

Background to the Recognition & Procedures Agreement Dispute at the Nottingham Trent University

Introduction

UCU were called to a meeting with NTU's Director of Human Resources (HR), Rachel Creamer, and the newly appointed Head of Employee Relations and Reward, Chris Cox, on 8th September 2007. At this meeting UCU branch officers were informed that the university wished to review the existing (1999) Recognition and Procedures Agreement. NTU management expressed their strong view that the investment of funds in time off for trade union duties for UCU branch officers did not represent 'value for money' and that as well as significantly scaling back on their financial commitment the university wished to change the way in which it did business with UCU. While UCU did not welcome the university's comments, branch officers agreed to participate in a series of three Working Party meetings that it was agreed would be set up under the auspices of the Joint Consultative Committee (JCC) and report back to the JCC in December 2007. These meetings commenced on 24th October, and due to the extent of the changes proposed by NTU the Working Party meetings continued into January 2008. Further to the conclusion of the Working Party, a formal negotiating committee was established by the JCC, with a series of meetings taking place from April 2008 onwards.

Amongst the important elements of the university's proposals for replacing the existing Recognition and Procedures Agreement are:

- 1) The replacement of existing Common Interest Groups and JCC with a new Employee Information and Consultative Forum (EICF) and a new Employee Negotiating Forum (ENF).
- 2) The incorporation of non-trade union employee representatives in the EICF.
- 3) An 85% cut in trade union facility time for UCU branch officers.

It should be noted that the university's original intention was to derecognise GMB. This was stated in person by the new Head of Employee Relations and Reward at the first Working Party meeting and documented in the notes that he provided as a record of this meeting.

The Working Party

The Working Party membership comprised two UCU representatives, two from Unison and one from GMB. The sole university representative was Chris Cox, the new Head of Employee Relations and Reward. The progress of the Working Party was slow. This was due to two reasons: firstly because of the severity of the NTU proposals to which all three unions voiced their opposition. It must be emphasised that all three trade unions held an identical position throughout the five meetings of the Working Party, working in close and cooperative liaison; and secondly because the initial position of NTU was that it wished to start from a blank page in constructing a replacement for the existing agreement. In opposition to this, the joint trade union view was that the 1999 agreement remained in force until such time as it was re-negotiated and that it was this agreement that we should be using as the basis for discussion.

Once it was established that the Working Party would proceed by discussing the 1999 agreement, the meetings did so, working through the existing agreement section by section with the university signalling where it considered that the agreement needed changing. In the great majority of cases the joint trade unions responded to affirm that they considered the existing agreement to be acceptable and that they did not support significant revision. After four Working Party meetings little meaningful progress had been made, save for an understanding that the gap between the trade union position and that of NTU management was a substantial one.

Prior to the final meeting on 25th January, the university presented their full proposals for the replacement of the existing 1999 agreement with a new set of arrangements for trade union recognition and participation. While the university committed itself to providing full documentation well in advance of this meeting they only made a single paper copy available two days before the final working group meeting, refusing despite requests to provide an electronic copy for circulation. This meant that one of the UCU negotiators was unable to see the university proposals in advance of the meeting. Given these circumstances, UCU made strong representation to the university at the difficulty presented by the failure of the university to make its proposals available in good time as promised. Indeed, as of 30th January, the UCU Regional Officer, Sue Davies, still had not received a copy of NTU's proposals and wrote to Chris Cox accordingly asking for a copy of the document.

UCU were, therefore, surprised to find that on conclusion of the working party meeting, Chris Cox wrote to the unions to express his frustration of the 'lack of active partnership working by the trade unions' and the 'failure of the trade unions to contribute to the Working Group through the presentation of justified alternative proposals'.

It is important to note that at the final meeting which took place on January 25th, Chris Cox made the point quite forcibly that the series of meetings that had taken place had done so under the auspices of a Working Group and did not constitute negotiation.

Formal negotiations

Formal negotiations commenced on 15th April 2008. At the conclusion of this first meeting, Chris Cox wrote to UCU expressing his disappointment that the university 'were unable to have consideration of specific proposals from you'. At all stages, UCU has made it clear that we do not see the onus resting on the trade union to come to the negotiating table with proposals given that we have not initiated a review of the Recognition and Procedures Agreement. While UCU agree that the existing 1999 agreement was in need of revision to take into account the merger of AUT and Natfhe into UCU and the changed organisational structure of NTU, UCU did not otherwise seek significant change to the current agreement. It is disingenuous, therefore, to accuse UCU of failing to bring proposals to the table.

