

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

By email

14 July 2022

Dear Paul and Ruth,

Conclusion of the dispute resolution procedure – New JNCHES negotiating round 2022-23

I am writing following the second dispute resolution meeting which took place earlier today. The Employers are disappointed that dispute resolution talks have ended so abruptly at the insistence of the Union Side. I would ask the Union Side to reflect on two aspects of their engagement which have led us to this position.

Firstly, the Union Side has repeatedly challenged UCEA to demonstrate that we accurately reflect the position of participating HEIs. As I explained at the first dispute resolution meeting last week, UCEA has regularly consulted and informed our members on the progress of the New JNCHES negotiations. These discussions with the sector have repeatedly confirmed that UCEA's full and final offer is fair and reasonable. We recognise the challenges of the current financial climate for staff but we also recognise that this uplift will be financially challenging for many institutions in the absence of any increase in undergraduate fee levels and ongoing expenditure increases. An uplift even at this level, in order to ensure their continuing financial sustainability, will require increased levels of efficiency in very many institutions and will necessitate restructuring for a sizable minority.

However, at last week's meeting you once again questioned our processes for consulting our members. Alongside this you have also written directly to our member HEIs to ask them to lobby UCEA. UCEA showed goodwill by undertaking a further consultation of our members. In conducting this exercise, the Union Side gave UCEA no indication of a realistic uplift which would settle the dispute. We have made clear from the first meeting that, with no fee uplift, a consolidated settlement even close to inflation was not affordable. You asked us if there was any measure of inflation which employers would be able to meet for the headline award, but even then did not specify which, if any, measure of inflation, you would be prepared to recommend to members. I would note that this was the first move of any kind from the Union Side well after the three negotiating meetings had taken place, a full and final offer had been made, and we were in the disputes process. By contrast, the Employers have moved twice prior to the disputes resolution process in attempt to reach a settlement with the unions. The result of our consultation has been definitive in confirming that there is no institution which can afford to meet any measure of inflation for the headline pay uplift.

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I would observe that UCEA's final offer includes an uplift which more than meets CPIH for the bottom three points of the pay spine. In addition, the consultation has also confirmed that the majority view of our members is that we cannot improve our final offer.

Given your termination of the dispute resolution process, we will now advise participating HEIs to implement the pay uplift from 1 August 2022. This will ensure that staff have the increase in pay as soon as possible as you stressed was important in our very first meeting.

The second aspect of the Union Side's engagement I would ask you to reflect on is the level of discourtesy exhibited at times during our meeting which, unfortunately, was not stamped out. When representatives of the Employers were speaking, interrupting them to declare that the meeting is at an end should not be regarded as acceptable. Such behaviour does not provide the climate in which we can constructively reach any form of settlement and certainly, from a UCEA perspective, cannot pass without comment. These are testing times, but both parties have to be willing to engage in genuine talks in good faith in order to help your members as well as ours. I hope that the Union Side acknowledges and appreciates our efforts in producing our offer, the details of which are set out below.

Pay uplift

Employers recognise that the effect of high inflation falls disproportionately on the lower paid. For this reason, UCEA has proposed an uplift which is structured so as to provide higher increases to those at the lower end of the pay spine. Our offer for 2022-23 is an uplift of up to 9 percent for those on the lower pay points, with a minimum uplift of 3 percent for all staff at or above Spinal Column Point 20. We believe that this is a fair and reasonable offer in the current financial climate. This offer is worth 3.18 percent on the total paybill. In making this offer UCEA has both exhausted its mandate and proposed an uplift which we know will be financially challenging for many institutions in the absence of any increase in undergraduate fee levels and ongoing expenditure increases. An uplift at this level, in order to ensure their continuing financial sustainability, will require increased levels of efficiency in very many institutions.

Pay spine review

UCEA recognises that the outcome of New JNCHES pay uplifts in recent years has resulted in differentials no longer being meaningful throughout the pay spine. We recognise that this may have an impact on perceptions of fairness and, like the Joint Unions, UCEA attaches importance to work which can help to restore meaningful differentials between spine points.

UCEA is, therefore, willing to commit to the early establishment of a New JNCHES working group on the pay spine with those unions which have concluded the pay round for 2022-23. This working group would examine the drivers, impact and potential recommendations in respect of the compression of the pay spine, particularly with a view to seeing what costed recommendations can be made jointly. Our preference is for such a working group to develop a jointly agreed position which both UCEA and the Joint 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.

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. As we explained at the final meeting of this year's New JNCHES pay round, there is substantial interest and commitment from employers in accessing benchmarking data and good practice to support their attempts to reduce pay gaps. UCEA has held a series of well attended workshops on pay gaps with a specific focus on intersectionality with our members and we would seek to build on this work in partnership with the Joint Unions. 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.
- Emphasise the importance of intersectionality in determining approaches to tackling gender, ethnicity and disability 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 which not only meets minimum legal standards but goes beyond it. 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. UCEA has published more than 20 case studies to highlight this good practice as well as developing guidance in respect of hybrid working. UCEA and our members are keen to continue work in this area in partnership with the Joint Unions. 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. We will also remind employers of their legal obligations in respect of managing stress in the workplace.

35-hour working week

You will be aware that hours of work nationally are not a New JNCHES matter. However, in order to reach a better understanding of this issue, we propose research to establish the degree of variation in the 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. UCEA is also willing to carry out work in partnership with the Joint Unions to develop case studies of HEIs which have managed a successful transition from a longer working week to a 35-hour week. We also welcome the Union Side's offer to share the data which it has collected in this area.

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 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 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 issuing these recommendations, UCEA accepts the suggestion of the Union Side that they should be communicated with HEIs on conclusion of the 2022-23 pay round. UCEA will endeavour to ensure that they are regularly and prominently communicated to our members.

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. We appreciate the positive comments made by the Union Side in respect of this proposal and would reciprocate the sentiment that we hope that this joint work will lead to some positive outcomes for GTAs and employers.

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-related allowances and London weighting

We will recommend that all Post-92 HEIs that have retained separate London weightings increase these by the same percentage as our proposed uplift.

We trust that the Union Side 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 Joint Trade Union claim. As we have highlighted previously, we recognise the difficulty the current inflationary pressures place on your members, our colleagues and all employees. At a time when student numbers remain highly variable between institutions, with clear falls at some, our offer represents our best attempt to meet these rising costs while recognising the real terms fall in the unit of resource alongside other significant inflationary cost pressures for employers.

The Employers remain committed to settling the 2022-23 dispute on the basis of the offer set out in this letter. We will now advise HEIs to implement the uplift contained in our offer from 1 August 2022.

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