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Coventry University College Ltd

Board of Directors

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Trade Union Recognition within Coventry University Subsidiary Companies

Purpose

The purpose of this paper is to update the Subsidiary Companies on the recent developments with the University and College Union (UCU) and provide advice and recommendation on Trade Union Recognition.

Background

Coventry University formally recognises three trade unions for the purposes of local collective bargaining. University and College Union (UCU) is the lead union representing academic, academic-related and research staff and UNISON and Unite representing Professional Services staff. The formal Recognition Agreement sets out the categories of staff the union will represent and for what purposes, and a Procedural Agreement sets out how the collective bargaining processes will operate.

During the last few years, as new wholly-owned subsidiary companies have been established, trade union recognition has not been sought or realised by each of the separate entities. As they are separate employers, they are not covered by the University's recognition agreements. Whilst local union representatives have raised through the University's Joint Negotiating Committee, their focus, at that time, was in relation to representing and supporting members of the union within the subsidiaries, especially those within close geographical proximity to Coventry. These requests have continued to be appropriately declined, as subsidiary staff are not covered by the University Recognition Agreement and whilst any employee has the right to be a member of a trade union and represented/accompanied, this must be co-ordinated and managed through the regional trade union offices and not the local University branch.

Details of the Statutory and Voluntary Recognition processes are provided in Appendix 1, along with an overview of the Information and Consultation of Employees Regulations.

However, over the last few months, we have seen an increasing interest from the unions, predominantly from UCU, initially promoting UCU membership (See copy of flyer posted in CU College) to now requesting consideration of formal recognition in CU Services Ltd. Appendix 2 is a paper provided by UCU for possible consideration by the Board of CU Services Ltd, further to a meeting of UCU officers with Aidan Friend and Rena Reeves, the HR Business Partner.

In addition, Anne O'Sullivan, Regional UCU Officer, recently met with John Latham and Jayne McConomy to promote joint working and to also raise the issue of recognition within subsidiary companies.

Recommendation

Whilst we continue to work positively with local trade unions, and maintain regular updates on Group performance and activities, through the University Joint Negotiating Committee, it is intended to maintain the position of separate recognition for the University and that we will not enter into discussions about recognition with UCU, or any other trade union, for the subsidiary companies.

Legally, we are unable to extend our formal University Recognition Agreement to cover employees in the subsidiaries, and any progression therefore must be made directly by the individual trade union to the separate employer, as we have seen. Statutory recognition will only be realised once conditions have been met.

Whilst the Boards and management will consider the recognition requests, knowing that a statutory request may force the issue, it is recommended they consider other pro-active measures that could address any unsettlement or issues that employees have raised. This could, for example, focus on addressing staff survey results and management of work, through to the development of action plans and staff engagement, all of which can be managed less formally, with focus groups or action teams, and look to resolve and mitigate any unrest.

Jayne McConomy
Deputy Director HR

January 2016

Appendix 1

Union Recognition

Recognition of trade unions can be managed either through a statutory or voluntary process.

Statutory Recognition of Trade Unions

Where an employer does not want to voluntarily recognise a union for collective bargaining purposes, the union can apply to the Central Arbitration Committee for statutory recognition.

There needs to be a minimum of 21 employees within the company before an application is submitted and the union would also have to specify the “bargaining unit” they wish to represent (which could be, for example, “all employees of xxx” or “all tutors employed by xxx”). Additionally, at least 10% of employees in the relevant bargaining unit have to be union members before an application can be made.

If the union can show (e.g. from results of a questionnaire or simple poll) that over 50% of those in the bargaining unit would support union recognition, the CAC can order recognition immediately. If they cannot show this level of support, the CAC can require a ballot. A majority of those voting, and at least 40% of those eligible to vote must be in favour for recognition to be granted.

Where recognition is the result of following the statutory recognition process, there is also a statutory de-recognition process but an employer can only apply to de-recognise a union 3 or more years after it has been recognised.

Voluntary Recognition

It is open to employers and unions to voluntarily recognise a union, in which case the above procedures are not required. Where a voluntary arrangement is agreed it is usual to enter into a formal agreement, detailing which employees the union will represent and for what purposes etc. The Agreement may also contain provisions relating to ending the recognition arrangement.

One potential benefit of entering into a voluntary recognition agreement is that no other union could then submit an application for statutory recognition, so, for example, if recognition was implemented for UNISON, this would prevent another, such as Unite or UCU, from progressing through the statutory process.

The Information and Consultation of Employees Regulations

Subsidiary Companies may also wish to consider establishing their own staff forum as an alternative to recognising a trade union. The Information and Consultation of Employees (ICE) Regulations were introduced on 6 April 2005 and apply to businesses with 50 or more employees. They give employees the right to request an information and consultation agreement. An employee request must be made by at least 10 per cent of the business' employees, which must amount to at least 15 employees. You must start negotiations with representatives of the workforce for an agreement no later than three months after a valid request has been made.

