

Approved Minute of the meeting of the National Joint Negotiating Committee (NJNC) – Side Table (Lecturers) held on Thursday 22 March 2018, 1430 at City of Glasgow College, City Campus, Glasgow.

In Attendance	
Alex Linkston	Management Side (Chair)
Paul Little	“ “
Stuart Thompson	“ “
Pam Currie	Staff Side
John Kelly	“ “
Charlie Montgomery	“ “
Jim O'Donovan	
John Gribben	Management Side Secretary
Anne Keenan	Staff Side Secretary
Heather Stevenson	Depute Management Side Secretary

19/18 Welcome and Apologies

The Management Side Chair welcomed all to the meeting. Apologies were received from David Alexander and Andrew Lawson.

20/18 Minutes of Previous Meeting

The minute of the meeting held on Thursday 22 February 2018 had not been agreed in one area. Following discussion on the concerns of both sides, it was agreed to change the word 'work' to 'speak'. The amended minute would be considered at the next meeting.

21/18 Matters Arising and Any Other Exceptional Items

There were no matters arising nor any exceptional items raised.

22/18 Terms and Conditions Working Group

The draft action note of the meeting held on Thursday 15 February 2018 was agreed.

23/18 £100

The Management Side advised that, following confirmation of the position in the City of Glasgow College, a draft Circular on paying the £100 to all staff in the sector had been prepared and would be with the Staff Side Joint Secretary following the meeting.

The Staff Side asked when the money would be paid as it had been advised that the money would be paid to the City of Glasgow staff in February 2018 but this had not happened.

The Management Side advised that payment for the Glasgow staff would likely be made in April 2018 (May 2018 for 4 weekly paid staff), but that it may be later for the rest of the sector as the Circular had yet to be agreed. The Management Side advised that the recommendation of the Employers' Association is that the £100 payment should be made. A commitment was given to paying the money in the earliest possible pay period.

The Staff Side asked if staff could claim interest on the payment if there was an unreasonable delay in paying. The Management Side advised that this would be a matter for the City of Glasgow College which was bound by the Tribunal decision.

The Staff Side referred to a paragraph in the Tribunal decision which referred to interest being payable at 8% per annum in the event of delay in payment. The Management Side advised that the Tribunal decision only covered the City of Glasgow College, but that the Employers' Association had taken a decision, in order to avoid any further dispute, to pay the £100 to all sector staff covered by the National Recognition and Procedures Agreement (NRPA).

24/18 Promoted Post Matching Referral Process Update

The Management Side reported that there had been limited progress since the previous meeting and that it had engaged with the Staff Side to seek assurances that the EIS would not be seeking any judicial review or support an individual's tribunal claim in respect of the Referral Subcommittee outcome.

The Staff Side advised that it did not recall any such undertaking being required as part of the agreed process and that all this action was doing was delaying matters. The Staff Side stated that in its view this was a breach of the agreement.

The Staff Side further advised that the negotiators had gone as far as they could and had put its position in writing. The process had been entered into in good faith and the first meeting of the referrals subcommittee had taken place. Positive feedback from the independent chair had been received on the approach adopted by those involved in the process. Therefore it came as a surprise to be asked for this assurance after the Circular had been agreed and the process had begun.

The Staff Side advised that FELA cannot bind the EIS in relation to future legal proceedings for individual members and it would be ultra vires to go beyond its agreed remit. The decision in relation to supporting an individual member's case rests with the main body of the EIS and its Employment Relations Committee. EIS-FELA cannot fetter the rights of the individual. If an individual did wish to make a claim, the EIS would have to decide whether it could support that claim. The Employment Relations Committee would consider this, taking all factors into account. The Staff Side repeated that it was keen to make progress on the referrals process.

The Management Side responded that it was very concerned that it was being accused of being in breach of process. It stated categorically that it was not in breach and that it had followed due process. It still had not received sufficient re-assurance from the Staff Side that it would abide by the decisions of the Referral Subcommittee. The Management Side asked the Staff Side to consider its comment on the Management Side being in breach of the agreement.

The Staff Side clarified that it had conducted a ballot of its members on the agreement. It had not told the members that the agreement would inhibit their statutory rights as this would have been incorrect. The Staff Side referred to the recent Tribunal which had occurred due to management breaching an agreement. The Staff Side confirmed that as far as the negotiators on the Staff Side were concerned, the decision of the Referrals Subcommittee was final but that individuals still have a statutory right of redress and the right to ask their trade union for support. The trade union will take a decision to support or not depending on the case. The Staff Side felt that the Management Side was delaying the process and trying to introduce something beyond that which had been agreed.

The Management Side confirmed that it requested an adjournment due to the Staff Side stating that the Management Side was in breach of the agreement.

Adjournment

The Management Side advised that it was not in breach of the agreement. It was committed to the process and it was re-assured by the comments made by the Staff Side immediately preceding the adjournment. Taking those comments and the content of the letter received from the Staff Side Secretary it was re-assured that the process could be progressed.

