

Paul Bridge and Ruth Smith
Joint Union Side Secretaries
Joint Higher Education Sector Trade Unions

By email

21 April 2022

Dear Paul and Ruth,

2022-23 New JNCHES pay round

Further to our first meeting of the 2022-23 New JNCHES pay round, I write to set out UCEA's offer. I wish to place on record our disappointment that, after listening in detail to the Joint Unions' full claim, no opportunity was afforded to the employers' representatives to present our statement to the New JNCHES meeting. The employers' statement is an important contextual document which highlights our priorities and constraints in the negotiations. You indicated that the Joint Union presentation contained no factual information not already contained in the written claim submitted on 23 March 2022. However, employers' representatives listened attentively to the presentation of the Joint Unions' claim since much can be learnt from the presentation and emphasis. For example, we share your concern about the effects of inflation biting harder on the lower paid.

We would have hoped that the Union Side would have similarly benefitted from the presentation of our statement since we all have to acknowledge we live in extraordinary times. Had we been able to, we would have explained the increasing variation in individual institutional finances across the sector. We recognise completely the difficulty the current inflationary pressures place on your members, our colleagues and all employees. We want to do the best we can to assist in meeting these rising costs. However, we also recognise that the unit of resource continues to fall in real terms; that there are other major inflationary pressures on costs for employers; and that student numbers are very variable between different institutions, with UCAS data showing clear falls at some. Virtually all sectors are finding it impossible to match inflation at this time, and in a sector where price increases are not possible, we believe the offer we set out in this letter is comparable to very many others in the economy.

We understand from comments made by some members of the Union Side that they may have some insight into a few of the positions submitted by individual institutions to UCEA which contributes to informing our negotiating mandate. However, it is important to emphasise that there are 145 HEIs in the 2022-23 New JNCHES pay round and only UCEA officers and the Board are aware of the full range of outcomes which HEIs are seeking for this year's pay round.

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There is no sector-wide surplus available to be called on by all autonomous institutions. Each HEI is an individual employer which, under its own governing statutes or charters, is responsible for its own internal matters and has a fiduciary duty to ensure the long-term sustainability of their individual institution. UCEA understands its role very clearly to ensure staff are properly rewarded through a pay uplift which is collectively supported by the members we represent in the pay negotiations. For this reason, great care is taken to develop a pay uplift which is both meaningful, but within the bounds of both affordability and sustainability for the majority of our member HEIs, while also taking into account the desires of some of our more aspirational members.

We would also note the time taken up in the first meeting regarding the offer of an uplift to the pay spine. UCEA recognises the centrality of pay, particularly given the inflationary environment we find ourselves in. However, the Joint Unions' claim has 12 elements. We entered the 2022-23 round with the intention of making an offer at an appropriate point that would allow sufficient time for full and proper negotiation over pay as well as making real progress on the other items. It is worth noting the missed opportunity to devote more time to elements beyond the core pay uplift in the first meeting, as well as to explore short-life sub-committees to develop proposals between the meetings given the time constraints on the negotiating round. The fact that the Union Side failed to take up this opportunity means that there is now little or no time within the current negotiating round to make such a process work.

This letter sets out UCEA's offer on behalf our participating employers with the aim of reaching an agreement with the trade unions. Our response covers all elements of the Union claim and should be read as a whole.

Career development, training and progression opportunities

Promoting career development is something which our members, as good employers, support. UCEA would, therefore, propose the establishment of a joint working group to examine career development and training opportunities. We understand the aspiration of the joint unions that such a working group would explore, but not be limited to, technicians and the Technician Commitment and academic-related staff. We would anticipate that the working group would be able to identify good practice with regard to career progression from within and outside the sector. However, it would remain a matter for HEIs to determine their own policies on progression between grades.

