

Lessons Learned- Resetting national collective bargaining in the college sector.

Response from the EIS-Further Education Lecturers Association (EIS-FELA).

Recommendations

1) *Resetting the authority of the national bargaining process*

- The EIS-FELA agrees that the authority of national collective bargaining has to be “clear and unequivocal”. Indeed, this should already not be in doubt, given that national collective bargaining has been in place since 2016. Similarly, there should be no dubiety already in relation to commitment to the application of the bargaining machinery.
- The National Recognition and Procedure Agreement (NRPA) is completely clear in terms of the authority of national bargaining, its remit and areas in which do develop further collective agreements. The EIS-FELA has continually sought to see this enacted as agreed, however, resistance is routinely been encountered from the management side of the NJNC. Commitment is required from the management side to finally and universally recognise the authority of national collective bargaining, as set out in the NRPA.
- Collective agreements, made at the NJNC, should already have joint guidance in the form of NJNC circulars. However, past experience has been that the negotiation of the circulars themselves, between the joint secretaries, have been challenging. The management side of the NJNC must enter into agreements in good faith and with clarity of what each agreement means in practice. There should be no attempt to dilute agreements through vague or undetailed circulars.
- Joint approaches to strategic priorities of the sector would be welcome, however, this assumes that the visions of the management and union side of the NJNC are aligned and such alignment would be essential in meeting this recommendation. Currently, colleges across Scotland are engaged in significant cuts to areas such as course provision and staffing with unions understandably and rightly being opposed to such measures. Such a divergence in response to budgetary pressures makes it unlikely that common ground will be found.
- The process in relation to reaching a joint position on funding, as outlined in this recommendation, would be a step forward in terms of transparency and accountability of financial decision making in the sector. However, it would take a willingness from colleges, who have too often resisted any involvement of national bargaining in perceived ‘local matters’, in order to achieve this. The Scottish government, if it is committed to making decision making accountable in the FE sector, must consider this recommendation alongside wider reform of governance in the sector, beginning first with

considering how to make college boards more representative of the communities that they serve.

2) *Joint Review of the Bargaining Agreement*

- It is not completely clear what "bargaining agreement" is being referenced in this recommendation. If it is the National Recognition and Procedures Agreement (NRPA) then the EIS-FELA would advise caution to this end.
- Given that the report itself accepts that "there was widespread acknowledgement that the Agreement is not of itself the source of the problems" and it was the application of it in practice that presented issues, it would appear that the challenges experienced are related to culture and commitment to making national bargaining work, before anything else. Thus, a first step would be all college employers and their representatives making a concerted effort to evidence their commitment to the authority of the national bargaining process.
- It is not clear who would independently facilitate the review of the process as outlined in this recommendation. There have been three independent "lessons learned" reports, including this one, that have conducted such independent reviews.
- In relation to the parties involved in the process, this is already made clear within the NRPA. However, there are consistent issues regarding how the management side, beyond its NJNC representatives, approach collective bargaining. The CES structure has changed regularly and continues to change. More often than not, this is not explained to the union side and no justification is offered for change. Such lack of clarity can make it hard to determine what the line of authority is within the management side.
- The EIS-FELA holds significant concern over the role of an independent chair within national bargaining. It is not clear from where such a chair would be recruited and significant work would require to be undertaken to satisfy the EIS-FELA that such a chair could truly be independent. Given that Colleges Scotland/CES provide the staffing to administrate the NJNC, it is not clear what the relationship would be between an independent chair and a management side that controls the administration of the national bargaining process. The Scottish Government cannot continue to enforce distance from itself and a process that is within the public sector and an FE sector that is ultimately under their direction in terms of purpose, policy and strategy. Thus, Scottish Government involvement, with observer status at the NJNC would be a less problematic answer to the issue that this recommendation serves to address.
- The NJNC dispute resolution process is currently outlined within the NRPA. On paper, again, there is little or nothing that should make it likely that disputes and industrial action should be a regular occurrence in the sector. The substance of the matters that have led to the EIS-FELA declaring disputes in the sector must be considered:

- Pay.
- Attempts to dilute the role of the lecturer.
- Attempts to row back from agreements previously made.

Against this context, it is again the culture and attitude of the management side, which in its actions has continually forced reactive behaviour from trade unions to defend their members, that must be addressed.

- The range of “topics that should be considered by the NJNC” are already covered by the NRPA. There should be no work undertaken that could be an opportunity to move back from this, less national collective bargaining be undermined.

3) *Resetting the evidence base*

- The EIS-FELA would welcome moves, on the part of the management side, to share information with the union side in a more transparent, open and collegiate manner. Such a lack of openness has been a consistent challenge throughout the lifetime of the NJNC.
- The ACAS Code of Practice on information sharing should be exceeded. The bare minimum should not be the standard that the sector seeks for itself, the goal of the NJNC should be to become, as it should be on paper, an example of the best possible practice in relation to collective bargaining.
- The SFC should be prepared and willing to be more open and transparent in its own decision making and as such its attendance at NJNC meetings, where such input is deemed necessary by both or indeed one party, should be mandatory.

4) *Enhancing Negotiation Skills*

- The EIS-FELA Negotiators have a wide ranging and diverse amount of experience that they bring to their work at the NJNC. The commitment of the EIS-FELA to collective bargaining is long standing, having been a key policy goal prior to the establishment of the NJNC. Members of the EIS-FELA National Representatives, who in turn negotiate at NJNC, are elected from within the EIS-FELA Executive committee – which in turn, they are accountable to for their actions at NJNC.
- The EIS provides support and training for all members in elected positions and indeed the EIS-FELA representatives themselves have long established networks with which they support the development of elected representatives.
- As such, the EIS-FELA does not see the benefit of external CPD for its negotiators.

5) *Resetting behaviours*

- The adversarial nature of certain negotiations, at the NJNC, would require a distinct cultural change that would be sector wide. Concerted effort by the management side to evidence complete commitment to national bargaining would be a welcome first step to this end.
- The strategic partnership forum has been shelved due to workloads on all sides in what is an extremely challenging context within the FE sector. The issues the sector faces, not least financial challenges, is a key driver of this situation. The Scottish Government, which is responsible for the funding of this public sector service, cannot negate its role in these challenges.
- Work between management and the union side, outside of the side tables and central committee, has increased over the last year. Much of this is down to new personnel on the management side seeking to drive forward the workstreams of the NJNC, which has been a longstanding wish of the union side. This acts as evidence of the point that the NJNC structurally, is robust and should work – provided both sides are committed to making this so.
- The EIS-FELA is currently engaged in a multi-faceted national campaign to address the wide-ranging issues facing the sector. In times of dispute, the management side and college employers must remember that as leaders of public sector institutions, they are accountable for their actions. Trade union campaigning is an essential part of public accountability in a democratic system.