

UCUBAN/HE75 19 October 2020

University and College Union
All Branch Action Note

To	HE Branch and local association secretaries, branch chairs and presidents.
Topic	National Negotiators' Report to the Interim Higher Education Sector Conference, 29 October 2020.
Action	To consider the national negotiators' report and recommendations and circulate to members.
Summary	This Branch Action Note provides a report on the New JNCHES negotiations 2020/21, the employers' final offer and the national negotiators' recommendations to the Interim HE Sector Conference 2020.
Contact	Paul Bridge, Head of Higher Education

Dear Colleagues,

Please find attached the HE National Negotiators' Report to the Interim Higher Education Sector Conference 2020, which appears as motion HE3 on the HE Sector Conference Agenda.

Paul Bridge, UCU Head of Higher Education

ACTION REQUIRED: branches are asked to consider the report and recommendations and circulate to members.

National Negotiators' Report to the Interim Higher Education Sector Conference, October 2020.

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1. Introduction

- 1.1 The 2019 HE Sector Conference (HESC) (held on 31 May 2019) made a number of significant decisions that laid the foundations for the development of the Four Fights dispute. Branches have been updated at regular intervals since:

<https://www.ucu.org.uk/he2019>

2. Background

- 2.1 The HESC agreed not to consult members on the final offer made by the employer representatives at UCEA (i.e. 1.8% pay uplift and limited offers of joint work on precarious contracts, workload and gender and ethnic pay inequality). HESC voted, instead, to build a concerted campaign to win industrial action ballots for a fight over pay to commence in the autumn. That campaign developed into the Four Fights campaign over the summer/autumn of 2019.

- 2.2 At its meeting in June, the Higher Education Committee (HEC) formally rejected the UCEA offer. HEC also agreed:

- Both a Pay and Equality and USS ballot to run concurrently;
- Both ballots to run on a disaggregated basis;
- Ballots to open on 9 September and close on 30 October;
- There would be up to 14 days strike action supported by ASOS in the form of working to contract in the first phase of action;
- Industrial action could start w/c 18 November;
- The marking and assessment boycott would form part of the second phase of action
- HEC would meet on Friday 1 November to consider the result and next steps.

- 2.3 Only after the negotiators had exhausted the JNCHES dispute resolution process without an improved offer being made by the employers' side, did UCU commence the ballot timetable agreed by HEC.

- 2.4 The outcome of negotiations was yet again a deeply unsatisfactory one. HE employers' failure to address the decline in pay at New JNCHES undermines the

credibility of UK-level pay negotiations. In addition, the lack of ambition of employers to tackle the gender pay gap and intersectional discrimination; to address widespread casualisation, and to reduce excessive workloads and hours was, and remains, a cause of real concern. In September and October as the Get-the-Vote-Out campaign built and the ballot opened, a series of national and regional branch briefings took place in Glasgow, Manchester, Birmingham and London. The General Secretary went on a tour of the UK and engaged with over 80 branches.

- 2.5 At its meeting in November, HEC considered the impressive set of ballot results in which far more branches cleared the 50% threshold and voted for industrial action than ever before. However, the total represented less than half the employers in New JNCHES. HEC called 8 days of strike action for November and December and negotiators pressed the employers to meet to resolve the dispute and improve the rejected offer.
- 2.6 A special HESC in December resolved a further 14 days of strike action in the USS dispute. HEC agreed that the same action over the same timeline would take place in the Four Fights dispute. Talks took place. The employers refused to move on headline pay but did agree to a set of sector-wide expectation and potential work streams covering gender and race inequality, precarity and workload. 37 branches were re-balloted at the time and 14 branches were successful, meaning a total of 74 branches were able to take part in the industrial action on Four Fights.
- 2.7 In January 2020, UCEA made an improved offer, although pay was not increased. Notice of the action was served on the employers, which started on 20 February 2020 and ran into March. Some limited further dispute talks took place and a final offer was made in early April.
- 2.8 In April, branch briefings on the final offer took place. In May, two Branch Delegate Meetings (BDMs) were held to give a representative steer to HEC with respect to the next steps in the dispute, at which "the overall view of the branches represented was that the recently tabled offer from UCEA should be rejected". In June, the newly-elected HEC adopted the recommendation of the BDM which meant the dispute was paused; no further action would take place until a future HESC resolved it; members were consulted on the UCEA final offer, and the June re-ballot cancelled. In July, members rejected the final offer. UCU remains in dispute over the 2019/20 negotiating round.

3. The National Claim 2020/21

- 3.1 The joint HE trade union claim was agreed and submitted to UCEA just before the pandemic peaked in March 2020 and the sector went into lockdown.

