE - aggregation	206	66*	288	72*
FE – entitled to 1	98	98	17	17
FE – entitled to 2	4	8	2	4
Total entitlement		172		93

*aggregation figures include estimate

All figures based on data 1 December 2018 (ie census date for Congress 2019).

Total delegate entitlement in HE essentially unchanged, redistributed towards larger branches.

Decrease in FE delegate entitlement: 79 (-45.9%)

30 additional HE branches go into aggregation.

82 additional FE branches go into aggregation.

Percentages - FE/HE

Delegate entitlement from institutions – current rules – 39.26% FE, 60.73% HE

Delegate entitlement from institutions – as per proposed rule changes – 25.83% FE, 74.17% HE

Sectoral UCU membership – 26.09% FE, 73.91% HE

3 Motion 81 - Election of Deputy General Secretary

3.1 Text of rule change:

81 Election of Deputy General Secretary Yorkshire and Humberside retired members

It is proposed that this rule change come into effect at the time of the next election for General Secretary.

Rule 20.5 (counting order for NEC elections)

Insert after 20.5 `ii General Secretary`

iii. Deputy General Secretary

and renumber accordingly

Rule 28.2 (delegation of duties by the general secretary), end of sentence, delete `as the General Secretary shall determine` and replace with `in consultation with the Deputy General Secretary`.

Insert new Rule 29 and renumber other rules accordingly:

29 Deputy General Secretary

The Deputy General Secretary shall be the deputy chief executive of the Union, responsible for duties specified by the Rules and Standing Orders of the Union, and duties allocated by the National Executive Committee, and shall be elected for terms of five years by the membership of the Union, under procedures agreed by the National Executive Committee.

Rule 29.1 (engagement of other employees), after `Employees other than the General Secretary`, add `and Deputy General Secretary`

Schedule B

Add in procedures, as determined by NEC, for election of Deputy General Secretary.

Purpose: to establish an elected post of Deputy General Secretary. The rule change to come into effect at the next time an election occurs for the General Secretary. Nothing in this rule change has any implications for employment status of any other members of UCU staff.

3.2 Implications:

This creates the role of deputy general secretary. The detail is relatively minimal and similar to that provided in the current rules for the position of General Secretary. Points that the NEC may wish to note:

- 3.2.1 The motion states that the rule change should come into effect at the time of the next election for General Secretary. This proposal is in order (rule 37.3 allows Congress to determine when a rule change will take effect, if it is not to take effect immediately). Congress meets after the conclusion of a GS election; this clause would be a reference to the next GS election.
- 3.2.2 If passed, the NEC would need to determine the job description for the role of Deputy General Secretary. This would need to be done taking into account existing staff job descriptions.
- 3.2.3 The proposal perhaps mistakenly assumes that the NEC can determine the wording of a schedule to the rules (the final instruction to 'add in procedures, as determined by the NEC, for election of Deputy General Secretary'). Schedules to the rule are part of the rules, and must be agreed in the same way. If the rule change were passed this clause would form an instruction to the NEC to bring back a relevant schedule to the rules for approval by Congress.

4 Motion 82 - Dispute committees

- 4.1 Text of rule change:

82 Rule change (democracy commission recommendation 6) National executive committee, University College London

Congress approves recommendation 6 of the democracy commission's interim report, rule change: dispute committees.

Insert new rule 35:

35.1 For all multi-institution industrial disputes, a dispute committee will be constituted immediately following a successful ballot from delegates from each branch involved in the dispute, which will exist for the duration of the dispute. Delegates will be elected or nominated by branches, with delegate entitlements as per those prescribed for Sector Conferences in rule 17.2. The committee will be chaired by the relevant Vice President

(for single sector disputes), or by the President (for cross-sector disputes). The frequency of meetings will be determined by the committee. Branches may send different delegates to each meeting.

35.2 No decision affecting the choice of tactics, continuation, escalation, or ending of an industrial dispute, including putting to the membership for approval a proposed deal to settle the dispute, can be taken without the approval of the dispute committee constituted for that dispute.

