

THE ASSOCIATION OF PRECARIOUS POSTDOCTORAL RESEARCHERS LTD

FOR IMMEDIATE RELEASE

London — 23 October 2024

Today, The Association of Precarious Postdoctoral Researchers Ltd (TAPPR Ltd) has received a copy of the “UCEA Members’ Guide to Negotiations in Higher Education”. This copy has been disclosed following a decision by the General Regulatory Chamber of the First-tier Tribunal (FtT). In delivering its judgement, the FtT interpreted the nuances of the Freedom of Information Act 2000 and found out that The Information Commissioner had erred in law in a previous Decision Notice related to this ask. Those interested in the matter are welcome to obtain a copy of the document by accessing our website: **precariouspostdocs.com**

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UCEA Members' Guide to Negotiations in Higher Education

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1. Introduction

- 1.1 UCEA provides a wide range of employment related services to the Higher Education sector. One service amongst these is the support provided for negotiations on pay and related matters, be they collective (often known as ‘national’ negotiations because they have traditionally covered the majority of employers in the HE sector across the UK) or local (i.e. at institutional level). The scope for the negotiations on ‘pay and related matters’ is set out within the New JNCHES agreement and in practice is broadly limited to negotiating the uplift to be applied to the points of the 51 point pay spine.
- 1.2 The majority of UCEA’s member HEIs continue to indicate that they wish to see the framework for conducting collective negotiations retained and functioning effectively. Part of its effectiveness has been attributable to a set of reforms to the negotiating machinery itself (JNCHES), agreed in 2008 with all of the HE trades unions. The other part of its effectiveness lies in the processes UCEA and HE employers adopt in conducting each round of negotiations.
- 1.3 This Guide was initially developed in 2008 to provide information and advice to UCEA members about the negotiation process, setting out the expectations and commitments involved. The context at the time was the lessons learned from the 2006 pay dispute and the employers’ responses during this. The Guide therefore also covers some particular issues that can arise during an industrial dispute. The Guide was reviewed and updated in 2014. Further amendments were made in 2017 relating specifically to the withholding of pay following a change in case law.
- 1.4 A key purpose of this Guide is to set out the expectations and commitments in the form of a Code for member institutions and UCEA to follow to ensure that there is clarity and understanding of the processes involved and unity of purpose within the sector. This Code explains what members may expect of UCEA, and what may be expected from HEIs during the negotiating process, and in the event of an industrial dispute. For the purpose of this Guide, institutions that decide to opt in to collective negotiations are referred to as “*participating*” institutions.
- 1.5 There would be a different set of expectations applying to both UCEA and the employer were any institution to decide to opt out of collective negotiations for a particular negotiating round, and there is an alternative Code in Appendix 4 to this document covering this situation. The trade unions will have a very active interest in the decisions made, whichever way, and it would be particularly important that local discussions leading to a decision not to participate do involve the institution’s recognised trade union partners at an appropriately early stage; the framework at Appendix 1 has been developed to assist in considering the practical implications. An HEI that decides to opt out of collective negotiations is referred to in the Guide as a “*non-participating*” institution.
- 1.6 The Code reflects a wide-ranging consultation with the UCEA membership undertaken in 2007 which drew on the learning from the 2006 pay dispute and from which the following set of principles was developed for the future approach:
 - Future arrangements should reflect the realities within the sector, including the variety of views about negotiations which are held by the UCEA membership.
 - Arrangements should accommodate the anticipated continuation of broad collective or ‘national’ negotiations, at least in the short to medium term.

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- It should be acknowledged that arrangements may be transitional and, in the medium to longer term, it is possible that more UCEA members *may* wish to follow different and more localised arrangements.
 - That UCEA should provide appropriate support to both collective and any local negotiations as they may develop.
 - That UCEA members should at the start of a negotiating round be invited to ‘opt in’ to collective negotiations, so that ambiguity is avoided for both employers and trades unions.
 - By opting in to collective negotiations, UCEA members will be asked to commit to a set of arrangements embracing both rights and responsibilities, and these should be set out clearly.
- 1.6 The Guide also provides institutions with additional details and guidance on the elements incorporated in the Codes (see Appendices 1 – 4). It is supported by UCEA’s related, but separate, practical and legally informed guidance about managing industrial disputes which has been updated and added to over the years.
- 1.7 A fundamental principle underlying the framework outlined in this guidance is the importance of achieving a unified approach across the sector. Therefore, although the UCEA Code is voluntary and it is not UCEA’s intention to impose specific penalties for not adhering to it, there is a strong expectation shared by all participating HEIs that by committing to participate in collective negotiations, the institution is doing so for the duration of the particular negotiating round in question, and is also committing to the framework set out in the UCEA Code.
- 1.8 The individual decisions on participation are to be made before the formal start of each negotiating round, following which a list of the participating HEIs will be notified to the unions and published as a password protected document on the UCEA website.
- 1.9 UCEA will be aiming to provide high quality and timely support to its members in relation to the conduct of pay negotiations in the form of guidance, model documents and advice; with this material equally available to members who decide not to participate.
- 1.10 UCEA’s ability to provide tailored support and guidance to specific institutions, or to groupings of institutions, will be dependent on the decisions of its member institutions on collective participation. UCEA will be concerned to ensure that it adapts and develops its offer and range of services available to members, and the provision of focussed support to local negotiations is expected to develop in the light of members’ emerging needs.