The claim and updates on developments can be found here:

<https://www.ucu.org.uk/he2020>

3.2 The headlines of the claim are:

- an increase in all higher education salaries by the Retail Price Index plus 5%, on all 49 points of the national pay spine; for all pay-related allowances, including London weighting, to have same uplift;
- the minimum hourly rate of pay for staff employed by universities to be £10.50 per hour. This is to be applicable to staff at all HEIs, whether the standard full-time weekly employment contract is 35 hours per week or above;
- addressing compression of the pay spine, with the aim of restoring the 3% differential between pay spinal column points over the next three years;
- for all universities to become Living Wage Foundation accredited employers, ensuring that outsourced workers receive at least the Foundation Living Wage rate;
- for the standard weekly full-time contract of employment to be 35 hours per week at all HEIs;
- ending pay injustice - meaningful, agreed action to tackle the race, gender, ethnic and disability pay gap; to take an intersectional approach to the ways in which intersectionality and protected characteristics impact on pay equality;
- meaningful, agreed action to address excessive workloads and unpaid work; action to address the impact that excessive workloads are having on workforce stress and mental ill-health;
- New JNCHES to establish working group/s to look at career development, progression issues and training opportunities in higher education;
- to establish the Scottish sub-committee of New JNCHES as set out under the New JNCHES agreement; to review and consider how the Scottish Fair Work Convention dimensions can best be applied at a UK level
- agreeing a framework to eliminate precarious employment practices and casualised contracts, including zero hours contracts, from higher education;
- converting hourly paid staff onto fractional contracts; agreeing national guidance to end the outsourcing of support services in higher education and to bring staff into in-house employment.

3.3 UCEA's response to the pandemic was to temporarily withdraw from the agreed JNCHES negotiating timetable for 2020/21. The expectation on the trade union side was that the negotiations would begin on 31 March 2020 and conclude before the end of April. However, after the trade union side submitted the claim, UCEA advised that they had no mandate from employers to start negotiations because the pandemic had generated a huge shift in employers' focus away from the UK-level negotiations, and in particular on pay. UCU, alongside the other four HE unions, pressed UCEA to meet and to agree a process that would enable

negotiations to start.

- 3.4 In June 2020, UCEA wrote to the unions setting out the rationale for proposing a pay freeze for 2020/21. HEC considered the UCEA position regarding no offer on headline pay as deeply troubling. In addition, the suggestion by UCEA that the HE unions agree to this without any meaningful negotiations or guarantees on job security or the equality and pay related matters of the claim was unprecedented.
- 3.5 The trade unions pressed UCEA again and to negotiate on pay and give proper consideration to the union's demands.
- 3.6 A meeting took place in July where UCEA stressed the employer's commitment to JNCHES and national bargaining, however, that in the context of Covid, they had not received a mandate to make an offer on pay for 2020/21. 'Uncertainty' and the 'need for flexibility' were repeated themes.
- 3.7 UCEA confirmed that 145 HEIs had committed to New JNCHES for 2020/21 on the proviso that no offer would be made on pay for this round.
- 3.8 Agreement was eventually reached on a series of three New JNCHES meetings:
 - Tuesday 15 September
 - Monday 5 October
 - Thursday 5 November.
- 3.9 The meetings on 15 September and 5 October did not result in an offer from UCEA. At the time of writing this report, no offer has been made on pay. UCEA are considering what potential exists for some limited joint work based on the claim. It is expected that a full and final offer will be made on Thursday 5 November.

4. National Negotiators' commentary

- 4.1 The 2020-2021 HE negotiation round takes place against a backdrop that is unusual in many ways. In the first place, this round co-exists with our as yet unresolved 2019-2020 'Four Fights' dispute over casualisation, equalities, workload, and pay. This dispute saw mobilisation across the HE sector, with 60 institutions taking part in industrial action in late 2019, and 74 in early 2020, along with active solidarity from other branches across the union.
- 4.2 What was the effect of this action? In previous negotiating rounds, the employers organisation, UCEA, was entirely unwilling to engage in sector-wide consultation over pay-related issues, such as casualisation, workload, and equal pay - with the exception of largely token "working groups" that collected selective data, cherry-picked examples, and published reports justifying the status quo. Although our action was not able to force a binding agreement from UCEA, who consistently argued it was "not in their remit", it raised the prospect of two important new elements: a framework for sector-wide minimum standards for terms and conditions, and monitoring mechanisms to measure individual employer's

adherence to these standards. The framework was limited in terms of implementation enforcement (expressed as 'UCEA expectations'), and monitoring discussions are in their infancy. For all its limitations, the 2019-20 offer represents an opening for further progress compared to the previous approach of UCEA to pay-related issues. This change in attitude was only possible because members took hard-hitting action.

