



MINUTES

CONSTITUTIONAL REVIEW WORKING GROUP

Date 05.02.21

Location Zoom

Time 12.00

Chair Eoin Hand, President

Secretary Cian Walsh, Secretary to Council

1. Attendance

- Eoin Hand (Chair)
 - Cian Walsh (Secretary)
 - Dan O'Reilly
 - Eoin Forde
 - Isabelle O'Connor
 - Leon Carroll
 - Liam Kavanagh (LK)
 - Megan O'Connor
 - Yannick Gloster
 - Also Present
 - Philly Holmes
 - Leah Keogh (LKE)
 - Hugh McInerney
 - Simon Evans
 - Not present (no apology)
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2. Approval of Minutes

The minutes were approved.

3. Committee Review

CW Noted the missed deadline in the TOR. Suggested we aim to bring our final review and recommendations to Council 6 as a Discussion Item.

MOC, LK, IOC, MB Should meet once a week to achieve this.

This time was agreed for meetings going forward.

The amendment was approved.

4. Section 1 - Aims and Principles

EH Introduced section. Aims and principles are implemented through policy and mandate - symbiotic.

CW This meeting is more about the concept of mandates and its relation to aims and principles rather than the mechanical procedure of passing mandate.

YG Introduced DOR's (absent at the time) comments. *Direct quotes will be credited to DOR.* First thing to talk about is mandatory membership of the Union - has come up in many groups in the past. Personally believes it should as we are here to represent all students but is conversation we should all have input on.

MOC Strong opinions on mandatory membership. Mandatory wrong word - should be called automatic. If students feel they are not being adequately represented that is the problem to be addressed more than membership. Having students be

able to opt out is a cop-out. Strongly opposed to changing this section.

IOC Agreed with Megan but was reading UT/TN articles about arguments for optional membership. Strong arguments about minority groups whose political stances cannot be represented by the union. Personally agrees with Union but other people's views must be looked at objectively. Options - Harvard and Cambridge constitutions suggest Opt-in approach, Oxford has clear opt-out process. Maybe opt-out process is better.

EH Maynooth also has opt-in system.

EF In response to MOC and IOC, question is not about why we should have mandatory membership or other systems - question is are we allowed to? Not about anything else. Isn't convinced we can. Examples - Cambridge, UCL, KCL, University of Auckland all have opt-in systems. Only place that doesn't is Irish universities. UCD, DCU, UL all use same language as ours. Constitutionally speaking is a huge issue, has written about this in the past. Leaving ourselves open. Another interesting point in 1.5, Union is inherently political and that is its strength, but fact that we are so political leaves us open to membership question. Question of freedom of expression and conscience repression in mandatory membership and financial support of union. To take this line is problematic.

YG When looking at other unions have to look at college structure around unions. Fact that we represent all students gives us ability to have serious discussion about students. There are always students that will feel disenfranchised withing the structure but the Union also provides other services etc. Other bodies in College statutes exist with automatic membership clauses. If we went down the opt-out route financial and representational splintering of power would occur where instead of representing all students, we'd only be representing some percentage.

EF Not wanting to be mistaken for saying Union representing all is a bad thing, but feels we are talking across purposes. Doesn't change simple base legal question.

MOC EF makes important points but legally understanding is by students signing up for college they agree to statutes including union membership. If opt-out

existed due to political differences union could be further radicalised politically. Whole idea of SU is student services not lobby group. Other committees could exist to further political aims. Differentiation needs to be made. Power of sabbats could take U-turn if opt-out existed. Opt-out would cause more harm than good.

IOC Picking up on YG and EF's view of students representing whole body - argument breaks down when there is obvious disenchantment within student body for people with minority views. Purpose of union should be better defined.

LKE As information, a referendum on this question fell in 2018. Pragmatically less students would lead to less funding as our funding is set per student, as well as less weight in representation.

CW Can we get a concrete interpretation from College? Seems only argument against simple legal question is interpretations in College statutes. Can we get anyone who would be able to provide a definite interpretation?

MOC Statutes clearly say we all students are members.

