

April 2020

University and College Union

To National executive committee
From Strategy and Finance Committee
For Report and noting
Subject Democratic continuity

Summary

1. The paper below was prepared by the national officers following the unavoidable decision to postpone May Congress. The paper sets out the principal consequences of the postponement for the rules and procedures of the union and records the decisions that have had to be taken to date. The advice of the union's solicitors has been taken in relation to the union's rules.
2. NEC members are requested to read the paper carefully and to **NOTE** its contents. The paper will also be made available to the membership for information on the union's website.
3. A further report, including any updates on the issues covered in the paper, will be made by the officers to the NEC meeting on 1 May 2020.

UNIVERSITY AND COLLEGE UNION

Democratic continuity during the Covid-19 crisis

Congress

1. There was no option but to postpone Congress. The process leading up to Congress was due to start on Friday 18 March with the first meeting of CBC, which was cancelled. It would have been impossible to adhere to the timetable for motions and amendments, particularly since many national committees, branches and regional committees/devolved nations will not be able to hold the required pre-Congress meetings.
2. Timing for holding the re-scheduled Congress is difficult because of the unpredictability of the timespan for the current Covid-19 crisis, but late

October might be about right if we can find a venue. Unsurprisingly, many organisations are cancelling events due to take place over the next three or four months, so there is great pressure on potential venues for autumn re-scheduling. It will not be easy to find a suitable venue within our date range (the end of November is perhaps the cut-off point) but we are already actively searching. It would be easier to find a venue if we reduced the re-scheduled Congress to two days, but this may not be possible. Separating the Sector Conferences from Congress has been suggested, but this would be significantly more expensive. SFC will be updated on any progress at its meeting.

3. An early decision to postpone was also necessary to reduce our financial losses. Hotel contracts are the largest element in the Congress budget. Some have quite long cancellation notice periods, so we needed to start cancelling those immediately to minimise our costs.

Consequences of postponing Congress in relation to the rules of the union

Congress and delegated authority

4. Rule 16.5 states:

16.5 *National Congress and Sector Conferences shall have annual meetings, which shall meet in the same time period, between 15 March and 15 June.*

5. Clearly, *force majeure* applies to that rule in the current circumstances, but 18.1 helps:

18.1 *The National Executive Committee shall be the principal executive committee of the Union, and shall be responsible for the execution of policy and the conduct of the general business of the Union between meetings of National Congress...*

6. At this point we do not know whether or not NEC will be able to meet during the crisis. We have precedent for the delegation of NEC powers during periods when it does not meet (the summer break). Delegation is made each year at the June meeting as follows:

NEC agrees to delegate its authority, should any situation requiring an urgent decision arise over the summer period, to the General Secretary (or in the absence of the General Secretary, an SMT member as designated by the General Secretary) and at least two officers of the union. In such circumstances, communications in respect of the decision to be made will be sent to all officers of the union, and the decision reported to SFC.

7. Obviously, the opportunity to get NEC to agree that delegation formally has passed, but we should inform NEC of the adoption of this provision as an emergency measure in the circumstances. We should add that wherever possible the chairs and vice-chairs of the relevant committee will be consulted, depending on the decisions to be taken under this authority, and also the Trustees if appropriate or required under rule.
8. The planned regular virtual meetings of the officers would enable this delegated authority to be effectively applied; all decisions taken should be recorded and reported to SFC (as they are in this paper).
9. SFC is holding its next meeting on 3 April by Skype. Given the relatively small size of the committee this is practical and will be important in maintaining continuity in the union's democratic processes at a high level of elected member authority. If this is successful further (i.e. additional) meetings of SFC could be arranged if necessary. Staff are also investigating the possibility of holding other key committee meetings online.
10. These arrangements should be sufficient to deal with any emergency measures that the union may be forced to take should the Covid-19 situation and government advice change significantly over the coming months.

Subscription rates

Rules 7.1 and 7.2 state:

7.1 *The subscription year shall run from 1 September to 31 August.*

7.2 *The rates of national subscription due from members shall be determined by the National Executive Committee, subject to the endorsement of National Congress.*

Budget

Rule 31.2 states:

31.2 *The National Executive Committee will make an annual budget, which will be subject to the endorsement of National Congress. Exceptionally, a budget may be made for a longer period.*

11. The rules on both subs and the budget require the endorsement of Congress for the sub rates and annual budget, although neither refers to endorsement by summer Congress specifically, and there is some leeway on the length of the budget period.
12. However, this is another case of unavoidable necessity and we have no realistic alternative to operating the subs increase and budget agreed by NEC at last meeting as from 1 September 2020. This should be subject to

retrospective endorsement by the re-scheduled Congress, which should receive an updated report and any recommended adjustments for approval.