2. Deciding on participation in collective negotiations

- 2.1 Section 3 of this Guide sets out the UCEA Code for participating members. The Code prepared for non-participating members (at Appendix 4) does include a number of common elements. In particular, both participating and non-participating members will be included in the *initial* stages of UCEA's consultations on forthcoming pay negotiations. By committing to participate (or deciding not to), the institution will be doing so for the duration of the particular negotiating round.
- 2.2 A positive decision regarding participation will be sought from the institution, confirmed in writing by a person authorised to act for the institution. Stage 3 of the consultation process, set out below, will be the final point at which notification can be given within each particular negotiating round. Heads of Institution will be prompted by UCEA if notification has not been received by the Stage 3 deadline. If, by the end of Stage 3 of the consultation process an institution has failed to notify UCEA of its decision on participation this would be deemed by UCEA to be a decision not to participate in that round and the institution would not be able to exercise any influence with regard to the collective employers' mandate or in any further consultation during the collective negotiations for that round.
- 2.3 Institutions will be given the opportunity to establish their position at the beginning of each new round of negotiations (a round of negotiations might normally cover one pay year, although it could cover a longer period if a staged or multi-year agreement was sought; or alternatively a particular round of negotiations might exceptionally cover specified items other than pay levels). An institution that decided not to participate in one round could decide in a subsequent round to opt in if it wished.
- 2.4 Once established for a round, a list of participating HEIs will be notified to the unions and published on the UCEA website.
- 2.5 Changes of view on participation during the course of a particular negotiating round would be contrary to the Code.
- 2.6 Detailed guidance to assist in making the decision to participate in collective negotiations is provided in Appendix 1a. Institutions can also use the Institutional Self-Assessment Questionnaire provided at Appendix 1b to facilitate this process. An illustrative timetable for the collective negotiation process is provided in Appendix 2.

3. The UCEA Code for participating members

Consultation arrangements

3.1 The following consultation process will apply to all participating institutions (and to non-participating institutions up to Stage 3):

Stage 1: In advance of each round of collective negotiations with the unions, contextual information in the form of a briefing document on the expected key negotiating issues will be provided to all UCEA member institutions and shared with key sector groups and bodies. There will also be an indication of the sorts of questions that will need a response at Stage 3 to shape UCEA's negotiating mandate.

Stage 2: Face to face consultation will take place with mixed groups of HEIs through a series of meetings, and discussions will also be offered to key sector groups and professional bodies. Institutions will be invited to send at least one person to at least one of the consultation events. The discussions at the events will serve three purposes: to make initial views known to UCEA and help refine the questions that will be asked at Stage 3 on the negotiating mandate; to identify any particular regional or sub-sector issues; and to enable HEIs to hear at first hand the range of views from others in the sector on the issues for negotiation.

Stage 3:

- a) This will be the final point at which UCEA will write to all institutions seeking confirmation as to whether the institution is participating in the particular round of collective negotiations. It is expected that most HEIs will decide about participation before this point, however, on the basis of the fundamental issues raised in Appendices 1a (Self-Assessment Questionnaire) and 1b (Collective Negotiations, Making the Decision), it is acknowledged that some HEIs will be influenced by what they consider is likely to be the majority opinion in the sector in the light of views expressed during the Stage 2 consultation meetings.
- b) Those institutions who confirm their participation will be asked to shape UCEA's negotiating mandate by responding formally to a consultation questionnaire seeking definitive views on the full range of issues for the forthcoming negotiations, with the questions and options being cast in the light of feedback from the Stage 2 discussions.
- c) UCEA's negotiating team will be entering the negotiations aiming to secure a settlement with the trade unions on behalf of the participating employers and the participating employers will be asked to consider their responses in this context and provide responses that are a genuine assessment of their views on fairness and affordability.

The final negotiating mandate will be considered and confirmed by the UCEA Board, based on the formal responses from HEIs to the Stage 3 consultation questionnaire and informed by the wider feedback in the Stage 2 discussions. The task of the UCEA Board is to assess the desired negotiating outcome that would be the best outcome for the majority of participating HEIs. The mandate within which the negotiating team are then to operate will be the Board's assessment of what the

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majority of the participating employers regard in the relevant round to be a fair and affordable settlement.

Members will not be briefed on the employers' approach in advance of the negotiations, as this would compromise the negotiators' position. An employers' statement is likely to be issued by UCEA after the initial meeting of the collective negotiations, and those participating will be expected to support and adhere to the collective employers' position and be supportive in any discussions they have with their own staff and trade union representatives.