Gender, ethnicity and disability pay gaps

As we have stated previously and repeatedly, UCEA and its members share the commitment of the sector trade unions to taking action to reduce the gender, ethnicity and disability pay gaps. As the Joint Unions have recognised, this commitment was highlighted by the UCEA report *Caught at the crossroads: outlining an intersectional approach to gender and ethnicity pay gaps in HE* and UCEA's more recent research (October 2021), *Intersectional Pay gaps in HE*. UCEA's commitments in respect of the gender pay gap, and the steps already being taken by HEIs, were also underlined by the UCEA report *Taking action: Tackling the gender pay gap* which was also referenced in the joint unions' claim. UCEA would, therefore, support the creation of a New JNCHES time-limited task and finish group, with a clear timeframe and terms of reference to:

- examine the intersectional data, to the extent it is available, giving prominence to the findings
- invite HEIs to submit and/or publish their own data on a voluntary basis
- identify and promote good practice and the principles underpinning it, both within and outside of the sector
- make recommendations that HEIs adopt similar practices where they are able to do so
- Identify exemplar organisations which can help institutions that volunteer as pilots on their journey to reduce gender, ethnicity or pay gaps

Workload, mental wellbeing and Covid-19

As a sector, higher education strives to provide leadership on positive support for staff health and wellbeing. Throughout the pandemic, the impact of remote or hybrid working on staff has been recognised by HEIs and they have developed programmes to support employee wellbeing and to protect and promote work-life balance. Building on these local programmes, and although workload is not within the scope of New JNCHES, UCEA recommends the following:

- HE employers and their local trade union representatives to engage in dialogue about establishing a local/institutional approach to concerns that arise relating to stress at work
- Where HEIs do not have such arrangements, that they put in place systems to enable individuals to raise concerns about their workload demands and to have this fairly examined
- That HEIs have or develop procedures, relevant to their own institutional contexts, by which they can assure themselves that individuals are being given appropriate and achievable work demands against the expectations of their role and the professional discretion they are expected to exercise
- Local action to reduce the incidence of work-related stress ill-health

In addition, through its existing structure of the Higher Education Safety and Health (HESH) Forum, UCEA will recommend that HEIs consider adopting the HSE Stress Management Standards approach (or suitable equivalent system) where they are not already doing so.

35-hour working week

Across the sector, as many HEIs operate a 37-hour week as a 35-hour week, so UCEA needs to understand the unions' main aim with this particular demand. It is not clear from the Joint Union claim whether the demand for a standard working week at 35 hours is driven by a view that this is inherently the right length of the working week or whether it is simply about the value of the pay spine in relation to hours worked. In order to reach a better understanding of this issue, we propose research to establish the degree of variation in working week length between institutions, which can be promulgated to individual institutions to work up their own positions and discuss with their local trade unions. You will be aware that hours of work nationally are not a New JNCHES matter. You should be assured that with the overview UCEA has of the sector we are continually sharing with our members the distribution of the trajectory of different working weeks in the sector.

Scottish Sub-Committee of New JNCHES

In the present circumstances, the view of employers is that there is nothing within the remit of New JNCHES which requires discussion at a devolved administration level. The core purpose of New JNCHES is to determine the uplift to the pay spine. In our view, it is not appropriate for negotiations on the pay uplift to be conducted at a devolved administration level given the existence of, and support for, a UK-wide process for collective pay bargaining. There are arrangements already in place in Scotland to discuss matters of joint interest outside pay.

Contract types

The Joint Unions' claim seeks a commitment from UCEA for a joint call to HEIs in respect of several areas of employment practice which fall clearly within the remit of institutions as autonomous employers. However, in order to reach an agreement with the Joint Unions, UCEA is willing to communicate the following expectations to HEIs:

- We would expect HEIs to minimise the use of hourly-paid employment to situations which are genuinely unpredictable or where such arrangements are mutually agreeable to both parties. We recommend that HEIs have arrangements whereby contracts are reviewed for transfer to a fractional contract once an agreed hours threshold is exceeded. We would expect that staff moved from hourly-paid to fractional

contracts as a result of such reviews would be assimilated to the appropriate pay spine point in line with local job evaluation procedures and associated pay and reward systems.

