

**May 2019**

## University and College Union

**Meeting of**     **Democracy commission**

**Location**     **UCU, Carlow Street Head Office**

**Date**           **8 March 2019**

### **Confirmed minutes**

**Present** Mark Abel, Caitlin Adams, Alan Barker, Vicky Blake (co-chair), Cecily Blyther, Sharon Broer, Douglas Chalmers, Alison Chapman, Martin Chivers, Rachel Cohen, Kirsty Keywood, John Hadwin, Jane Harvey, Elane Heffernan (co-chair), Margot Hill, Pat Hornby-Atkinson, Chris Jones, Jess Meacham, Denis Nicole, Lesley McGorrigan, Sam Morecroft, Keith Simpson, Sean Wallis

**In attendance** Paul Cottrell (Acting general secretary), Catherine Wilkinson (head of constitution and committees),

#### **1 Apologies for absence**

1.1 Apologies were received from Jackie D’Arcy, Lindesay Dawe, Nina Doran, Jeff Fowler, Ann Gow, Brian Hamilton, John Hogan, John James, Kerry Lemon, Christina Paine and Saira Weiner.

#### **2 Chairs’ business**

2.1 From the chair, Vicky Blake set out her intention to discuss items 1-6 on the agenda before lunch, returning to item 5 if necessary to allow informal discussions and drafting of statements during the lunchbreak. There was no paper DC/28 as shown on the agenda. An extract from paper DC/19 setting out a draft GS recall rule was circulated in respect of agenda item 5; legal advice would also be tabled for consideration.

2.2 From the chair, Elane Heffernan noted the need to agree what was urgent ahead of May Congress. She raised the possibility of circulating a document of position papers to Congress to allow discussion ahead of the November special Congress. This could include minority position papers from commission members.

2.3 Vicky Blake reported that she had requested further reminders in the branch officer and all-member emails of the democracy commission’s work and ongoing request for feedback.

### **3 Minutes of the previous meeting held 22 February 2019 (DC/27)**

3.1 The minutes of the meeting held 22 February 2019 were APPROVED, as set out in paper DC/27.

### **4 Matters arising**

4.1 There were no matters arising not covered elsewhere on the agenda.

### **5 Mechanism for recall, including draft rules changes (Working group A)**

*Vicky Blake was in the chair.*

5.1 Confidential legal advice was circulated and reading time allowed. This advice responded to the questions drafted by the commission at their previous meeting. The access difficulties raised by complex information being tabled were NOTED, as was the commission's wish to avoid this where possible in future.

5.2 Elane Heffernan reported the decision of the NEC on 1 March to enter into a GS election process as soon as possible, concluding ahead of Congress and using essentially unamended terms of employment for the general secretary.

5.3 The legal advice was discussed, including the issue of whether it was possible to lawfully impact the contract of the next general secretary, or whether any change would have to wait until the following election in five years' time. There was considerable discussion of this, and other issues relating to a recall process for the general secretary.

5.4 Elane Heffernan proposed that the democracy commission write to all candidates in the GS election asking them to sign up to a statement which would indicate they would agree to their contract being changed if necessary to accommodate any rule change on recall agreed by Congress. The wording of this would be drafted at lunchtime for consideration later in the meeting.

5.5 Paul Cottrell drew the commission's attention to the following points:

- GS candidates are required to sign their agreement to the terms of employment at the point they submit their nomination
- No agreement could give an employer complete freedom ('carte blanche') to impose a new condition of employment, unknown at the point of agreement
- Ensuring that any recall process was lawful was essential before any GS could be asked to agree to it. The legal advice initially received had been positive about the lawfulness of recall under some conditions.

### **6 Interim report of the democracy commission (DC/29)**

*Elane Heffernan was in the chair.*

6.1 Catherine Wilkinson introduced the draft interim report, including motions that the NEC would be asked to submit to Congress. The report would be further amended following the meeting and the commission were asked to delegate approval of the final wording to the co-chairs, for circulation to the NEC, and

then Congress.