Through a series of negotiation meetings between NTU and UCU, attempts have been made to explore and potentially resolve a number of 'lesser' issues of contention between the two sides. These include the university's position on the following:

- That the trade unions agree one 'lead spokesperson' to put the trade union position at the ENF
- That union representatives would have to be elected from internal constituencies stipulated by management.
- That members of the IECF be subject to a confidentiality clause and subjected to the disciplinary procedure if they break this clause
- That management should be allowed to select delegates to attend meetings based on the agenda of the meeting, but that trade union representatives should be fixed personnel

While these (and other issues) remain unresolved, the main areas of dispute resolve around three headings.

1. Defining areas that should be subject to negotiation as opposed to consultation.

Some progress has been made on issues connected with which areas should be subject to consultation with the recognised trade unions and which areas should be considered through formal negotiation. In particular, UCU remains concerned that the university maintains that the introduction of a new system of Performance Development Review only necessitates consultation.

2. The participation of non-trade union representatives.

The university has claimed that it seeks to 'introduce an inclusive model of employee relations with its entire staff'. As explained in a recent bulletin to members UCU fully supports this objective. The carrying out of this objective does not require a new trade union recognition agreement. UCU cannot of course be a party to a recognition agreement in which non-trade union 'representatives' have a central role in the collective bargaining structure. UCU has repeatedly explained to the university that it is entirely inappropriate and against the very nature of a collective agreement for non-trade union employees to be party to a formal recognition agreement: such an agreement constitutes a collective agreement made between an employer and its recognised trade unions.

The University's proposals would see the abandonment of the Lecturers' Common Interest group. This is the very forum at which changes to the Academic Contract are currently negotiated. In effect all the University's academic staff currently covered by local and national collective bargaining would be marginalised in the collective bargaining process.

We have sought to offer an alternative collective mechanism for representation of academic staff other than the proposed EICF but NTU management have completely rebuffed this proposal.

Furthermore, it should be noted that the NTU proposals include provision for the EICF to review the whole Collective Information, Consultation & Negotiation Framework that they have proposed. It is completely unacceptable that a body in which non-trade union 'representatives' outnumber UCU branch officers would review an agreement which determines the terms and conditions of academics at NTU and the terms upon which UCU is recognised.

3. Facility time for trade union duties.

The current Recognition and Procedures Agreement allowed for combined Natfhe & AUT facility time of 2222 Standard Teaching Duties (STD) hours. NTU was unusual in having two recognised academic staff unions and this explains why the total combined hours appear high relative to the sector. However it should be noted that for at least several years this full allocation has NOT been made by the University. In May 2008, the UCU Branch Secretary wrote to the Director of Human Resources requesting 1744 hours STD in total for all UCU activities. This represents a 21.5% shortfall on what UCU was entitled to claim.

The proposals that NTU management brought to UCU for trade union facility time gives UCU 850 'flat hours', i.e., these are hours that are not detailed as STD as is common practice, and are not, therefore, subjected to a multiplier ration of STD to Teaching Related Duties (TRD). While a standard STD:TRD ratio has yet to be agreed for trade union duties, this proposal represents approximately an 85% cut in the time that is provided for trade union duties in the 1999 Recognition and Procedures Agreement. These 850 'flat hours' represent a cut of 80.5% on the number of hours that UCU had actually requested for 2008/09. The University also sought to put in place several additional stipulations that would severely restrict how even these very reduced hours could be allocated to trade union representatives who were also academic members of staff with teaching commitments – effectively preventing such staff from playing any significant part in collective bargaining negotiations.

NTU management, in seeking justification for the cuts that they were intending to make, presented to UCU a document that detailed what it considered to be the cost to NTU of servicing the current Recognition and Procedures Agreement. This document claimed that during 2006/07 NTU had paid £190,382 for UCU officers. On examination of this data, UCU pointed out to management that the figures were wrong in two important respects. Firstly, the hours that were detailed against individual branch officers were incorrect, typically over-estimating the hours that had been allocated and incorporated into individuals' workload spreadsheet. Secondly, the university had multiplied the total allocation of hours by the 'part-time lecturer's rate of approximately £35 an hour rather than only applying this to the hours that form STD. Once this erroneous data is viewed in an accurate light, the cost to the university was shown to come down to a figure in the region of £74,380, i.e., by correcting the error in the figures we showed a 'saving' of £116,000 on what the university claimed it was paying!

Further to this error being communicated to the management side, the university then asked UCU to present a proposal for trade union facility time that was in line with what would be seen as comparable with similar sized institution in the higher education sector. In response to this request, UCU undertook a consultative exercise whereby full time officers of the union looked at the agreements in place at other higher education institutions, taking into account the size and number of university campuses, the size of staff groups and the density of UCU membership. As a result of this exercise, UCU proposed that the university provide for two Full Time Equivalents (FTEs) plus an additional FTE for health and safety duties. Such a proposal for a total of 1500 hours STD would represent a 14% cut on what UCU had asked for 2008/09 and a 32.5% cut on the Recognition and Procedures Agreement of 2222

hours. UCU prepared a document that was presented to the university in support of this case.