Communications

3.2 Communications between HEIs and UCEA

UCEA's Negotiating Team will have a membership of six, appointed by the UCEA Board. The Negotiating Team will be supported by a readily accessible network, drawn from participating institutions and key sector groups and professional bodies, to assist in any necessary consultation and in communication throughout the course of negotiations until a final agreement or settlement is reached. The function of this negotiating support network will be:-

- To provide an additional set of contact points for participating HEIs to increase coverage and ensure that contact can be made with reliable sources of information throughout the negotiating process, and particularly at critical points;
- Where practicable and necessary, to act as a sounding board for the Negotiating Team;
- Where practicable and necessary, to assist with communicating any agreed message to participating institutions, or with seeking and relaying feedback from participating institutions to UCEA.

Information and consultation arrangements during negotiations will also include:-

- Continuing engagement with the support network and sector groups or stakeholders;
- Use of multiple communications methods to alert participating members to new information – this may be through confidential (limited circulation) email or posted to the high-level password protected area of the UCEA website;
- Issuing Updates to members at key points in the process;
- News releases and media briefings being distributed to members, stakeholders and media simultaneously.

Many of the communications during the course of a negotiating round will be confidential and, in order to avoid breaches of confidentiality, UCEA will be likely to apply its policy regarding Freedom of Information (FOI) and will expect institutions to take steps to protect the confidentiality of the information to which they have access. This would include consulting UCEA in the case of the receipt of any UCEA related FOI request.

UCEA will advise participating institutions on progress during the negotiations and subsequent consultations by the trade unions and on the actual conclusion of each negotiating round. All participating institutions are expected to adhere to the collective

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decisions regarding the timing of payment for new pay rates that emerge as a result of each round of negotiations.

In the event of a dispute and any industrial action, UCEA will use its secure channels of communication with HEIs to:

- Share information collected relating to the handling of the dispute and its impact within institutions with the employers affected by the dispute;
- Issue updates to employers affected by the dispute at key points in the process.

Members are expected to keep UCEA informed of their policies and practices in relation to managing industrial relations, including the withholding of pay in the event of industrial action and to report on the impact of any action when requested. In the event of a dispute UCEA will collect information on the policies and practices being adopted across the sector and will ensure that this information is shared appropriately with members on a regular basis. UCEA will also use the information gathered at an aggregate level to deal with any national media interest in a dispute or the industrial action arising from it.

3.3 Internal and external communications

By confirming they are part of the collective negotiations, participating members are expected to adhere to a shared approach to communications including the issuing of key messages to staff and students. It is expected that institutions will want to adapt communications for style and local relevance but not with regard to the underlying messages. The consistency and frequency of the messages being relayed nationally and institutionally will be a critical component in achieving a successful outcome in the collective negotiations and may become particularly important, if a dispute emerges, in reducing its impact.

An important commitment for the participating employers is not to relay or issue communications to staff and other stakeholders that are at variance with the collective position and key messages.

HEIs will be encouraged to pursue proactive communications with staff and with students and other stakeholders where appropriate, as well as responding to the local media if necessary. Board members and senior UCEA officers will make themselves available for national media interest and will ensure that stakeholders at a national level receive appropriate briefing at key stages. Material provided by UCEA to assist HEIs will include key messages and facts and figures briefing documents. The UCEA Communications team will also provide ad hoc support to institutions as needed.

Management of industrial disputes

3.4 Dispute Procedure

A formal dispute procedure has been agreed as part of the new JNCHES arrangements. The dispute procedure is intended to ensure that, in the event of a dispute arising, the parties to the negotiations have a robust and fair process for resolving the situation. The JNCHES Dispute Procedure applies specifically to the collective pay negotiations and is reproduced in Appendix 2.

UCEA will do its utmost to use both formal and informal channels to seek to resolve any dispute and bring such a period to an orderly conclusion.

3.5 Strike action and action short of a strike

By confirming they are part of collective negotiations, participating members are expected to adopt a common strategic framework for dealing with any industrial action that may occur, including withholding pay. Participating HEIs are expected to:

- Issue, in advance of industrial action commencing, a clear statement to staff confirming that the institution does not accept partial performance, and that pay will be withheld from staff participating in any form of industrial action. This will ensure that trade union members contemplating industrial action are fully informed about their employer's response from the outset and can make an informed decision regarding what action they may support.
- Adopt a clear policy on the withholding of pay, within which a strike day would lead to the loss of a day's pay. For partial performance, arising generally through action short of a strike, an approach will be assessed using the key principle that the proportion of pay to be withheld will depend on the *impact* of the industrial action. While the precise application of this principle will vary depending on the form of action taken it is important that the withholding of pay is dealt with by all participating employers within a common framework of action.
- Determine the appropriate calculation of a day's pay at their own HEI, with reference to their contractual provisions and working patterns for the different staff groups participating in the industrial action. UCEA will, however, collate from participating HEIs and share in confidence information on the rate, or rates, at which pay is to be withheld, including whether this varies by category of staff. HEIs can also refer to detailed guidance from UCEA on the calculation of a day's pay for industrial action, in order to assist them in determining the appropriate rate for their different staff groups.
- Be clear in their policies that pay withheld as a result of staff taking industrial action will not be repaid to those staff after the dispute is concluded.