- 6.2 Rachel Cohen proposed that the rule change relating to officer titles be removed (paragraphs 3.4, 3.10.4/recommendation 2) and a description of the idea in principle be included, noting that further work was needed before a rule change was brought to the November special Congress. This amendment was subsequently made to the report.
- 6.3 Margot Hill requested that reference to the two-year terms of NEC members be included. This was subsequently included in the report.
- 6.4 Sam Morecroft asked for further information about the circulation of minority reports. Elane Heffernan confirmed that these could come from any commission members, to be included in a separate document. The aim of this would be to inform general discussion at May Congress, for which it was hoped sufficient time could be found in the agenda, and to allow branches to consider anything they may wish to bring to the November special Congress.
- 6.5 The commission AGREED the report as set out in paper DC/29, subject to the points above and subject to any further amendments agreed by the co-chairs to reflect the decisions of the meeting.

## **7 Recall mechanism – continued**

*Elane Heffernan was in the chair.*

- 7.1 Elane Heffernan noted that two further papers had been circulated: DC/28, containing a rule change proposal for recall of NEC members drafted by Sam Morecroft, and a proposal for two deputy general secretary roles from Margot Hill, and a tabled paper of material submitted after lunchtime discussions.
- 7.2 Items 1 and 2 of the tabled paper contained matters to be agreed and included in the interim report. Item 1 set out a proposal for the co-chairs to write to candidates in the GS election and included a statement that the co-chairs would ask candidates to agree to. There was some discussion of the statement.
- 7.3 Douglas Chalmers moved an amendment to this statement: to add the word 'legal' ahead of 'recall process' in the first paragraph for agreement by candidates. In a vote, this amendment was LOST (4 votes in favour, 15 against, 3 abstentions).
- 7.4 An amendment was proposed to add 'and negotiations with the staff union' after 'Subject to the decisions of Congress and special Congress'. This was CARRIED with one vote against.
- 7.5 Sean Wallis proposed the deletion of text in paragraph 1 from 'I also accept the legal advice...' to the end of the paragraph. Alan Barker made an alternative proposal, to delete from this sentence the words 'the legal advice given to the NEC in 1<sup>st</sup> March 2019 that'. This amendment was accepted.
- 7.6 The chair asked members to vote on the proposal other than the second clause for agreement by candidates. This was CARRIED (15 votes in favour, 6 against).

7.7 There was discussion of the second clause for agreement by candidates. Rachel Cohen proposed that the words 'that are introduced to increase the democracy of UCU' be replaced with 'that are introduced in response to the recommendations of the democracy commission'. This amendment was CARRIED.

7.8 The chair asked members to vote on the second clause for agreement by candidates, as amended. This was CARRIED (16 votes in favour, 5 against, 1 abstention). The section for inclusion in the report, and statement for general secretary candidates was therefore agreed, with amendments, as follows:

The commission has agreed that the role of General Secretary should be subject to a recall process subject to the endorsement of Congress. In order that the law is fully complied with, it is proposed that the precise details of this process be put to the Special Congress in November. It is expected that this will involve a re-writing of the contract of the General Secretary and consequent rule changes. Should this be accepted it will apply to all future General Secretaries and will apply to the current post-holder subject to their agreement and that of the staff union.

If the November Congress proves to be inquorate, the matter will be put before the next Congress.

In the meantime, we have asked the nominees for General Secretary to agree a statement prior to their election.

**Proposal for statement (referred to above):**

Subject to the decisions of Congress and special Congress, and negotiations with the staff union, I accept that:

- should Congress agree a recall process, related to the membership expressing that it has lost confidence in the general secretary, that my contract should be changed to make that recall process possible. I also accept the obligation to follow union rules means that the general secretary could be subject to recall and termination clause 1 can be used in that event.
- I would work to implement any other changes, including any that change the structure or roles of officers of the union, that are introduced in response to the recommendations of the democracy commission.

7.9 Elane Heffernan left the chair.

*Vicky Blake was in the chair.*

7.10 Item 2 of the tabled paper was AGREED with a minor drafting amendment, to read as follows:

In the event that the special Congress in November 2019 is inquorate it is proposed that all of its motions and business will be debated and voted on

at Congress 2020.

- 7.11 The chair returned to the discussion of recall. Sam Morecroft introduced his proposal, in tabled paper DC/28, for a rule change which would create a recall process for NEC members.
- 7.12 The issue of constituency was raised, noting how differently this affected, for example, equality seat holders, geographical and sectoral seat holders with smaller constituencies, and UK-wide sectoral seat holders. On a vote, the proposal was not supported (1 vote in favour, 14 against, 6 abstentions).
- 7.13 The commission noted Sam Morecroft's intention that the proposal be circulated as a minority report.