- 4.3 However, the impact of Covid-19 - first on our action, and then on the employers - was substantial. Faced with lockdown, our action stopped and plans for reballoting were put on hold. Members found themselves under pressure to support students in the last weeks of term, and UCEA hardened their position as individual employers began to panic about their finances.
- 4.4 The immediate impact on New JNCHES negotiations was substantial. The employers announced that they would be making a 0% pay offer 'at the limits of affordability'. As employers projected falls in student fee income and talked up increases in costs due to Covid-19, we first faced repeated attempts by UCEA to indefinitely postpone or even cancel the entire bargaining round. These attempts were soundly rejected by the five staff side unions (UCU, EIS, UNISON, UNITE, GMB) who make up the New JNCHES bargaining group.
- 4.5 The 'initial offer' which we received from UCEA contains a 0% cost of living pay adjustment. As an actual pay freeze, this is the lowest offer in cash terms in our bargaining history. Despite attempts to rationalise this 0% pay adjustment via the potential impacts of Covid-19 on student recruitment figures, the total number of students placed through UCAS is up 4% on 2019 (and 5% above the average over the decade); overseas student enrolments are higher still at around 8% up. In fact, the sector is seeing a large growth in student income not predicted by the employers, or indeed, by UCU.
- 4.6 This is not just about the justification for negotiating over headline pay. Taking positive steps on casualisation costs, as our lowest paid get what they are due. Tackling the gender and ethnic pay gaps means uplifting members who had been left behind. Reducing workload means eliminating wasted effort but also employing more staff on, we would argue, secure contracts.
- 4.7 So far, this rise in income has not impacted on the employers' approach to pay. Moreover, apart from not improving their pay offer, UCEA has backtracked on pay related issues, offering at most a return to "information gathering" working groups.
- 4.8 The negotiators' message is therefore a dual one: members' action does shift negotiations with UCEA. However, UCEA's final offer on our 2019-20 claim, in part directed by Covid-19 anxiety, in part by opportunism, fell short of what members consider an acceptable resolution to the dispute: as evidenced by members voting to reject the offer in the summer.
- 4.9 All of these factors and others need to be considered as we assess and evaluate our prior industrial action, develop our ongoing dispute, and make collective plans to continue organising for better terms and conditions in our sector.

- 4.10 Years of derisory offers make it clear that their entrenchment represents a deliberate strategy of obfuscation, in which they collectively hide behind their 'weakest' member institutions to avoid any improved sector-wide offer, and then move to worsen conditions at individual institutions. This strategy was disrupted but not ended by our industrial action last year, and the advent of Covid19 has provided cover for UCEA's return to their established approach.
- 4.11 UCU members have made it clear that they reject this erosion of our working conditions, both by UCEA as a collective, and from our individual employers. They have made it clear that they want to continue pressing for better terms and conditions at sector level, and that the impact of Covid 19 reinforces our commitment to tackling issues of precarity and equality. Members have also made it clear that they do not wish a collective dispute to replace the work of individual branches, but to support and be coordinated with them.
- 4.12 We recommend that UCU continues to engage members in deliberation and discussion of our next steps at all levels of our union in branches, regions, and nations.
- 4.13 HEC approved bargaining guidance and model claims covering gender pay, precarious contracts and workloads can be found on the UCU website; <https://www.ucu.org.uk/campaigns>

5. The position of the other trade unions

- 5.1 All four other JNCHES unions (Unison, Unite, EIS and GMB) have rejected the zero pay offer for this round. Like UCU, they are waiting for the final meeting on 5 November to consider the UCEA offer before considering it within their democratic structures and consulting members.

6. Recommendations

- 6.1 The National Negotiators recommend that UCU:
- 1) **Consult members on the UCEA offer** (if made) during the third and final negotiators' meeting on 5 November. We hope that UCEA improve their offer in such a way that it is not necessary to enter into dispute, but, based on our experience of the negotiations to date, **we anticipate advising members to reject it.**
 - 2) **Trigger and exhaust the new JNCHES dispute resolution process.**
 - 3) **Organise a series of branch briefings (where input from members is maximized)** in order to promote the survey and build the widest possible support for Industrial Action and Action Short of Strike (ASOS).
 - 4) **Call Special meetings of the HEC (as needed)** to consider the results of the survey and feedback from branches; formally establish the grounds of the dispute, the ballot timetable and the campaign.

- 5) **Hold a formal Branch Delegate Meeting before triggering an Industrial Action ballot.** The meeting should allow branches sufficient time to consult widely and the questions asked of members should be consistent.
- 6) Continue to encourage and support branches **lodging local claims** with respect to precarious contracts, pay inequality and workload.