The approach on withholding pay and the associated framework of action to be advised will be developed by UCEA, following consideration of the nature of the action, its timing and impact, and of the employee relations climate, consulting as necessary with the UCEA Board, and taking into account the views that are being received from the employers affected by the dispute in question.

Detailed legal and technical guidance on withholding pay and on partial performance is available to all UCEA members on the website. UCEA will deal with queries and seek legal advice, if necessary, should new legal issues arise that merit establishing a clear position on behalf of HE employers.

UCEA will also provide the employers affected by a dispute with model letters that can be used in communications with staff around any period of industrial action.

3.6 Minimising the potential impact of industrial action on students

In the event of a ballot in favour of industrial action, institutions will need to ensure that appropriate measures have been taken to minimise the negative impact that the industrial action may have on students. HEIs are encouraged to develop appropriate contingency plans well in advance. Advice on such measures is provided in the joint

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UCEA/Universities UK/GuildHE guidance on minimising the potential impact on students arising from industrial action, available on the UCEA website.

Appendix 1a: Collective or local negotiations - making the decision

The issues to consider

- 1.1 Each HE institution will need to consider whether it wishes to pursue a collective approach, working in co-operation with other HEIs who make a similar choice, or an individual approach, with the freedom and responsibility for its own negotiations at institution level (with support from UCEA in either case). The key issues that need to be considered before that decision can be reached include:-
- The impact of the decision on institutional objectives.
 - The possible impact of the decision on the cost base of the institution; this may be short, medium and long term. Local negotiations will be comprehensive (i.e. cover pay, conditions and anything else that the parties seek to include) and provide the opportunity to bargain across a broader package. This means that there is the possibility that the expenditure which results may be more tailored to the institution's needs. On the other hand, the move to local negotiations in itself may involve an additional cost; this may be entirely appropriate if it is the means of securing some key institutional objective but it may need to be factored in. Since local negotiations do not occur in a vacuum, there may also be on-going cost pressures as a result of other local negotiations in other HEIs or in the locality, or national collective negotiations in this and other sectors. At institutional level, there is also a need to consider the current contractual position of staff which might need to be altered to accommodate a different approach.¹
 - The commitments and compromises involved in making common cause with other employers in the collective approach.
 - The commitments to self-reliance and institutional risk management when an HEI decides to 'go it alone'.
 - The timing of the decision. This means assessing the capacity and readiness of the institution to deliver immediately in either approach; it includes the skill and commitment of the institutional leadership and management, the contractual 'infrastructure' and existing agreements and, of course, the willingness and ability of local trade union partners to support and participate in any change.
- 1.2 The resulting decision may be:
- To favour collective negotiations with like-minded HEIs as a matter of institutional policy, or
 - To favour local negotiations as a matter of institutional policy, or
 - To favour local negotiations in principle but to conclude that the institution is not yet in a place to pursue these. This might mean making a commitment to

¹ i.e. whether and how pay is determined is a contractual matter and whether there are existing employment contracts that currently refer to nationally negotiated agreements. Additionally, trade union recognition agreements may need to be re-negotiated.

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collective negotiations for a period, along with preparing a development plan to enable a move to local negotiations at an appropriate point in the future.

- 1.3 All approaches demand discipline and consistency in words and in action. Therefore, the final decision should be one which commands the support of the governing body/council, the senior management team, and also of middle management (who play a critical role in relation to the workforce). The fourth critical stakeholder group is the trade unions, and the staff they represent. Since this is an employers' guide, the focus here is mainly on the practicalities for the employer group. However, Appendix 1b of this Guide contains a 'self-assessment' questionnaire to help with the decision-making process, and this contains some critical questions about trade union relations and about the partnership issues involved.
- 1.4 There is a third model – so-called 'consortium bargaining' where a group of like-minded organisations get together to conduct negotiations which are binding on that group. This Guide focuses on the broad collective model and the typical individual organisational approach; consortium bargaining is broadly similar to the former but on a smaller scale, and so a separate section has not been added, though it could be developed if needed.