(Renumber remaining rules as necessary).

Purpose: To establish in rule disputes committees for multi-institution disputes.

4.2 Implications:

4.2.1 NEC may wish to note that the effect of 35.1 above would be to create dispute committees of various sizes, depending on the number of institutions involved in the dispute itself. In the case of national sector disputes, the committee would be equivalent in size to the Sector Conferences, meeting as often as the committee determined during the dispute. This has obvious resource implications for the union and its branches.

4.2.2 NEC may also wish to note a potential conflict between the proposed rule 35.2 above and existing rule 34.1:

The National Executive Committee has the power to authorise or endorse sanctions including industrial action, having regard to the decisions of the Sector Committees. No other body may do so unless that power has been explicitly delegated to it. Procedures to implement sanctions including the payment of sustentation, shall be made by the National Executive Committee and endorsed by National Congress.

4.2.3 To avoid any conflict (and to protect the union from legal challenge) the NEC would be advised to delegate separately to each dispute committee established under the new proposed rules 'the power to authorise or endorse sanctions'. The matters covered by the last sentence of rule 34.1, including sustentation payments, can only be delegated by a procedure made by NEC and endorsed by Congress (which was the means by which the current procedures for the payment of sustentation were established).

5 Motion 85 – Inclusion of migrant representatives in NEC

5.1 Text of rule change motion and amendment:

85 Rule change: Inclusion of migrant representatives in NEC University of Leeds

Add new rule 18.11.4:

18.11.4 There will be two National Executive Committee seats for representatives of migrant members, at least one of whom shall be a non-EU migrant member. Candidates for election to these seats must state they are a migrant member and can remain on committee for three years after receiving ILR.

Renumber existing rule 18.11.4 and subsequent rules, and any subsequent references to these rules, as necessary.

Rule 19.6 (Scheduling of biennial elections) First sentence, change '18.11.3' to '18.11.4'. After 'representatives of LGBTQ+ members', delete 'and', replace with comma; after 'representatives of black members', add 'and two representatives of migrant members'.

Rule 19.7, delete '18.11.3', replace with '18.11.4'.

Rule 20.5 (counting order for NEC elections): after "ix. Representatives of black members;" add "x. Representatives of migrant members;" re-number existing points x-xiii as xi-xiv.

Purpose: To allow the recognition of UCU's migrant members (which will include refugees and asylum seekers) through two NEC seats for migrant members. These will be listed as equality seats, for which all members may vote, scheduled in the same years as elections for equality seats other than women, and placed in the counting order for NEC elections at the end of the equality seats (and before casually employed, land based and prison seats).

85A.1 National executive committee

End of proposed new rule 18.11.4, delete 'and can remain on the committee for three years after receiving ILR'.

5.2 Implications:

- 5.2.1 The rule changes creates two seats on the NEC for representatives of migrant members. This would take the total number of seats on the NEC from 62 to 64.
- 5.2.2 The effect on the sectoral balance of the NEC will be variable as the seats are not sector specific.
- 5.2.3 The proposed new rule includes the clause '[candidates]... can remain on the committee for three years after receiving ILR'. This implies that a member's service on the NEC might be terminated part-way through a term if they exceed the period of three years after receiving ILR – or that they should not be allowed to stand for a term of office if they will hit this threshold during that term. It

would be more in keeping with the way in which UCU's election rules are otherwise constructed if any eligibility requirement were set out in terms that apply at the time of nomination.

The NEC, having discussed the issue of different types of migrant status, agreed amendment 85A.1 shown above which deletes this phrase.

6 Motion 86 – National hustings event

6.1 Text of rule change:

86 Addition of 15.9-15.11 to Rule 15 University of Sheffield

Add new rules:

15.9 Between 7-14 days after a ballot for Officers of the Union has opened, a national hustings event will be held. This event will be video-recorded and made available to all members. Reasonable traveling and subsistence expenses will be made available to candidates, paid from union funds.

