

Fund the Future - bargaining note for branches

Introduction

We are in the midst of the most difficult period the UK higher education sector has ever seen. The sector is forecast to miss out on billions of pounds in income from tuition fees and other sources as students consider cancelling or deferring their studies in the wake of the coronavirus pandemic.

Over the last two months UCU has provided more evidence and pushed harder than any other sector organisation for the government to step in and underwrite all of the sector's lost income. We have made some progress already and have developed a political campaign to carry this work forward over the coming months. That campaigning will intensify as we approach the decisive moment in late August when institutions know what their student intake will be for the next year.

However, branches cannot wait on news of government support because employers are already making, or proposing to make, significant cuts on a local level. In most cases they are choosing to attack staff – and particularly the section of the workforce on insecure contracts which they have chosen to increase drastically over the past ten years – rather than using reserves, running a short-term deficit, reducing capital expenditure or other measures.

At this point there is a real risk that branches will be bounced by their management and the sheer pressure of the situation into agreeing substandard deals, including detrimental changes to pay and other terms and conditions, in exchange for some prospect of protecting their members from losing their jobs. Indeed, some members and branches are already asking UCU staff for permission to consider measures such as significant pay cuts, despite not having considered alternative avenues or received a correspondingly firm guarantee of employment security from their employer in return.

The purpose of this document is to show branches that there are other options. We encourage branches to hold as firm and consistent a line as possible in their dealings with management, to ensure that any deals agreed between branches and employers are in line with the union's overall objectives and represent the absolute maximum that can be achieved in this moment.

This note on negotiating procedures and priorities should be read alongside our longer **campaign resource pack**, which represents a starting point for those branches that need advice formulating a wider local campaign to defend jobs. Whereas this note focuses on the details of the steps you should take before considering a negotiated agreement, and what you should be asking for across the negotiating table, the campaign resource pack considers broader questions of how to engage your membership and the rest of your community to support your objectives, and generate leverage over your employer. As our national campaign progresses, both documents will be followed by further materials and resources tailored to help you deal with specific tasks and situations.

The need for UK-level coordination

Since the beginning of the pandemic, branches facing cuts have been supported by staff in UCU's regional and devolved national offices and head office. A number of these local campaigns have already succeeded in averting or watering down seriously damaging proposals from employers. But it has become clear that more high-level coordination is needed, because a number of individual employers are proposing measures that could undermine the policies and bargaining power of the union as a whole.

If one branch is pushed into accepting a substandard agreement, other branches could have their own position undermined. Conversely, if one branch wins particularly valuable concessions from an employer, other branches will be encouraged and emboldened to push for more in their institution. This document and the measures it outlines are designed to make that possible.

Threats branches are facing

Cost reduction proposals being raised by HE employers and involving detrimental impacts on staff range from limited temporary restrictions on pay through to large scale redundancy dismissals. They include, but will not be limited to:

- deferral of any national cost of living award, under the JNCHES provision for a delay of up to 11 months on grounds of affordability - currently (June 2020) with no progress in the 20/21 national pay round, this would effectively involve employers amending their 2020/21 budgets to reallocate amounts budgeted for an anticipated pay award, and indicating in advance of any national pay negotiations an intention to defer payment.
- suspension of promotion rounds
- removal of acting-up/additional responsibility payments
- suspension/removal of performance related pay bonuses and/or additional increments
- suspension of salary increments
- voluntary pay freeze
- voluntary reduction in hours with corresponding pay cut
- voluntary pay cut

- imposed pay freeze
- imposed pay cut
- reduction in work offered to those on variable hours contracts
- imposed hours reductions - dismissal and offer of reengagement on lower hours
- redundancy dismissals:
 - non-renewal of fixed-term contracts
 - dismissals from permanent contracts.

The UCU priority, in line with our national campaign, is to reach 'jobs first' agreements across the HE sector. Employers are approaching branches and telling them that drastic cuts are urgently needed. Branches should not allow employers to bully or rush them into making staff the shock absorbers for this crisis – especially when there are alternatives to cutting staff costs, or the problems have arisen because of senior managers' own poor financial planning.

The only circumstance in which such proposals may be palatable is if there is evidence that they will demonstrably avoid job losses and there are no means to do so other than cutting staff costs. Such evidence will be needed before other measures can be agreed and could include, for example, a moratorium on job cuts at least for the duration of any alternative measures.

Prerequisites for engagement on protecting jobs

Branches should, however, insist on the following prerequisites to, and conditions on, any negotiated 'jobs first' agreement.