The Staff Side confirmed that for the avoidance of doubt, the position was as stated in the letter from the Staff Side Secretary and this was as far as the EIS could go in this matter. It confirmed that the EIS-FELA cannot fetter the statutory rights of its members nor bind the role of the Employment Relations Committee in determining whether to support members in judicial review or employment tribunal proceedings.

The Management Side advised that it would accept the position as it currently stands, but that it may require to take further legal advice prior to entering into agreements on the creation of similar decision making bodies in the future.

It was confirmed that the process has not stopped meantime and that submissions had been received from one of the outstanding colleges and that a joint submission was still awaited from the other. Further dates would require to be identified and the availability of the Independent Chair secured. It was agreed that the Joint Secretaries would source available dates and confirm to all parties as soon as possible.

25/18 Professionalism

The Staff Side presented its paper on lecturer professionalism and stated that there were two distinct areas, professionalism and registration. The Staff Side referred to the useful discussions which had taken place previously on the Workforce for the Future (WFTF) and advised that the list of areas to be addressed in the paper was not exhaustive but a starting point for further discussion. It referred again to its belief that a working group should be established to take this forward.

The Staff Side advised that both sides should be meeting with GTCS and that further development of lecturer professionalism needed buy in from lecturers. It felt that ownership of professional standards had to lie with lecturers and as such the process needed lecturer input. In addition, as key elements impinged on terms and conditions, the NJNC was the correct forum for these discussions. The Staff Side felt that those discussions merited a separate working group but it could also accept the areas being discussed within the Terms and Conditions Working Group.

The Management Side advised that it was meeting with GTCS in April and that it is continuing to work with College Development Network through the group commissioned by the Scottish Government. The Management Side would reflect on what was said and have further discussion at a later date.

The Staff Side did not accept this position and requested that the discussion commence immediately.

The Management Side advised that it needed to have further discussion with its members, the employers, to get a clear directional steer.

The Staff Side referred to previous meetings where professionalism and WFTF had been raised on every occasion and re-stated its belief that preparation should be underway. The Management Side did not accept this statement was accurate and that there were a number of areas which required further discussion before progress could be made.

The Staff Side asked that a response be given to its request for a Short Life Working Group (SLWG). The Staff Side wished to ensure that registration with GTCS was not confused with professionalism. It stated that its view was clear that lecturers are already professional but there is a need for institutional support to drive this forward. It would be happy to discuss how as a sector professionalism is being developed and for example, approaches to leadership and management and arrangements for indication. It confirmed that the NJNC was the appropriate forum to discuss these matters through a SLWG.

The Management Side confirmed that it was not confusing the two issues and sought clarification on what the Staff Side referred to by leadership and management and whether there was a distinction between promoted and unpromoted staff.

The Staff Side clarified that professionalism covered all lecturing staff in the same way that career long professional learning applies for teachers.

The Management Side advised that comparisons could not be made with teachers as not all lecturers are graduates.

The Staff Side advised that this was not relevant as it was about Continuous Professional Development (CPD) and professionalism, not about being graduates. The Staff Side confirmed that academic leadership required a broad approach and that it wished to highlight some of the good practice in the school sector.

The Management Side confirmed that it was not ready to set up a working group. Further information was required and feedback gained from the employers.

The Staff Side expressed its disappointment and that this approach would lead to more delay. The Staff Side stated its view that progress should be being made on this issue at present and asked for a timescale for response.

The Management Side advised that work was continuing to progress on terms and conditions and that as discussion on WFTF included support staff it would not just be focussing on one issue. The Management Side also expressed its disappointment as previous attempts to discuss the WFTF with the Staff Side had been rejected out of hand. The Management Side confirmed that matters were not being kicked into the long grass and that discussions were continuing through other forums.

The Staff Side did not accept that it had refused to discuss WFTF but wished to focus on progressing matters.

The Management Side confirmed its commitment to further discussion following further consideration with the employers. The Management Side confirmed that it too viewed this as a priority and would like to have a timetable for action. It stated that it wanted to move forward as quickly as possible and would come back once it had further discussions with the Employers' Association.

26/18 UHI – Update on Shetland College

The Management Side advised that the Employers' Association had agreed to the request from Shetland College UHI to become signatories to the NRPA for lecturing staff only.

The Staff Side welcomed this decision and asked what was happening with the other five remaining non-signatories.

The Management Side advised that should those colleges request to become signatories, the Employers' Association would give due consideration to the requests.

The Staff Side asked if there were any implications as a result of the proposed merger between Shetland College and NAFC Marine Centre.

The Management Side advised that there had been no discussion on this area, but that it was assumed that TUPE would apply. It was not anticipated that there would be any impact but this level of detail had not been shared as yet.

