UNIVERSITIES & COLLEGES EMPLOYERS ASSOCIATION

HIGHER EDUCATION PAY BARGAINING – A BRIEF HISTORY

Higher Education bargaining history – how we got to where we are

The origins of New JNCHES can be traced back to the 1997 Dearing Report, which recommended an independent review of the framework for determining HE pay and conditions. At that time, bargaining machinery varied across the sector with ten separate tables: Pre-92s had six different bargaining groups; Post-92s in England and Wales had a further three different groups (and academic negotiations covered conditions as well as pay); and Post-92s in Scotland had their own bargaining forum.

The recommended independent review was chaired by Sir Michael Bett, with the involvement of UCEA and the trade unions, in 1998/99. It was part-funded by a levy of UCEA member HEIs, as well as funding from the Higher Education Funding Council for England (HEFCE) and the government. The 1999 Bett Review concluded that the ten bargaining groups should be replaced by one national council, but with two sub-councils: for academic and non-academic staff. Bett recommended an independent chair for the council and sub-councils, and that the sub-council arrangement be reviewed after three years. Beyond pay bargaining, Bett recommended the development of a broad national framework for pay and conditions, within which HEIs could adapt the detail.

UCEA duly consulted HEIs on the Bett recommendations, stating a preference for a single pay spine rather than separate academic and non-academic tables. UCEA was concerned that the Bett recommendations were overly focused on the national level when the general trend in the wider economy was for local pay determination. Eventually, the employers agreed to accept the Bett recommendations and use these as a basis to secure more government funding for HE pay. After negotiations with the unions, the parties agreed to establish a new national negotiating machinery and a new national pay spine, from August 2001.

The first years of JNCHES

Under the 2001 agreement, the ten bargaining tables were merged into one: the Joint Negotiating Committee for Higher Education Staff (JNCHES). It established two interim sub-committees, one for academic staff and the other for support staff, but was explicit about the intention to move to a single pay spine and new pay structures to ensure a consistent approach across staff groups. It was also explicit that the joint aim was to move to a simpler pay structure which dealt with outstanding risks from equal pay legislation and allowed more flexibility for individual institutions to develop their own pay and grading structures. Importantly, negotiations would lead to recommendations that HEIs would be expected to honour, but which would not be binding, thereby preserving institutional autonomy. When JNCHES was first formed, in 2001, the committee was considerably larger than today, with 41 members – 20 employers, 20 union representatives and one independent chair (the deputy chair of the Central Arbitration Committee).

The first years of JNCHES negotiations worked towards harmonisation to a single pay spine for all HE staff, and the implementation of the Bett recommendation for an HE framework for pay and conditions in HEIs. In 2003, a draft *Framework Agreement for the Modernisation of Pay Structures* was developed, which was signed off in 2004. The Framework Agreement introduced the single JNCHES pay spine, as well as well as expectations and guidance on certain pay-related conditions which HEIs were given three years to work towards (UCEA FAQs and guidance on the Framework Agreement can be found in the Members' area of our website).

Whilst national single table bargaining began in HE, legislation was passed to pave the way for an increase to tuition fees to £3,000 from 2006/07. In 2005, JNCHES reached an agreement for a 3% pay award (plus higher awards for the lowest points), the academic unions AUT and NATFHE (precursors to UCU) announced that they expected a higher award in 2006 to reflect the increase in tuition fees. Their demand was based on a statement made by a former HE minister that universities had undertaken to plough a third of the money into staff terms and conditions. However, the unions' demand did not take account of the differential impact that the increase in fees would have across the sector, which could not be reflected in national bargaining. Thus, changes to HE funding significantly influenced pay negotiations and the sector faced a six-month dispute with disruptive industrial action from the academic unions. During the dispute, HEI support for national bargaining seriously wavered, with some Heads of Institutions publicly commenting that the arrangement might not withstand the dispute, and some HEIs exploring the possibility of local deals. In June 2006, AUT and NATFHE merged to form UCU, and following interventions from the TUC and Acas a three-year deal was agreed which ended the dispute. The final year of the deal was pegged to the RPI inflation rate and ended up being worth 15.8% in total over the three years. The agreement also included a commitment to review the JNCHES machinery.

The three-year pay deal was a significant financial stretch for many HEIs and was another reason for some HEIs to consider local bargaining as an alternative to participating in JNCHES. Prior to the review, UCEA consulted member HEIs, and found overwhelming support for continuing national bargaining for the time being, as long as the scope was not widened. Learning from the 2006 dispute, UCEA introduced a Code for Participating HEIs, confirming that participating in national bargaining is entirely voluntary but, once signed up each year, HEIs must commit to the outcome and coordinate their responses to any industrial action connected with JNCHES.