Full and transparent disclosure of financial information by HE employers

- This should include information not normally or not yet in the public domain, such as up-to-date financial statements; management accounts; budgetary projections/forecasts; details of ongoing financial commitments / liabilities, including commitments to creditors which employers often seek to withhold on the basis of commercial confidentiality (e.g. commercial covenant obligations to lenders, financial commitments to student accommodation providers such as UPP); future expenditure plans not limited to staff/payroll expenditure but covering all expenditure streams, including capital expenditure.
- Financial forecasts will be predicated in large part upon anticipated student recruitment and retention rates - it would be advisable to avoid firm commitments to temporary measures until firmer data regarding 2020/21 student numbers is available.
- Where it is not clear that an employer has disclosed all relevant information (we have arrangements for providing critical assessment of financial data provided by an employer - contact your regional official for details), or where it is clear that they have not done so, a formal request for disclosure of information under s.181 of TULR(C)A

1992 should be considered. Staff in your regional or devolved national office will be able to assist with this and guide you in requesting all of the above data.

Full UCU member consultation

- Any potential agreement must be subject to consultation with branch members and ideally, members will be engaged and briefed at every stage of negotiations. Member consultation will at present necessarily be via remote means, including e-mails and virtual branch meetings. Care must be taken to ensure that all categories of members are included and to maximise members' access to information and consultation in advance, with significant proposals being consulted on through a full consultative e-ballot of branch members before final agreement.

Temporary measures

- Any cost reduction measures with negative impacts for staff (e.g. pay freezes/deferral of pay awards/suspension of salary increments) must be agreed as temporary measures only. Specific expiry dates should be agreed in advance, with automatic reinstatement of full terms and conditions when temporary measures expire.
- Regular intervening review points should be agreed so that restrictions may be removed earlier than planned if circumstances allow.

Future restitution of detriment

- Agreements should be reached for future restitution of financial detriment suffered by staff through any temporary measures, as soon as financial circumstances allow. Criteria to identify those circumstances should be agreed in advance.

Collective rather than individual agreements

- UCU members should be advised against entering into individual agreements as this undermines collective negotiation between their union and employer. Collective agreements will be stronger, contain more safeguards, and provide more equitable outcomes than multiple individual agreements.

Guarantees in respect of equality and different groups of staff

- UCU negotiators need to be mindful of potential differential impacts on different staff groups and those at different stages of career progression in order to avoid inadvertent discriminatory outcomes. To this end equality impact assessments should be completed for all proposals and shared with UCU/recognised unions before consultation with UCU members and any agreement being concluded.
- Impacts for academic related and professional services members, as well as academic and research staff, must be considered.

Assessment of workload implications

- Should an employer propose reductions in staffing through voluntary means, such proposals should not be considered without a thorough assessment of the workload implications for employees who will remain after implementation of such measures.

Consistency with national negotiating priorities

- The increasing urgency of current financial issues across the HE sector, and uncertainty over any meaningful government assistance being provided, means that consultation/negotiation over these matters will happen in unusually short timeframes. Draft local agreements will be checked for consistency with national priorities by officials and national officers as necessary.
- Branches are reminded that UCU has produced a range of bargaining advice and checklists linked to our ratification processes in our HE negotiating packs. Speak to your regional/devolved national official if you cannot locate your branch copy.

Potential industrial action – and a note on postal ballots

If progress in negotiation with employers proves impossible, or unsuccessful, UCU will be left with no option but to enter into dispute with employers locally to defend the interests of members and protect jobs.

After an initial period of uncertainty regarding the ability of Civica, the company that administers our statutory postal ballots, to deliver their normal services, we expect to be in a position to conduct postal ballots of members from the end of June onwards. Regional/devolved national offices will give their full support to branches that are forced to choose this option and go through our normal internal approval processes. However, we should warn that owing to ongoing operational risks arising from interruptions to Civica and Royal Mail's normal services, UCU will need to give Civica longer advance notice than usual prior to the ballot opening date (at least four weeks), and may also need to observe a longer ballot opening window than usual. This is ultimately because of the implications of lockdown for our legal and regulatory duties to ensure that all members are given a full opportunity to vote.

Some members have asked whether now is the time to lobby the government to repeal or relax the statutory requirements to ballot union members by post, and permit members instead to vote for action via online ballots. Naturally this is something which we have pursued since the start of lockdown, in conjunction with the TUC. However, the Certification Officer (effectively the regulator for trade unions) has been unwilling to consider any such relaxation – not only for industrial postal ballots, but even for ballots in trade union elections, such as the casual vacancies for vice president (HE) and NEC posts that currently exist.