Terms of office: NEC, Officers, Trustees

13. Elected NEC members, Officers and Trustees normally take up office at the end of annual Congress under rule. This is specified in the calling notices and other official documentation for our national elections.
14. If we apply a literal interpretation of the rule, disregarding the exceptional circumstances currently prevailing, we would have to extend the periods of office of incumbents to the end of the re-scheduled Congress (whenever that turns out to take place) and curtail the periods of office of the new office holders.
15. We have had to accept that this is another instance of *force majeure* and treat the end and beginning of periods of elected office as if annual Congress will end on 29 May 2020 as expected (indeed, as expected by the occupants and candidates for office themselves). Any alternative would create all manner of complications and potential complaints. The current and incoming NEC members and Trustees have been informed of this decision.

Elections at Congress

16. Elections conducted at Congress (HE negotiators, CBC, SWG) will have to take place at the re-scheduled Congress because the electorate for these positions is Congress delegates and we will not have any for May. Current occupants of the positions will therefore continue in office until the close of the re-scheduled Congress (except, of course, those elected by virtue of their positions as chair/vice-chair of, e.g., the HEC who would not continue in office in the way Congress elected negotiators would, but would be appointed as part of the 'internal' NEC elections described in paragraph 23 below).

Elections generally

By-election for Vice-President

17. The current by-election for Vice-President would normally give the end of May Congress as the date for assumption of office. The ballot for this election was planned to take place in April and May.
18. If we had proceeded on the current schedule the election would be affected by the Covid-19 crisis because most members give work addresses as their preferred mailing address and institutional closures

could have a very significant impact on members' ability to vote. It is not possible to do anything to change mailing arrangements in the short term.

19. Changing the current schedule for the by-election is not, strictly speaking, a problem under rule because the relevant rule does not refer to the end of Congress as the start of the term of office, but, effectively, takes an 'as soon as possible' approach with the president as returning officer having responsibility for deciding the actual schedule.
20. The ability of members to vote in an election should outweigh other considerations and, therefore, on the advice of the Officers the president as returning officer has decided that the by-election for Vice-President should be delayed. The candidates have been informed. Deciding on the new election schedule is difficult when the future development of the pandemic is so uncertain. We might aim to have it underway in September with the new Vice-President taking up office by mid-October.
21. Since the new Vice-President will chair HEC this will leave a gap in that function, which will need to be filled by HEC electing an acting chair. This also impacts on the membership of national negotiating teams for pay and USS. Of course, there may be no meetings or perhaps only one meeting of the committee during this period so this may not turn out to be a major issue in practice.

Other elections and related matters

22. We will prepare separate advice to branches and regions/devolved nations on their own 'democratic continuity'. There are unlikely to be any immediate issues arising from elections at branch level (although there is a good deal of variation in branch practice and timing), but regional committee AGMs are coming up next month and will have to be postponed. Since regional committee elections take place at their AGMs, and it is too late and anyway impractical to arrange elections by ballot only, it may be best, if not ideal, to advise regions that their current officers should continue in post until the postponed AGMs take place (in September or early October at the latest, one hopes).
23. We do not envisage any problems in conducting the 'internal' NEC elections for chairs, SFC, sub-committees etc in the usual way (although it may be better to run them online, rather than the usual paper ballot). It would make sense to include the HEC and FEC vice-chair positions in these elections (and acting chair of HEC), rather than leaving their election to the first meeting of the committees, so that they are in place as soon as possible, particularly for HEC because of the gap in filling the position of chair. Also, we can draft the calendar of meetings for the next

round, in consultation with the president, for ratification by the first meeting of the new NEC in June or whenever it is able to take place.

Committee meetings

24. In general, scheduled meetings of UCU committees and conferences over the next few months are being cancelled or postponed, but this will be kept under review by the General Secretary and Officers.
25. Where possible meetings will be held by Skype or telephone. We will try to extend this if we can and as experience develops.
26. It is absolutely essential that the work of the union, and support for members, continues normally in so far as that is humanly possible to achieve. Even if committees are not meeting, they all have programmes of work, much of which can continue through email circulation and telephone contact. Staff with responsibility for servicing committees have been asked to ensure that this happens and that they maintain close contact with their committee chairs and vice-chairs.
27. Effective communication with members will be crucial during the crisis period. We are confident that our existing means are fit for purpose but will keep that under close review and adapt as necessary.

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