

University and College Union

To Higher Education Committee
From JNCHES Review Negotiators
Agenda item 6a
For Decision
Subject REVIEW OF JNCHES STRUCTURE

Preamble

The negotiators met on 21 and 27 November in various groups: UCU alone and with the PTAAS unions (21st, 11.30 -13.00, then 13.00-17.30 with PTAAS; 27th 12-14.30, then 14.30-16.30 with PTAAS and EIS, then 16.30-18.15 with UCEA).

Discussions were, to put it mildly, tense and difficult, and close to breakdown at various points. Indeed, at the end of the first set of discussions there was the serious possibility that we might have to pull out altogether.

The draft which was reached at the end of the negotiations on 27 November is, in our view, the best that can be achieved by negotiation. We ask HEC to appreciate that the negotiations were as much with the other unions as with UCEA.

We put it to HEC without any specific recommendation either to accept or to reject, but the following commentary is intended to clarify what was negotiated and to offer an assessment of the options available.

It is important, however, to record that no further negotiations are possible.

UCU's main issues

- 1** To take perhaps the most straightforward point first, a form of words has been agreed for the penultimate bullet point in the Disputes Resolution Procedure which meets our requirements and safeguards the autonomy of UCU decision-making processes:

Throughout the period for dispute resolution meetings, and for third-party assistance, the HE employers will not impose a resolution and the trade unions will refrain from taking any form of industrial action until the procedure has been fully exhausted.

It should be noted that the key word agreed is 'taking'. Our suggestion had been 'implementing'. We do not judge this to be a significant difference.

It should also be noted that the procedure is explicit insofar as any union is able to invoke it and thus by implication the sovereign right of any individual union to enter a dispute and, if necessary, pursue industrial action is maintained and acknowledged.

2 On the matter of the timing of the employers' 'final' offer, the wording now reads:

The JNCHES will meet at least four times each year, normally: in October for general business; for the strategic discussion about the sector in December; and in March and April/May to facilitate effective and expeditious consideration of pay claims submitted prior to the March meeting. Dates for these meetings will be agreed in June of the preceding academic year. Whilst the aim will be to complete negotiations by the end of May so that agreed rates of pay can be implemented from August, additional meetings on agreed dates may be arranged if required. The March and April/May meetings may not both be needed if agreement can be reached rapidly, or when a multi-year pay agreement applies.

The changes are: 'April/May' instead of 'May' (lines 3 and 8); the addition of 'and expeditious' in line 3; and 'by the end of May' instead of 'in June' in line 6. We judge these to be improvements on the previous version, though still not meeting our preferred option of having the agreement (or failure to agree!) decided by the end of April.

The fact that we have preserved our right to ballot, and the somewhat tighter timetable, means that our options for action within the given pay year are, while still constrained, less so than in the draft of 13 July.

3 On the matter of paragraph 7 we faced extreme resistance; indeed most of the time spent in negotiation on both days related to this issue. The other unions were absolutely not prepared to agree to explicit mention of AC1/grade 6 and above, as the basis for a distinct structure within national bargaining arrangements. We came near to breakdown on this point. The wording now agreed ensures the possibility of separate sub-committees, and includes wording which addresses, either explicitly or implicitly, issues of core importance to UCU, including FT&HP Staff, and the career expectations of 'senior staff', which is code for our members (including Academic Related) in Grade 6 and above:

All matters will be negotiated within the JNCHES as a whole. Where certain issues are exclusive to particular staff groups, it is expected that the dialogue within the JNCHES will be principally between the employers' representatives and those unions representing the staff concerned. With the agreement of all parties, working sub-committees may be established to discuss specific issues for particular occupational groups (eg low pay, senior staff covered by the Framework Agreement, fixed-term and hourly paid contracts) and to report back to the JNCHES. Union representation at these fora will reflect membership numbers in the groups concerned.

It should also be noted that the last sentence addresses our requirement to be the lead voice in negotiations where we are the majority union. Since equality across a given level is a legal requirement, there is no question of separating staff in any given grade

into different categories to be rewarded differently.

- 4 There are other minor changes which have no substantive importance.