Undertaking a 'self-assessment' in your institution

- 1.5 No decision, either way, is risk free or cost free. The self-assessment questionnaire included at Appendix 1b is designed to identify as many issues as possible, and to suggest ways in which they may be evaluated so that an overall 'balance sheet' emerges. It is assumed that HEIs will want to use the assessment process (whatever the eventual decision) as a means of clarifying and strengthening understanding of employment relations in their own organisation and raising awareness of what is involved in both a local and a collective approach. It should be a positive process in its own right and UCEA members using the questionnaire may therefore want to seek some help with facilitation. UCEA officers can assist if wanted; UCEA's commitment is to ensure that both types of negotiation are supported effectively.
- 1.6 The questionnaire can be extended or amended to suit particular institutional needs. It is intended to be used primarily by the senior management group. Its use may also be helpful in demonstrating to a governing body that thorough consideration has been given to the options involved, and in providing a framework on which the resulting conclusion can be tested.

Notifying UCEA of the decision

- 1.7 The final point at which institutions will be required to confirm whether they are participating in a particular round of collective negotiations or are undertaking local negotiations is at Stage 3 of UCEA's consultation process.
- 1.8 It is vital for all parties that there is clarity about which institutions are committing to which model, and formal confirmation will be sought in writing from an individual authorised to decide on behalf of each institution. Lists of HEIs who have committed to a collective framework will be notified to the unions at national level and published as a password protected document on the UCEA website. The trade unions will have a very active interest in the decisions made, whichever way, and it would be particularly important that local discussions leading to a decision not to participate do involve the institution's recognised trade union partners at an appropriately early stage.

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- 1.9 By committing to either approach, the institution is doing so for the duration of the particular negotiating round, and also committing to the UCEA Code for that type of negotiation, as set out in Section 3 and Appendix 4 of this Guide.

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Appendix 1b: Institutional Self-Assessment Questionnaire

1. Objectives

1.1	Does the institution have clear objectives about the type of things it wants to achieve in terms of employment relations, pay and conditions through negotiations?	<i>What are they?</i>
1.2	How do these objectives relate to the key objectives in the institution's strategic or corporate plan?	<i>Test the 'negotiation objectives' listed under [1.1] against each strategic goal/objective in the corporate/strategic plan to develop a clear picture of where, and how important, the links are. Not every corporate/strategic objective will be linked to a negotiation objective but every negotiation objective should be capable of being linked to a corporate/strategic plan objective. (If there is no link, it probably needs to be questioned – and, perhaps, discarded). It may then be helpful to score those that do link in terms of their significance (for example 'critical', 'important', 'useful', 'nice to have' etc.)</i>
1.3	What is the realistic likelihood of achieving the negotiation objective in the short, medium or long term via collective negotiations or via local negotiations?	<i>For example: for each 'negotiation objective' use 'High', 'Medium', 'Low' against short/medium/long term and against collective or local negotiations.</i>
1.4	What other factors (i.e. apart from bargaining and negotiation arrangements) might affect the achievement of these objectives? How can these factors best be addressed?	<i>Note any of these factors, with possible impact and actions that can be taken to address them.</i>

The work done on these questions can be combined in a grid. The overall conclusions from reviewing this can then form a useful backdrop to the remainder of the questionnaire.

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2. Impact on pay-market position and the pay-bill

2.1	In the context of the institution's strategic objectives, where should it be positioned in which pay-market(s)?	<i>i.e. which quartile in which pay-market (national, local, specialist, international etc.)</i> <i>Might this vary between certain staff groups?</i>
2.2	What account should be taken of 'cost-of-living' factors?	<i>'Cost of Living' tends to occupy a more central position in collective negotiations than in local ones (where it may still feature but be subsumed into a market element). Bear in mind that the existing Pay Framework provides for the spine to be uplifted by a core amount (likely to be at or around 'Cost of Living' or market median) with other market pressures being addressed through market premia, or by adjustment of grade scales against the spine.</i>
2.3	Which model, collective or local, is more likely to provide the balance which the institution would prefer to see?	
2.4	Which model, collective or local, is more likely to give the institution a labour market advantage?	<i>i.e. in terms of the ability to attract and retain staff, perhaps in different groups</i>
2.5	Which model, collective or local, is more likely to reduce the institution's risk of an unduly escalating pay-bill?	
Overall, based on discussion of the above, is there a consensus about the institution's pay-market and pay-bill aspirations or concerns and, if so, which model might be more likely to be helpful in delivering the desired outcome(s)?		

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3. Impact on the organisation and employment relations

3.1	What is the likelihood that any proposed change will cause major disquiet/resistance within the institution?	<i>Consider the <u>impact</u> of making any pay policy or aim more explicit, as well as of any specific decision about opting in to or out of collective negotiations.</i>
3.2	Which model, collective or local, would be more likely to reduce the risk of a dispute or assist in the resolution of a dispute?	
3.3	What would be the effect of either decision on existing 'partnership working' with local trade union colleagues?	<i>Consideration needs to include assessing the state of local labour relations and how a change in bargaining and negotiating arrangements could impact upon this.</i>
Overall, weigh the risks in this section as if for your 'risk register' (in terms of likelihood and impact) to see what emphasis should be given to these issues in the final decision.		