Review leads to "New JNCHES"

As specified in the 2006 agreement, in 2007 UCEA embarked on a joint review of JNCHES with the unions and in 2007 a "New JNCHES" Agreement was signed by all parties except UCU (with UCU eventually joining again formally in 2009). New JNCHES made several changes to the national bargaining machinery, including:

- Reducing the negotiating teams to six employer representatives and 18 union representatives.
- Clarifying the remit of negotiations to "pay and related matters that are determined at national level", specifically: regular review of the JNCHES pay spine and "any further consideration of the provisions of the Framework Agreement".
- Clarification of the timetable for negotiations, to take place in March to May.
- Abolishing the academic and non-academic sub-committee of JNCHES (although working sub-groups could be established if needed).
- Introducing an annual strategic issues meeting, outside the negotiations.
- The possibility for facilitating discussions within the devolved administrations about pay and related matters "if these are not taking place under other auspices".
- The introduction of a dispute resolution procedure; during which employers will not impose an award and unions will not undertake industrial action.
- Scheduling a further review of JNCHES by 2011.

The March to May timetable was set so that negotiations did not commence before HEIs had received their funding letters (which used to be in March), and did not conclude so early that the unions might be able to call for industrial action during the summer term. Although the negotiations were limited to "pay and related matters", in reality they only dealt with the annual uplift to the New JNCHES pay spine. However, the unions began submitting increasingly wide-ranging pay claims on matters that UCEA had no mandate to negotiate on nationally. These were dealt with through outcomes leading to working groups, research and reports, but no national agreements on non-pay issues.

Reviewing New JNCHES

By 2011, Parliament had recently voted to approve increasing the tuition fee cap to £9,000 and UCEA again consulted member HEIs, informally, ahead of a joint review of New JNCHES. As well as the prospect of increased fees (from 2012/13), the sector was increasingly becoming a competitive market for students (domestic and international), research funding and services, and there were question marks over the appropriateness of continuing with a single national pay bargaining system.

The system had remained entirely voluntary but the vast majority of HEIs participated, with only one large HEI having left to establish local bargaining. JNCHES outcomes had also included the option for HEIs to delay implementation of an award for up to 11 months due to financial difficulties, but in practice this option had been used very rarely. In addition to its role in uplifting pay spine points annually, New JNCHES had provided a forum for joint work with the unions, including dialogue, research, guidance and reviews on issues such as HE pay and finances, and equal pay.

The 2011 joint review was conducted through the prism of forthcoming funding changes, and the potential for some HEIs to seek to view the changes as a reason to leave national bargaining. The review discussions between UCEA and the unions focused on:

- Ways of improving the credibility of the national bargaining machinery.
- Possible joint articulation of the case for New JNCHES.
- Possible joint promotion of New JNCHES outcomes to the sector.
- The unions' frustration at the limited scope of national bargaining and their interpretation of "pay and related matters" in the New JNCHES Agreement. Their clear desire was to widen bargaining to non-pay matters.
- The purpose of the Dispute Resolution procedure, as the unions viewed it as an extension of the negotiations.
- The size of the employers' negotiating team, as the unions felt it was too small and wanted more heads of institution directly involved in the negotiations.
- Trade union side representation and coordination, as the unions continued to act as five different entities rather than a united side.

The review took place over the course of 2012, with initial facilitation by Acas. In the end, the review yielded few significant changes to the New JNCHES machinery.

- The union side reduced from 18 to 16 representatives, split across the five unions based on membership numbers in the sector.
- The union side introduced two joint secretaries (one from UCU and one from UNISON) to coordinate union responses.
- Inclusion of a new potential remit for New JNCHES to "identify areas of employment practice or data which both sides agree merit discussion and/or exploration, with the potential to produce material for dissemination to institutions."

No changes were made to the Dispute Resolution procedure and the employers' negotiating team structure was unchanged.

Final comments

In one form or another, New JNCHES has been in operation for two decades. The 2006 dispute ended with a 15.8% deal over three years. The last year of that deal coincided with the economy entering recession. The wider economic context and financial constraints facing HEIs mean that the pay outcomes from New JNCHES have been more disappointing from the perspectives of the trade unions. From the viewpoint of employers, those lower awards have been important in delivering financial sustainability for the sector while avoiding “leap-frogging” of local claims and awards. There have been a string of disputes over recent years. It is possible that these disputes were an inevitable consequence of recent pay outcomes. However, it is also worth considering whether a different structure to the sector’s bargaining machinery might avoid the same degree of disruption in the future.

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