Other UCU concerns

- 1 We have agreed with all the other unions that in a given pay round the process will begin with a joint union meeting in June or July to discuss both the details of a pay claim and the tactics to be adopted.
- 2 We have reaffirmed our view that these national agreements have no implications for local arrangements, and that we reserve the right to work separately at local level where appropriate. This has been made clear to the other unions.
- 3 All the unions are agreed that modifications to the pay spine form part of what may constitute a pay claim in any given year.
- 4 All the unions agree that the inclusion of Grade 10 is a stated aim, not least to address matters of equal pay amongst professors and senior administrative staff. This remains an issue of disagreement with the employers!
- 5 The entire agreement is to be reviewed in 2011; nothing agreed now is binding beyond that time.

Conclusions

The negotiators have worked hard to achieve a framework which addresses our legitimate concerns as a union. Like all negotiated agreements the result is a compromise. It is for HEC to judge whether the compromise is acceptable.

What is guaranteed, at least for the lifetime of this agreement, is national bargaining. Guided by Conference, we judge that to be a prime desideratum.

There is no option for any further negotiation. What is now before HEC is take-it or leave it. While we cannot be absolutely sure of the consequences of rejection, all the signals are that the other unions, including EIS, will sign up, and that individual institutions will take serious stock of their commitment to national bargaining. Thus rejection needs to be accompanied by willingness to take industrial action to defend national bargaining, and confidence that we can mobilise members to take such action.

We further recommend to HEC that should the decision be to accept, as an urgent priority a working group should be set up to discuss tactics for any future industrial action, including options in addition to non-marking (which has already been potentially compromised by the legal decision following the case taken by London Met). We also need to give more consideration to how we can make single table bargaining work positively for our members.

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JOINT NEGOTIATING COMMITTEE FOR HIGHER EDUCATION STAFF

REVIEW OF NEGOTIATING AND CONSULTATION ARRANGEMENTS

Preamble

- 1** The 2001 agreement which established the Joint Negotiating Committee for Higher Education Staff (JNCHES) provided for review of the new and transitional negotiating arrangements in the light of experience. The JNCHES Pay Agreement 2006-09, agreed in June 2006, put this review in train with the aim of agreeing necessary changes to the negotiating arrangements by July 2007.
- 2** The HE employers and unions remain united in their view of the vital contribution which staff at all levels make to the continuing success of UK higher education, and the need for them to be rewarded properly. They share a continuing commitment to the benefits of working in partnership, to seeking effective and forward-looking national dialogue and agreement on remuneration and related issues, and to sustaining the improvements achieved since 2001.
- 3** To these ends the HE employers and unions have agreed on revitalised arrangements for national negotiation and consultation that are streamlined, flexible and provide a framework for strategic discussions. These are set out in the following paragraphs. They will take effect from December 2007 and will supersede the 25 June 2001 agreement from that date. Agreements made by JNCHES and predecessor negotiating bodies, which remain in force in August 2007, will be inherited by the reformed machinery.
- 4** The parties to this agreement – EIS/ULA, GMB, UCU, Unison, Unite and the UCEA on behalf of its subscribing HE institutions – commit themselves to proceeding in accordance with the arrangements set out below and to operating these in good faith.

Reformed negotiating machinery

- 5** The Joint Negotiating Committee for Higher Education Staff (JNCHES) will henceforth comprise:
 - 6 representatives of the employers, nominated by the UCEA;
 - 18* representatives of the HE staff unions, apportioned on a basis agreed between the unions and including a number of observers.

Meetings will be chaired alternately by a representative of the employers and a representative of the unions.

* this number will reduce from September 2010, reflecting the impact of recent union mergers.

- 6** The JNCHES will be responsible for negotiation of those pay and related matters that are determined at national level, including specifically:
- regular review of the Framework pay spine;
 - any further consideration of the provisions of the Framework Agreement for the Modernisation of HE Pay Structures (2004);
 - any further consideration of those provisions in earlier agreements inherited by the JNCHES in 2001 and which remain in force in August 2007.
- 7** All matters will be negotiated within the JNCHES as a whole. Where certain issues are exclusive to particular staff groups, it is expected that the dialogue within the JNCHES will be principally between the employers' representatives and those unions representing the staff concerned. With the agreement of all parties, working sub-committees may be established to discuss specific issues for particular occupational groups (eg low pay, senior staff covered by the Framework Agreement, fixed-term and hourly paid contracts) and to report back to the JNCHES. Union representation at these fora will reflect membership numbers in the groups concerned.