4. Current capacity and readiness

This section is primarily aimed at assessing how ready the institution is to move away from its current pay bargaining and negotiation arrangements (i.e. from collective to local). However, it is also important for institutions who decide to opt into collective arrangements to assess their capacity to play an effective and constructive role alongside partner employers so as to ensure that such collective arrangements deliver the greatest benefit to all.

4.1	<p>How committed and involved are the following stakeholders likely to be in supporting local bargaining/negotiations?</p> <ul style="list-style-type: none"> • The governing body/council • The senior management team • Middle management and supervisory groups 	<i>Internal management consistency, in actions and communications are critical features of both collective and local bargaining and negotiations. However, it is generally recognised that local negotiations involve more personal exposure and require excellent teamwork at, and between, levels of management.</i>
4.2	How committed and involved would the same groups be in supporting a collective position with other employers?	
4.3	How are these groups likely to react to a major collective dispute affecting the institution?	

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4.4	How prepared would they be (if necessary) to be one of only a few HEIs in the country facing a dispute?	
4.5	Is it likely to be easier to manage a dispute (strike action and/or action short of a strike) as part of a collective framework or to manage it locally?	<p><i>Weigh the quality and effectiveness of local trade union relationships</i></p> <ul style="list-style-type: none"> • <i>in the context of local discussions, as against the need to support a collective position (which brings mutual support) and</i> • <i>in local circumstances which vary among the institutions participating in collective negotiations</i>
4.6	What kind of resource is dedicated to the current bargaining and negotiating arrangements? How would any change increase workload and how would any increase be resourced and addressed?	
4.7	What will be the set-up costs involved in any change to bargaining and negotiating arrangements? What will be the running costs thereafter?	<i>e.g. additional research and consultancy costs and/or extra time commitments for senior managers?</i>
4.8	To what extent may people be diverted from other business activities such as teaching and research as a result of any change?	<i>Local negotiations extend well beyond the HR team; management engagement is very important. The short term cost of diverted effort might be justified by a longer term gain, but this needs to be considered.</i>
4.9	Are the necessary management / negotiating skills and experience in place at all levels?	<i>Do current management and leadership development programmes need to be enhanced? Is additional investment in training needed?</i>

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4.10	How robust are the institution's internal communications structures for supporting (a) local negotiations or (b) local communication of a collective position? How effective are they currently in ensuring that messages are conveyed to all staff swiftly and effectively?	
4.11	How effective is the institution's external/internal public affairs function at present in relation to employment matters? Is it currently able to support a collective position e.g. handle interest from the media locally? Alternatively, is the institution ready to be the sole communicator on the institution's employment relations to local and perhaps national media and to communicate with staff directly?	
<p>It may be helpful to pull together a summary of what emerges from debate on the above in order to establish:</p> <ul style="list-style-type: none">(a) how ready in practical terms, the organisation is to move to institutional bargaining (if this is identified as a goal under sections 1-3);(b) the gaps which may need to be filled and the barriers which may need to be overcome in order to reach a state of readiness;(c) the key areas that may need to be built into a development plan in order to address these;(d) whether in practical terms, the organisation is well placed to make an effective contribution to a collective framework (in the short or long term depending upon the organisational objectives);(e) areas for development generally.		

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Appendix 2: An illustrative timetable for negotiations and the JNCHES dispute procedure

Timetable

As part of the reform of the JNCHES machinery, an outline timetable has been agreed with the nationally recognised trade unions in higher education. Taking this into account, a typical timetable for collective negotiations will be as follows:-

December / January	Start of UCEA consultation with all members (Stage 1)
December to early March (date set in agreement with TUs)	A Strategic conference of JNCHES to discuss the financial and other contextual issues – seeking to establish some shared understandings ahead of the forthcoming negotiations
February	Further detailed consultation meetings with UCEA members (Stage 2)
February / March	Claim(s) submitted by trade unions
March	Final Stage 3 consultation with UCEA members – point for decision on participation by HEIs
late March	UCEA Board meets to review consultation feedback and establish negotiating remit
late March	First JNCHES negotiating meeting
April to May*	Further JNCHES negotiating meetings
May to July*	Additional JNCHES meetings (if necessary)
August*	Effective date for implementation of agreement

*Dates may vary if agreement is reached speedily or when a multi-year pay agreement applies.