When this proposal was presented to the university, management representatives rejected UCU's proposal on the spot. At this meeting negotiations quickly reached an impasse and the UCU negotiating team were placed under considerable pressure from NTU management. Having said that they wanted to: (a) reduce the bill for trade union facility time; and (b) agree something that was in line with comparator institutions, NTU management refused to give serious considerations to the UCU proposal.

Under, immense pressure from the university, UCU negotiators came back to NTU with a proposal for two FTEs plus 270 STD hours for health and safety duties. This revised UCU proposal of a total of 1270 STD hours represents a 27% cut on what UCU had requested for 2008/09 and a 43% cut on what UCU have in the current Recognition and Procedures Agreement. University representatives gave brief consideration to this proposal before stating that they considered it to be unacceptable. NTU stated their 'final' offer to UCU (from 2009/10 onwards) to be 1100 'flat hours'. This figure of 1100 'flat hours' represents a cut of approximately 80% on what UCU currently has for trade union facility time in the existing Recognition and Procedures Agreement and looks to us to represent the very worst offer by some considerable margin made by a UK University.

Further to these discussions, management representatives pressed UCU to return to the negotiation table with a detailed rationale and justification for our claim for hours based on known trade union work carried out by elected branch officers during 2007/08. In the interests of transparency UCU undertook this exercise. This involved branch officers reviewing all activities undertaken as part of their role including meetings with members, meetings with management, representation, negotiations, consultations, time on the phone to members, answering emails from members and so on. The resulting figure – while lacking in scientific rigour given that branch officers made best efforts to estimate hours retrospectively – was in the region of 1600 STD hours. Consequently, UCU negotiators returned to a subsequent negotiating meeting with NTU management with a document that supported a reasonable claim for a total of 1500 hours STD. Through discussion with management, NTU rejected this document and the proposal contained within, re-iterating their final offer of 1100 'flat hours' from 2009/10 onwards.

UCU have provide a detailed and elaborate justification and rationale for our claim for two FTEs as well as additional time to enable trade union representatives to carry out health and safety work (participation in university committees, a programme of trade union health and safety inspections, and so on). In addition, we have alerted the university to the need for time to be made available for UCU branch officers to work with the university on the implementation of the NFA. This is required to enable branch officers to provide advice and guidance to members who are embarking on the appeals process, assistance in the completion of role descriptor forms, membership of matching panels and job evaluation panels, as well as meetings with management to discuss implementation issues. Despite promises made by the University during the 2007 to 2008 period no time was allocated by the employer for branch officers to participate in the NFA negotiations or its implementation. Other UK universities were prepared to make such arrangements with UCU.

Of course, all universities are different in their own way. However, given the size of NTU and the complexity of its organisational structure (spread across three campuses) two FTEs is entirely in step with what is provided for trade union work for UCU at comparable institutions. Furthermore, UCU membership at NTU is high, with approximately 80% of full-time academic staff in UCU. In effect, through many months of discussion, the university have moved from their opening position of an 85% cut to their final position of an 80% cut. This is contrast to the UCU position which has moved through several iterations to a point where the union has offered to accept a reduction in facility time of up to 43%.

In imposing massive cuts in the time that UCU branch officers would be allowed to spend on trade union duties, the university would effectively be seeking to restrict UCU representatives to attendance at a minimal number of meetings with management. It would be virtually impossible for branch officers to provide advice and guidance to members as is the current practice at NTU and everywhere else in higher education in the UK. .

Recent years have seen a massive expansion in the number of HR personnel employed by the university. We now have college HR departments, corporate HR and a host of consultants and others to deal with. (A few years back there were just two or three individuals to liaise with.) Following this expansion we have also seen a very significant rise in the amount of individual casework being dealt with by the branch. Issues which in the past would have been resolved quickly are now inevitably drawn into the surrounding bureaucratic structure in a way that adds to the burden of work for trade union officers.

Recognition of UCU at Nottingham Trent University

In a letter to UCU dated 4th July the University states that it is terminating the Recognition Agreement with effect from September 30th 2008. The statement by the university in the letter that it is will 'continue to 'recognise UCU on the same terms as it has previously, for consultation and negotiation, and collective bargaining purposes' is clearly incorrect. The university has stated its intention to dispose of the agreed structures by which negotiation and consultation take place and to replace these with structures which UCU has not agreed to. Furthermore, the university has made it clear to UCU that 'no pre-agreed time off will be allocated [for trade union duties] for the year 2008-2009'.

NTU are also breaching the current recognition agreement which clearly stipulates that nine months notice is required. In serving notice of the Recognition and Procedures Agreement with less than three months notice, the university has stated that it considers this to constitute 'a reasonable period of notice'. This is contrary to the agreed provision for either party to notify their intention to end the 1999 Recognition and Procedures Agreement with a full nine months notice and is, therefore, considered by UCU to be an utterly dishonourable action.