## **8 Other papers for discussion by working group**

*Vicky Blake was in the chair.*

- 8.1 Noting the limited time available, commission members had been asked to indicate if proposals in this part of the agenda were urgent ahead of May Congress and the production of the interim report. Four members had asked to move proposals before the end of the meeting.
- 8.2 Margot Hill introduced her proposal in DC/28 that there be two elected deputy general secretaries. Item 3 of the tabled proposals set out the wording of rule changes. There was some discussion of the item, and some potential issues with the draft rules were noted. It was agreed that a decision should be made in principle, with details and consequent rule changes to be developed ahead of the November special Congress. The need to take care around the implications for existing senior staff roles was noted.
- 8.3 On a vote, the committee AGREED (16 votes in favour, 1 against, 2 abstentions), to include the following in the interim report:
  - The commission recommends that there should be a second layer of elected posts working in co-ordination with the general secretary to oversee major areas of work. The commission is exploring the option of two deputy general secretaries filling these posts. This will include looking at how these roles will relate to existing UCU officers and staff.
- 8.4 Mark Abel introduced item 4 in the tabled paper, a draft rule on dispute committees for May Congress. The proposal was discussed. The role of HEC and negotiators in relation to disputes were raised. The need to be very clear in rule about the authority to call industrial action was noted: rule 34.1 placed this with the NEC.
- 8.5 It was proposed that the words 'except that every branch will be entitled to one delegate and amalgamation will not apply' be deleted from the second sentence. This was AGREED.
- 8.6 It was proposed that the words 'immediately following a successful ballot' be added in the first sentence to clarify when the dispute committee would come

into existence. This was AGREED.

- 8.7 The possibility of amendments being submitted to any rule change in the Congress business committee's first report was noted.
- 8.8 On a vote, the commission AGREED to recommend the rule change in its report to May Congress (14 votes in favour, 5 against):

Insert new rule XX, Dispute committees:

For all multi-institution industrial disputes, a dispute committee will be constituted immediately following a successful ballot from delegates from each branch involved in the dispute, which will exist for the duration of the dispute. Delegates will be elected or nominated by branches, with delegate entitlements as per those prescribed for Sector Conferences in rule 17.2. The committee will be chaired by the relevant Vice President (for single sector disputes), or by the President (for cross-sector disputes). The frequency of meetings will be determined by the committee. Branches may send different delegates to each meeting.

No decision affecting the choice of tactics, continuation, escalation, or ending of an industrial dispute, including putting to the membership for approval a proposed deal to settle the dispute, can be taken without the approval of the dispute committee constituted for that dispute.

- 8.9 From the chair, Vicky Blake asked the commission to consider future meeting dates before returning to position papers on which discussion had been requested. A further meeting would be scheduled before Congress. Catherine Wilkinson would look at the calendar and circulate possible dates. If a Friday was not possible due to other meetings already calendared before Congress, the commission agreed that other days might have to be considered.
- 8.10 Returning to positions papers, Caitlin Adams introduced her proposal *Improving national election procedures* as set out in paper DC/31. There was a brief but generally favourable discussion of the paper. Possible issues were noted in respect of the current election guidance which prohibited the use of union resources for campaigning. The commission AGREED to recommend in its report the creation of national recorded hustings, and to return to the other proposals.
- 8.11 Douglas Chalmers moved the three proposals set out in paper DC/30A: *Suggested position on electronic voting at conferences and Congress; Suggested position on video streaming of conferences and Congress; and Suggested position on recording of NEC, HEC and FEC.*
- 8.12 There were brief contributions made in respect of these proposals. Given the limited time available, the chair proposed that the meeting agree to bring discussion of these three items back to a future meeting. This was AGREED.
- 8.13 The commission noted Denis Nicole's wish to bring back to the next meeting his *Proposed recommendations for our democratic structures* (DC/30), which proposed a change to the basis on which Congress delegate entitlement was

calculated, there being no time remaining in which to consider it.

8.14 The meeting closed at 16:33.