Dispute Resolution Procedure

The parties to the negotiations in the JNCHES are committed to striving for agreed outcomes. If, exceptionally, these cannot be achieved, either the employers or union(s) may invoke the following procedure:

- Where it appears that all scope for progress through normal negotiations has been exhausted, either the employers or any of the unions represented on the JNCHES may give formal notice to all parties that it is applying this dispute resolution procedure;
- Following receipt of such notification the parties will agree within seven working days on dates for at least two meetings to seek to resolve the dispute. Unless agreed otherwise, these meetings will take place within the following 14 working days;
- Attendance at these meetings will normally include national officials and lay officers of the unions in dispute, together with senior UCEA officers and representatives of the UCEA Board;
- The focus of these meetings will be on reaching a settlement of the issue(s) in dispute. Such settlement should also seek to include recommendations on how similar disputes might be avoided in the future;
- Further meetings beyond this initial period may take place where that is agreed between the two sides;
- If it has not been possible to resolve the dispute through this series of meetings, the parties will consider whether third-party assistance – normally using ACAS for mediation and conciliation – would be helpful. A decision on this should be taken within the following seven working days;
- Throughout the period for dispute resolution meetings, and for third-party assistance, the HE employers will not impose a resolution and the trade unions will refrain from taking any form of industrial action until the procedure has been fully exhausted;
- Outcomes from any stage in the procedure will be communicated jointly.

Appendix 3: Communications guidance

- 3.1 Proactive communications and an effective, collective strategy will be a key feature of pay negotiations at any level.

The Communications Strategy Working Group assists UCEA in producing communications guidance for member HEIs, both those participating collectively and those who decide not to participate. This communications guidance clarifies what HEIs may expect from UCEA, and what in turn will be expected from HEIs.

Detailed communications guidance will also be developed and distributed in the event of a dispute.

3.2 UCEA's communications commitment

- Information will be provided by UCEA prior to and during negotiations, including, for example, briefings relating to HE pay and conditions which aim to achieve a robust evidence base and challenge misconceptions held by trade unions or members of the media. This material will be distributed to all member HEIs.
- UCEA will conduct a proactive media campaign through regular briefing material (including facts and figures, infographics, etc.) and the distribution of key messages.
- UCEA will actively brief and relay key messages to stakeholders beyond the trade unions and staff, e.g. sector bodies, NUS etc.
- UCEA's communications commitment is to provide appropriate communications support to all HEIs, focusing on collective negotiations but supporting at a local level if that is requested and where feasible.

3.3 Participating HEIs

Participating HEIs' commitment to a shared, proactive approach to communications covers both internal communications responsibilities and media involvement.

- **Internal communications**

Effective internal communication at institutional level starts early in the process, in managing expectations, and should therefore start during consultation on participation as well as continue throughout the collective negotiations. UCEA will provide material for HEIs to adapt and use. HEIs will be expected to make regular use of internal communications channels to staff and students to relay the key messages provided.

- **External communications**

UCEA news releases, media briefings and statements will be distributed to members and stakeholders so that HEIs can also be prepared to respond to media enquiries. With their permission UCEA will seek from member HEIs examples of reactive media responses, including relevant facts and figures and case studies, to share with other HEIs alongside UCEA-generated supporting material. Proactive media and stakeholder communications will also be necessary

at institutional level and participating HEIs will be expected to assist with this. UCEA needs HEIs to provide feedback relating to any media activity and, if the media is pursuing an HEI-level story, will always liaise prior to making any related response of its own. UCEA's media monitoring will be distributed to all members throughout negotiations, including relevant reporting by local media.

3.4 Non-participating HEIs

Non-participating members will receive UCEA material and may adapt information for communicating at a local level. Communications advice, guidance and assistance can also be requested and UCEA will endeavour to provide this, within its resources. HEIs may need to prepare messages for potential media interest as to why they have chosen not to participate in collective negotiations. An alternative Code for non-participating members is set out at Appendix 4.

- **Internal Communications**

Internal communications relating to the HEI's participation decision during the consultation process will be important. Staff, students and other stakeholders may all need to have the consequences of non-participation / local negotiations explained.

- **External Communications**

Non-participating members may need to prepare for particular external interest where this is a new decision. UCEA would appreciate feedback about any local media activity and will always liaise with the institution prior to giving any related response of its own. UCEA's monitoring of media coverage will be distributed to all members throughout negotiations, including reports on local activity.

Appendix 4: UCEA Code for non-participating members

4.1 Undertaking local negotiations

Detailed guidance on making the decision on whether to participate in collective negotiations or to opt for local negotiations is provided in Appendix 1a. A critical factor in making this decision will be the attitude and readiness of the institution's local trade union representatives. Institutions are encouraged to use the Institutional Self-Assessment Questionnaire provided at Appendix 1b to facilitate their decision-making process. The decision regarding participation or non-participation should be confirmed in writing to UCEA on behalf of the Head of the Institution at the earliest opportunity to enable appropriate communication and support arrangements to be put in place. Stage 3 of the consultation process, described below, will be the final point at which notification can be given. Heads of Institutions will be prompted by UCEA if notification has not been received by the Stage 3 deadline.

It is for each non-participating institution to set and agree its own timetable for negotiations with its trade union partners or other staff representative body locally (HEIs may wish to refer to the illustrative timetable for collective negotiations at Appendix 2). In order to ensure that practical advice is readily available and to ensure that the impact of collective negotiations on local arrangements, and vice versa, is carefully monitored, non-participating members are asked to notify UCEA of their local timetable as soon as possible.