- We would expect that mechanisms exist for an individual who believes their hourly paid engagement does not provide fair terms for the work expected of them to have such a concern examined.
- We expect that when duties associated with supporting students' learning are being offered to an institution's doctoral students, individuals will be given clarity as to the work required and the remuneration for the work they perform, including where this constitutes part of a stipendiary arrangement.
- We expect institutions to have arrangements to pro-actively identify staff who have held a fixed term contract or succession of fixed term contracts which taken together meet the statutory threshold of 4 years for conversion to ongoing employment. We also recommend that institutions develop policies which seek to avoid an individual, unless to the parties' mutual benefit, being issued with a succession of fixed term contracts.

In addition, with reference to Graduate Teaching Assistant (GTA) contracts, UCEA is prepared to engage in joint work with the sector unions to establish information on the nature of GTAs and similar roles, and the nature of the issues faced by your members and ours in the use of such roles.

Redeployment

Although redeployment is not within the scope of New JNCHES, UCEA would agree to enter into discussions with the joint trade unions outside of New JNCHES to explore whether there are examples of best practice and mechanisms which could be promoted to HEIs and further improve visibility of opportunities at different institutions.

Pay uplift

It appears that this year, in contrast to last year, the Joint Unions wish to reach a quick conclusion to the New JNCHES 2022-23 pay round so there is certainty for all well before the contractually anticipated 1st August implementation date. The employers recognise and respect this desire by the Unions and confirmation you will properly and quickly decide on any final offer would be very welcome. We are, therefore, willing to make an offer across all areas of the Union claim very close to our mandate in the expectation that this will result in genuine negotiations. Although we were never afforded the opportunity to present at the first New JNCHES meeting, you will understand from the information in the Employers' Statement and reiterated in this letter, that Joint Unions' headline pay claim is unaffordable. However, the employers are committed to achieving a fair and meaningful pay uplift for staff in the sector.

Employers recognise that the effect of high inflation falls disproportionately on the lower paid. For this reason, UCEA is sympathetic to an uplift which is structured so as to provide higher increases to those at the lower end of the pay spine. However, employers do not agree with the two demands made by the Joint Unions in respect of those staff on the lower pay points. Firstly, in respect of the Foundation or Voluntary Living Wage, the majority of HEIs pay at or above the Voluntary Living Wage. Understandably HEIs wish to maintain control over their individual pay bills. UCEA, therefore, will not commit the sector to the Living Wage Foundation's rate as this is for each autonomous institution to decide. Secondly, introducing a minimum hourly rate of £12 an hour would increase the salary at the lowest pay point by 26 percent at a 35-hour week and 34 percent at a 37-hour week. This would mean that no HEI would be able to use the pay points below SP15 for a 35-hour week or SP17 for a 37-hour week. The Joint Unions' claim includes an assertion that staff in the sector earn less than the National Living Wage. This is incorrect and we address this in Appendix 2 of this letter.

Employers agree that the pay spine compression, together with pay rates at the lower end of the spine, require review. Below we set out our offer in respect of this aspect of the Joint Unions' claim. However, we do not believe this will be assisted by the introduction of a £12 an hour minimum rate.

Our offer for 2022-23, illustrated in Appendix 1a, is an uplift of up to 6 percent for those on the lowest points of the pay spine, with a minimum uplift of 2.75 percent for all those on or above Spinal Column Point 20. We believe that this is a fair and reasonable offer in the current financial climate. This offer would be worth 2.9 percent on the total paybill and is at the limits of affordability in very many institutions, in the absence of any uplift in undergraduate fee levels. An uplift at this level will itself require increased levels of efficiency in very many institutions to ensure those institutions remain on a sustainable footing. This challenge, and the subsequent impact upon staffing levels, should not be underestimated.

Pay spine review

Following agreement of the pay uplift, or confirmation that it has been noted by the Joint Unions, UCEA is willing to commit to the establishment of a New JNCHES working group to examine the drivers, impact and potential recommendations in respect of the compression of the pay spine. The group would examine this issue to see what costed recommendations can be made jointly. Suggested terms of reference are included in Appendix 1b. Our preference is for such a working group to develop a jointly agreed position which both UCEA and the trade unions could test with members in preparation for the beginning of the 2023-24 annual New JNCHES pay round. This would allow any agreement on reform of the pay spine to be reached by 2024, in line with the timescale set out in the Joint Union claim. This is, of course, dependent upon when the work can commence, which would not be until the round is formally concluded.