Additional arrangements

- 8** To complement the above negotiating remit the JNCHES will convene:
- a strategic meeting, annually, with wider representation from the employers and unions to discuss the state of the HE sector and prospective developments. Representatives of other bodies, such as government departments and the funding councils, may be invited to these meetings;
 - discussions across remuneration matters where the detail is determined locally in the context of the Framework and inherited agreements – allowing consideration of practice and potential developments across the sector as a whole;
 - discussion of pay-related issues negotiated in other fora, such as pensions.
- 9** Where jointly agreed as appropriate, the JNCHES may establish time-limited or ad hoc working groups for particular purposes – such as the present Equalities Forum.
- 10** When necessary, the JNCHES will facilitate:
- discussion between employer and union representatives from institutions in the devolved administrations, about pay and related matters, if these are not taking place under other auspices;
 - negotiations on matters concerning clinical academics' pay, if the translation of relevant NHS pay awards cannot be agreed between officials of the UCEA, BMA, BDA and UCU. Such negotiations will include representatives of these four bodies, on an agreed basis;
 - discussions about particular groups of staff with professional equivalents outside the HE sector, such as in the field of healthcare.

Procedures

- 11** The JNCHES will meet at least four times each year, normally: in October for general business; for the strategic discussion about the sector in December; and in March and April/May to facilitate effective and expeditious consideration of pay claims submitted prior to the March meeting. Dates for these meetings will be agreed in June of the preceding academic year. Whilst the aim will be to complete negotiations by the end of May so that agreed rates of pay can be implemented from August, additional meetings on agreed dates may be arranged if required. The March and April/May meetings may not both be needed if agreement can be reached rapidly, or when a multi-year pay agreement applies.
- 12** Agendas for meetings of the JNCHES and additional arrangements will be agreed in advance between nominated representatives of the employers and unions. These representatives will also agree on the wider attendance intended for the annual meeting and on any appropriate augmentation of attendance for the other meetings outlined in paragraph 8 (for instance to facilitate attendance of representatives, or independent bodies, with particular expertise).
- 13** Where meetings under the additional arrangements jointly identify scope for national agreement on certain matters or for a joint statement or guidance being issued to the sector, these matters will be referred to the JNCHES for confirmation or further consideration. In some instances it may be possible for such questions to be settled by correspondence, rather than by reference to the next scheduled meeting of the JNCHES.
- 14** All parties to negotiations in the JNCHES are committed to striving for agreed outcomes. If, exceptionally, these cannot be achieved, either the employers or union(s) may invoke the dispute resolution procedure described in Annex A.
- 15** The employers and unions are agreed in principle on sharing the provision of facilities for meetings. UCEA will provide secretariat services. Any detailed resourcing issues will be resolved between UCEA and union officers. If the JNCHES intends to commission any significant project from external contractors, arrangements for funding it will be agreed in advance between the employers and unions.
- 16** The arrangements set out in this agreement will be the subject of joint review by the JNCHES in autumn 2011, in the light of experience in the period to that date.

DISPUTE RESOLUTION PROCEDURE

The parties to the negotiations in the JNCHES are committed to striving for agreed outcomes. If, exceptionally, these cannot be achieved, either the employers or union(s) may invoke the following procedure:

- Where it appears that all scope for progress through normal negotiations has been exhausted, either the employers or any of the unions represented on the JNCHES may give formal notice to all parties that it is applying this dispute resolution procedure;
- Following receipt of such notification the parties will agree within 7 working days on dates for at least two meetings to seek to resolve the dispute. Unless agreed otherwise, these meetings will take place within the following 14 working days;
- Attendance at these meetings will normally include national officials and lay officers of the unions in dispute, together with senior UCEA officers and representatives of the UCEA Board;
- The focus of these meetings will be on reaching a settlement of the issue(s) in dispute. Such settlement should also seek to include recommendations on how similar disputes might be avoided in the future;
- Further meetings beyond this initial period may take place where that is agreed between the two sides;
- If it has not been possible to resolve the dispute through this series of meetings, the parties will consider whether third-party assistance – normally using ACAS for mediation and conciliation – would be helpful. A decision on this should be taken within the following 7 working days;
- Throughout the period for dispute resolution meetings, and for third-party assistance, the HE employers will not impose a resolution and the trade unions will refrain from taking any form of industrial action until the procedure has been fully exhausted;
- Outcomes from any stage in the procedure will be communicated jointly.