4.2 Determining the negotiating remit

Non-participating members will see all the briefing material provided to participating members relating to the remit for collective negotiations which should help these institutions to establish their local negotiating remit. UCEA will additionally endeavour to provide more specific advice or information to a member institution where this is needed. Critically, each institution will need to determine who should be consulted internally in establishing their negotiating remit, and who should then determine the final position. The governing body/council may need to be consulted or briefed and it (or an appropriate committee of the governing body) may have a role in approving the final position.

4.3 Consultation arrangements²

Non-participating members will be included in the consultation arrangements that apply to participating members, in full for Stages 1, 2 and up to receipt of the questionnaire for stage 3, as follows:

Stage 1: In advance of each round of collective negotiations with the unions, contextual information in the form of a briefing document on the expected key negotiating issues will be provided to all UCEA member institutions and shared with key sector groups and professional bodies. There will also be an indication of the sorts of questions that will need a response at Stage 3 to shape UCEA's negotiating mandate.

² The timetable for these arrangements will be confirmed ahead of each negotiating round.

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Stage 2: Face to face consultation will take place with mixed groups of HEIs through a series of meetings, and discussions will also be offered to key sector groups and professional bodies. Institutions will be invited to send at least one person to at least one of the consultation events. The discussions at the events will serve three purposes: to make initial views known to UCEA and help refine the questions to be asked at Stage 3 on the negotiating mandate; to identify any particular regional or sub-sector issues; and to enable HEIs to hear at first hand the range of views from others in the sector on the issues for negotiation.

Stage 3: This will be the final point at which notification of whether each institution is participating or not participating in a particular round of collective negotiations will be required. UCEA will write to all institutions seeking confirmation of this. Whilst it is expected that most HEIs will decide about participation before this point, on the basis of the fundamental issues raised in Appendices 1a and 1b, it is recognised that some HEIs will be influenced by what they consider is likely to be the majority opinion in the sector in the light of views expressed during the Stage 2 consultation meetings.

Institutions that decide not to participate in one particular negotiating round could rejoin the collective for subsequent negotiations but changes of view on participation during the course of a particular negotiating round would be contrary to the Code.

During the course of the subsequent collective negotiations, UCEA will provide information and issue Updates equally to non-participating members with the aim of keeping them apprised of progress in the collective negotiations. We will also seek to monitor local negotiations and aim to keep members informed of developments elsewhere while not breaching confidentiality. Non-participating members will be equally able to access the password protected areas of the UCEA website. Invitations to Subscribers' meetings where the collective negotiations may be discussed will be equally open to non-participating members.

4.4 Communications

Non-participating members will be provided with all the communications and media relations materials that are developed in support of the collective negotiations, or designed to assist in any dispute that might arise relating to these. Non-participating members may use or adapt any information if it is relevant to their negotiations at a local level. UCEA will also endeavour to provide communications advice and guidance on request within its resources.

4.5 Communication between HEIs and UCEA

Although the UCEA Negotiating Team's direct consultation during collective negotiations will exclude non-participating members, information and communications arrangements during negotiations will be accessible to all members. These will include:-

- Relevant stakeholder meetings.
- Distribution of emails and Updates.
- Use of multiple communications methods to alert participating members to new information, either through emails or posted to password protected areas of the UCEA website.
- Media releases and briefings that will be distributed to all members, and used as appropriate with other stakeholders.

Members are requested to keep UCEA informed of their policies and practices in relation to managing industrial relations, including the withholding of pay in the event of industrial action. UCEA will endeavour to collect information on the policies and practices being adopted across the sector and will ensure that relevant information is shared with all members on a regular basis.

4.6 Internal and external communications

Although non-participating members will not necessarily choose to adhere to the collective approach to communications, UCEA will appreciate information about any local / regional media activity. UCEA's monitoring of national media coverage, distributed to all members throughout negotiations can then include appropriate coverage from local/ regional media.

Management of industrial disputes

4.7 Dispute Procedure

The JNCHES Dispute Procedure does not cover local negotiations. However non-participating institutions are strongly encouraged, in the interests of open and constructive employment relations, to develop and agree a local dispute procedure with trade union partners at an early stage. The JNCHES Dispute Procedure is reproduced in Appendix 2.

4.8 Strike action and action short of a strike

Policies developed collectively for participating members do not apply directly to non-participating members who will need to consider the issues and develop and implement suitable arrangements for their own context. However, member institutions are encouraged to make full use of UCEA's guidance on industrial action and the withholding of pay.

4.9 Minimising the potential impact of industrial action on students

In the event of a local ballot in favour of industrial action, the institution will need to ensure that appropriate measures have been taken to minimise the negative impact that the industrial action may have on students. Institutions are encouraged to develop appropriate contingency plans well in advance. Advice on such measures is provided in the joint UCEA/Universities UK/GuildHE guidance on minimising the potential impact on students arising from industrial action, available on the UCEA website.