Pay-related allowances and London weighting

If our offer on the pay uplift is accepted, we would recommend that all Post-92 HEIs that have retained separate London weightings increase these by the same percentage.

We trust that the Joint Unions will recognise the efforts of employers to develop a meaningful pay uplift which also addresses a significant number of the many elements of this year's claim. For the absence of doubt, as we all appeared to acknowledge at our preliminary meeting, no single element of this offer will be agreed until all elements are agreed and the pay round is concluded.

Yours sincerely,

A handwritten signature in black ink that reads "Raj Jethwa". The signature is written in a cursive style with a horizontal line underneath the name.

Raj Jethwa

Chief Executive

Appendix 1a

Proposed increases to Spinal Column Points 3 to 20

	Salary from August 2021	Percentage uplift	Salary from August 2022
3	£17,338	6.0%	£18,378.28
4	£17,596	5.8%	£18,616.57
5	£17,901	5.6%	£18,903.46
6	£18,212	5.4%	£19,195.45
7	£18,529	5.2%	£19,492.51
8	£18,852	5.0%	£19,794.60
9	£19,209	4.8%	£20,131.03
10	£19,623	4.6%	£20,525.66
11	£20,092	4.4%	£20,976.05
12	£20,600	4.2%	£21,465.20
13	£21,135	4.0%	£21,980.40
14	£21,686	3.8%	£22,510.07
15	£22,254	3.6%	£23,055.14
16	£22,847	3.4%	£23,623.80
17	£23,487	3.2%	£24,238.07
18	£24,174	3.0%	£24,899.17
19	£24,871	2.8%	£25,567.46
20	£25,627	2.75%	£26,331.47

Appendix 1b

New JNCHES Pay Spine Working Group: Terms of reference

Background and purpose

The New JNCHES settlement for the 2022-23 negotiating round included a commitment to establish a New JNCHES working group to examine the drivers, impact and potential recommendations in respect of the compression of the pay spine. The group would examine this issue to see what recommendations can be made jointly and to ensure that any proposals are properly costed. This group will attempt to develop a jointly agreed position on which both UCEA and the trade unions are able to consult their memberships, in preparation for the beginning of the 2023-24 New JNCHES pay round.

Remit of a Pay Spine Working Group

A Pay Spine Working Group will be established to undertake the agreed work. As a working group of New JNCHES it shall report to the main New JNCHES committee.

The outcomes of the Working Group will be the production of a series of proposals for the reform of the pay spine which increase differentials between points at the lower end of the pay spine. In order to achieve this, the Working Group will:

- receive data relating to the pay spine
- consider the current and future developments relevant to the bottom of the pay spine
- explore the drivers of pay spine compression
- model potential changes to the pay spine
- report and provide alternative options

The remit of this task and finish group would be to make recommendations to New JNCHES on the matters covered in its deliberations. It is recognised that the constituent members of New JNCHES may need to consult their members on these recommendations.

Working group membership

The Working Group membership will consist of:

- up to five Union Side representatives
- up to five Employer representatives (including UCEA officers and representatives from HE institutions)

Members of the Working Group should have the authority to approve work undertaken in the Group on behalf of their organisation.

The Working Group will also be able to invite additional specialists to provide input and research findings where relevant.

It may be necessary to convene a sub-group from the main Working Group, to focus on and undertake technical or research work between the main meetings of the Working Group.

Working Group Chair and secretariat

The Chair of the Working Group will be a role undertaken by an alternating trade union/employer nominee from among the membership of the Group.

Each side will appoint a lead officer who will act as co-ordinator between meetings.

UCEA will provide secretariat support to the Working Group.

Meetings

Working Group membership, lead officers and the Chair should all be agreed prior to the first meeting.

Where work is progressed through a sub-group between meetings, the lead officers will be responsible for keeping the rest of their Working Group members updated on progress at appropriate intervals.