15.9.1 The location of this event may not occur at the home branch of any participating candidate, and the location will rotate to a different region from the previous year, with due consideration to accessibility depending on candidates' locations.

15.9.2 All members eligible to vote in the relevant election will have the opportunity to submit questions in advance of this event.

15.10 The date for the event will be chosen in consultation with all candidates, and will be finalised no later than one month before the beginning of the ballot period.

15.10.1 If a candidate prefers to attend electronically rather than in person, or to pre-record a statement and answers to questions, this will be facilitated.

15.10.2 If a candidate cannot make the session due to illness or emergency, they will be given an opportunity to record their responses on another date, to be included in the recording for members.

15.10.3 Candidates may choose not to attend.

15.11 During the relevant ballot period, any other branch organising a hustings event will provide candidates with 30 days notice, making every effort to make the event accessible all candidates, including facilitating electronic attendance. Reasonable traveling and subsistence expenses will be made available to candidates, paid from branch funds, on the basis that all candidates standing for a given position are invited to attend.

6.2 Implications:

6.2.1 The rule change carries resource implications, in the form of the staff time

required to make the necessary arrangements, and the expenses of holding the meeting which may include hiring an external venue with video conferencing facilities.

- 6.2.2 There are many details which are not covered in the rule. If this rule were adopted, these details would need to be determined by the NEC – for example, who is invited to attend as the audience and are their expenses met? Must questions be agreed in advance so that any candidate providing a pre-recorded statement can answer the same question as candidates attending in person? Who determines the questions? Who chairs the hustings? Who takes the final decision on the location and timing of the hustings, and who will adjudicate if a candidate complains about those decisions?

7 Motion 88 – annual meeting of retired members to submit motions to Congress

- 7.1 Text of rule change:

88 Rule change: Rule 16 National Congress and Sector Conferences Yorkshire and Humberside retired members

In 16.7.1 after 'specialist committees set up under Rule 25' insert comma and add:

'Annual meeting of retired members'

Add point 16.7.6

'The annual meeting of retired members shall be entitled to submit two of the motions carried at its annual meeting to UCU annual Congress'.

Purpose: To give the annual meeting of retired members the right to send two motions directly to annual Congress. No provision is made for sending of amendments since by its nature an annual meeting cannot be scheduled in a way which would permit the sending of both motions and amendments.

7.2 Implications:

- 7.2.1 This would permit the annual meeting of retired members branches to submit motions to Congress.
- 7.2.2 UCU has two other annual meetings to which no committee is attached – prison education, and adult and continuing education (ACE). These annual meetings do not have the ability to submit motions to Congress. For other groups (equality standing committees and employment special interest groups), it is the committee, rather than the annual meeting, that has the right to submit motions and amendments.
- 7.2.3 The annual meeting of representatives of retired members branches is composed of two representatives from each regional retired members branch. These branches already have the ability to submit motions (and amendments) to Congress on the same basis as all other branches. The number of motions

submitted by regional retired members branches in recent years has been:

2019: 9 motions

2018: 7 motions

2017: 7 motions

2016: 10 motions

8 Motion 93 – Quorum for sector conferences – subset of branches

8.1 Text of standing order change:

93 Amend Congress standing order 18 University of Leeds

Congress standing order 18 (quorum), delete "(subject to rounding up to the nearest whole number)"

Add at end:

'except where only a subset of the branches in a sector is eligible to vote on the topic under discussion, in which case the quorum shall be a fraction of 150 members proportionate to membership in that subset. Quora shall be rounded up to the nearest whole number.'

Purpose: To have a quorum for sector specific conferences on matters relating to a subset of the sector which is line with the membership of that subset.

8.2 Implication:

It is doubtful that this standing order change would have the effect that is almost certainly intended. In the UCU's current rules and standing orders, there is no provision for a sector conference in which only some branches in the sector are 'eligible' to vote. There are occasions – most notably, recently, USS – where branches not directly involved in a dispute are asked to respect the convention that they do not vote – but this is not the same as them being ineligible under rule.