The areas on which you inform and consult are for you, your employee representatives and your employees to agree on. The legislation includes procedures for the election of staff representatives, but, whilst it may only be these representatives who would attend meetings of the forum, any negotiated information and consultation agreement must cover *all* of the employer's employees.

If a negotiated agreement is not reached then the fall-back provisions (known as the 'standard provisions' of the ICE regulations) set out the areas where an employer is obliged to inform and consult. Under these provisions you must inform and/or consult your employees about:

- the business' economic situation
- their employment prospects
- any decisions likely to lead to substantial changes in work organisation or contractual relations.

If you fail to abide by the terms of a negotiated information and consultation agreement or the fall-back provisions, your employees can raise a complaint with the Central Arbitration Committee.

This type of information and consultation agreement enables the employer to consult directly with employee representatives within the organisation, thus removing the need for external parties to be involved. Initiating negotiations for an agreement rather than waiting for a request could allow the organisation to take control of the situation. The areas for consultation outlined in the regulations are areas that we are likely to consult with staff on regardless of any agreements in place, therefore it is not anticipated that such an agreement would be onerous, however, there will be a need for joint management and staff meetings on a regular basis. The ICE agreement is not the same as collective bargaining.



In CUC, a similar model is in operation, which is working well and addresses issues that ordinarily would be raised.

Appendix 2

Proposal for the Board of CU Services Ltd: Recognition for the University and College Union

UCU is the trade union for education professionals in higher education. Our membership is growing across the Coventry University Group and in particular among its subsidiary companies like CUS Ltd.

Pre-Sessional English teaching plays a key role in maintaining the quality and reputation of universities in our internationalised higher education sector. Reputation takes a long time to build. Once lost, it can be hard to rebuild. At a time when international students play a significant role in the financial health of our universities, it is essential that CU Services not only is able to maintain and improve the quality of its provision, but also develop and sustain a highly motivated and engaged workforce.

UCU believes that quality provision thrives when staff are employed securely and treated and paid fairly. It cannot be sustained in a situation where staff are overworked, living in a state of perpetual anxiety and insecurity about their employment and can see unfairness at work in the way they are paid and treated.

Issues raised by staff at CUS Ltd

In response to issues raised by our members, UCU conducted a survey of staff at CUS, to which 50% of all teaching staff at the company responded. This threw up a series of issues and genuine concerns, relating to pay, workloads and job security. Many of the issues raised stem, fundamentally, from the way in which CUS Ltd operates an aggressive form of 'hire and fire' policy in regard to its Pre-Sessional tutors that is more aligned with some of the well-publicised poor employment practises in the retail and hospitality sector rather than those of a provider of higher education.

UCU has considerable experience in negotiating a wide range of policies and agreements that provide greater job security, continuity of employment, operational flexibility and which underpin high quality provision. We have raised these concerns and discussed the survey results in an informal meeting with the Chief Operating Officer of CUS Ltd and the HR partner for the Group subsidiary companies and offered to meet with a view to further discussing matters of mutual interest and concern. We have not yet received an answer to this offer made on 23 November.

What recognising UCU will offer to CUS Ltd.

In general, unions play a key role in mediating relations between employees and managers, assisting in the resolution of workplace problems and positively contributing to organisational success. Higher education is a fast-changing sector and UCU plays a vital and constructive role in working with companies like CUS to manage that change.

We believe, because we have been told by CUS staff, that much of the low morale and disaffection reflected in the survey could be alleviated by CUS recognising UCU for the purposes of negotiation and consultation. Higher education is a sector whose fundamental asset is its people, the staff who deliver excellent educational services in our institutions. Our experience shows us that those companies who are able to have mutually beneficial and positive formal agreements with UCU are those that are best able to manage change and succeed.

How do we get there?

Our members have a legal right to recognition if the union can demonstrate that it has sufficient support at the company. Specifically, if the union can demonstrate that 50% of the staff 'are likely to support recognition', the Central Arbitration Committee is likely to award in our favour. We are very confident that were we to undertake this process, it would result in recognition being awarded.

The statutory process is lengthy, tedious and likely to create unnecessary bad feeling at the outset of a process that ought to be about identifying the common interest and relationship building. Alternatively we could now start to discuss the outline of a voluntary agreement, which can then be negotiated and agreed between us. This would allow us to move more rapidly to discussing substantive issues with the company and addressing our members' concerns. That's why our clear preference is for a voluntary recognition agreement with the company.

We ask that the Board gives a clear and positive steer to its Chief Operating Officer to allow us to negotiate a voluntary recognition agreement to negotiate for all teaching staff at CU Services Ltd with UCU