The Staff Side queried the right of the Employers' Association to decide on these requests to become signatories.

The Management Side advised that Shetland and Orkney are in a unique position and the request from Shetland came with a variation as they only wished to sign up for lecturing staff. Due diligence was applied to ensure that the request did not result in any adverse consequences. The Management Side confirmed it would welcome requests from the other colleges to become signatories and the decision would rest with the Employers' Association if there were any issues.

27/18 Outstanding Matters for Negotiation

The Management Side presented its revised Pay Offer based on a hybrid approach.

The Staff Side welcomed the revised offer but still rejected the offer on the basis that it would lead to inconsistent application, was unconsolidated and the amounts of money were not enough. It referred to the significant increase in the NHS pay offer which had just been announced.

The Staff Side also referred to the pay cut that would be experienced by members in colleges such as NESCol and asked the Management Side to reconsider the offer. It also appeared that members in NESCol and other colleges would receive more in year two and less in year three which did not seem fair. The Staff Side asked the Management Side to reconsider the offer and ensure that a situation would not arise where employees would be paid more in one year than they would in the subsequent year.

The Management Side asked if the Staff Side were still willing to consider a hybrid offer and that if the issue with NESCol could be addressed we might be nearer an agreement.

The Staff Side advised that it was still looking for significantly more in year three due to there being no pay rise in 2017 and 2018. It would look to discuss a hybrid model further and it would also have welcomed sight of the spreadsheet to look at the various ways this could be presented.

The Management Side asked for clarification on the Staff Side's expectations on consolidation and whether it expected consolidation in years one and two.

The Staff Side responded that it would consider a hybrid consolidated and unconsolidated approach to years one and two and that there were a number of ways in which a hybrid model could be formed. It was not stating a preference. However, the Staff Side confirmed that it was looking for a significantly increased consolidated figure in year three.

The Management Side confirmed that there was some common ground on the three-year deal based on a hybrid model. It also confirmed that the NHS agreement was not just about pay as it covered terms and conditions, structural changes and pay caps on certain grades. As such, it needed to be referred to in context in its entirety.

The Staff Side further confirmed that it was not just staff at NESCol who were affected adversely by the current offer; there were affected staff in other colleges. The Staff Side repeated its request for the spreadsheet so that it could see precisely how staff in colleges would be affected.

The Management Side advised that it found the comments from the Staff Side helpful and would consider the comments and respond once it had had time to deliberate.

The Staff Side asked for a response at this meeting and that it expected to negotiate at this meeting. It confirmed that it had rejected the offer but that it had given further thoughts and comments for consideration. It did not accept that the NHS offer was of no relevance.

The Management Side confirmed that it did not say that the NHS offer was not relevant; it had to be taken in context and in addition it was funded.

It was agreed to adjourn.

Adjournment

The Management Side advised that it had concerns over the practicalities of applying any consolidation in years one and two but that it was willing to have further discussion. The Management Side suggested setting up a small group to take this work forward with a view to finding some common ground. It was suggested that four people from the negotiating group meet to work through the figures and carry out some modelling. It would also be an opportunity to go over some of the concerns from the Staff Side about the impact on individual members of staff.

It was agreed to adjourn.

Adjournment

The Staff Side advised that following consideration of the Management Side comments, that it was presenting a further pay claim based on a three-year deal, with the first two years being unconsolidated. It stated that the move to the first two years being unconsolidated marked a significant shift in its position.

The Management Side thanked the Staff Side for the submission and advised that it would require to take soundings from the employers. The Management Side asked if the Staff Side wished to meet the following week.

The Staff Side asked if the group would be empowered to make any decisions.

The Management Side advised that it would only be to look at the figures and the modelling.

The Staff Side indicated that it was prepared to meet but questioned the impact of such a meeting if the group was not empowered to take decisions. It was agreed not to meet. The Staff Side asked for an immediate comment on the revised claim.

The Management Side advised that whilst it welcomed the counter claim, the figures were still too high and would place tremendous pressure on the sector.

The Staff Side indicated that it felt that what it had submitted represented a significant move on its part and felt that the Management Side were not treating it as such.

The Management Side confirmed that it recognised and welcomed the movement made but that the figures would cause financial difficulties.

The Staff Side felt it had justified why the figure for consolidation had to be high and further suggested that the Arms Length Foundations(ALFs) could be used to fund the unconsolidated payments.

The Management Side advised that the ALFs are independent of colleges and could not be used to fund pay awards. The Staff Side felt that if ALF money was being used to fund Voluntary Severance payments it could be used for this purpose. The Management Side advised, that following the Staff Side's formal request to clarify if ALFs could be used, that it would check and respond accordingly.

The Staff Side confirmed that it would send its revised pay claim to the Scottish Funding Council for validation.

Date of Next Meeting

The date of the next scheduled meeting is Thursday 19 April 2018 to be held in City of Glasgow College.