The meetings can take place in person or virtually, so that the joint work can be completed within the agreed timescales and provide reasonable opportunity for Working Group members to participate.

A meeting may take place with at least half the number of representatives from the trade union side and employer side, provided that minutes of the meeting are circulated in a timely manner.

Responsibility for hosting meetings will be shared between the employers and the trade unions.

Timescales

The Working Group will aim to hold its first meeting within two months of the 2022-23 New JNCHES pay uplift being recognised as closed.

The Working Group will seek to undertake the tasks set out in its remit within six months, so as to allow both UCEA and the trade unions to consult their memberships in preparation for the beginning of the 2023-24 annual New JNCHES pay round. This would allow any agreement on reform of the pay spine to be reached by 2024, in line with the demand set out in the Joint Union claim, although this requires a timely ending to the 2022-23 round.

Appendix 2

Clarification on areas of the Joint Unions' claim

This note provides a UCEA response to three areas of information in the Higher Education Joint Union's Claim 2022-23, with a view to focussing on the pay negotiations at our next meeting on 25 April 2022.

Firstly, we would question the calculations used under the heading "Loss of value of pay". Apart from the minor differences in use of annualised inflation rather than the August inflation figure, and the choice of inflation measure (UCEA uses CPIH figures as ONS no longer recognises RPI), the main difference in the calculation methodology used in the tables on page 8 is that it exclusively uses the annual level of base uplifts in HE, neglecting to include the monetary value of incremental payments, tapered increases at the lower end of the pay spine, or any bonus, weighting or allowances.

As around 50% of HE staff are eligible for incremental increases, pay for Academic and Professional Services staff can be calculated as around half of 3%, even in a year where there is a zero uplift to base pay. This is particularly pertinent for the table on page 10 under the heading "Loss of competitiveness in HE wages" where comparisons are made with data on pay settlements across the whole economy from XpertHR, while excluding the fact that XpertHR include the incremental pay rises in their assessment of HE pay increases.

Secondly, UCEA's calculations of HESA expenditure figures¹ differ substantially from those presented on p12 under the heading "Affordability". Furthermore, UCEA's calculations reveal that changes to pension provisions were made in accounts across 2018-19 and 2019-20, which UCEA would class as staff costs rather than capital expenditure.

Thirdly, and most importantly, there is a claim using UNISON data on page 4 that 3,000 staff working on a 37-hour week *would* be earning below the new National Minimum (Living) wage (NLW & NMW). Although this would represent only 1.34% of staff employed in HE, UCEA believes that all HEIs take compliance with the NLW & NMW very seriously.

When the new NLW & NMW and Voluntary or Foundation Living Wages (VLW) are announced in November each year, UCEA updates its Living wages calculator to assist HEIs in calculating the hourly rates for their own particular terms and conditions. Detailed "Living wages updates" are communicated to members in November and the spring of each year and members freely raise queries to verify their approach. There are several different approaches that can be taken to meet the living wages; adjusting hours, adding an allowance to the spinal column point (SCP), or restructuring the grade to use higher pay points. It may not be evident to external observation when allowances have been added to "SCPs 3-6".

There are also a number of age categories of NLW & NMW, and special rates for Apprentices, which may obscure the hourly rate that is applicable for individual members of staff.

National Living and Minimum Wage rates	New rate (April 2022)	Current rate (April 2021)	Percentage increase
23 years and older (NLW)	£9.50	£8.91	6.6%
21 to 22-year olds	£9.18	£8.36	9.8%
18 to 20-year-olds	£6.83	£6.56	4.1%
16 to 17-year olds	£4.81	£4.62	4.1%
Apprentices	£4.81	£4.30	11.9%
Daily accommodation offset rate	£8.70	£8.36	4.1%

¹ <https://www.hesa.ac.uk/data-and-analysis/finances/statements#capital>

The minimum age for the National living wage will have reduced from 25 to 23 effective this month (April 2022), which also needs to be factored into any prior calculations.

UCEA remains confident that the HE sector complies with all its legal obligations with regards to Living wages.