EF Just because statutes say that does not mean a case can't be taken against us. Pointing to statutes wouldn't hold up if the statutes themselves were unconstitutional.

YG If statute not legal, is that the College's problem and not ours? We exist through them and it is the College's responsibility to make it right.

EH We're still an independent body so it would be up to us to change the wording at board - could still be sued.

LK Need action point - clarity on this

SE Issue has been teased out before - boils down to legal opinion. College have looked into this as well. Owen O'Dell and Dan Ferrick would be people to ask. Really tricky and can be argued both ways as it has been today. Of the view that College make the determination and we follow it. People who have differing views retain the right to express those views through the SU through the various fora. No organisation can possibly represent all views when there is 18,000 students.

LK Very last point - Union should pursue objectives etc. Maybe should be changed to independent of political parties as a lot of Union activities are political in nature anyway.

CW Something that isn't in there and has come up as an issue this year is the recognition of Irish in the Union. Oifigeach is better able to speak to it but is very gung-ho on the issue of Irish, Maybe something suitable to be in an Aims & Principles definition, but raises questions based on interpretations similar to the Irish Constitution. Dangerous to have the Irish one take interpretive precedence as we have a significant minority of the population who do not speak Irish, as well as additional problems with Commissions making interpretations going through the Oifigeach which arguable damages the impartiality of commissional comments. That being said, not against a translation clause with English taking prevalence.

YG As American and Chair of Council, we'd be (sic) fucked. Can say hello in Irish and that is it. Not to say that the language isn't important but working language is English. Important that somewhere in A&P we say somewhere that we translate things. Not everything will be translated in a reasonable timeframe. Having some documents translated would be good.

PH Works with Oifigeach daily and has had fights about this over the year. Tried to propose a referendum to change the Union name from English to Irish exclusively. Tough argument to make to her that that was impossible. In A&P could say we have commitment to language but should be set in policy and individual officer responsibilities. Translations would be great but Oifigeach also a student. Shouldn't be specific in A&P.

DOR Same logistical points as CW. English version has to take precedence. 8th most international student in the world and we would be alienating those students, as well as Irish ones. YG speaks more Irish than me at this stage. If there was a secondary version would throw a lot of work on the Oifigeach. SU doesn't have to be a cultural beacon. Their duties are in Sched 3. Fact that we have PTO for Irish implies we have a standing campaign already to promote language. Putting it in A&P doesn't achieve anything and would cause headaches. Would be good

press release once.

PH Only person to have flagged as issue is Oifigeach. No mass anger we don't enough.

LK Agree with DOR. Highbrow to use Irish Constitution as example. Irish Constitution Article 8 allows things to exclusively be in English or Irish if necessary. Translation available would be nice but would have too great an impact to use it as the predominant version.

MOC Same question as with political stances, what are we here for?

CW Happy enough to move on. Probably is some obligation to enable students to do business in Irish, but that can be better defined in Section 3 rather than A&P.

CW Long term policy and short term policy and its relation to A&P. No issue in STP but LTP is ambiguous in its definition of "interest to members". Can something be of interest to members by referendum and violate an A&P? STP is decided by A&P but LTP is more flexible which is a good or a bad thing depending on how you look at it.

IOC How long is LTP and where is it recorded?

CW Indefinite, and can be found in Schedule 4.

DOR Have one from 1990.

CW Most people only in college for four years, so raises question about how people from 1990 could still have an impact on Union policy multiple constitutions later. Argument to be made for LTP to fall like STP over longer timescale - 4 or 6 years.

DOR Assumes "interest of members" means "best interest of members", but has been interpreted as "members are interested in it". Indefinite LTP essentially becomes A&P which means e.g. BDS is A&P now. Statistically guaranteed that there is student in college now whose parents voted in the abortion LTP referendum. As example no one would disagree with it, but arguably objective has been achieved and we have superfluous policy no one will call to remove.

YG Makes idea sense but will we become a Union that just repasses mandates all the time. Having first 3 Councils repassing mandates is bad already. Maybe different mechanism for reviewing motions and LTP rather than just passing them at Council.

MOC President last year renewed motion on industrial actions from 2 years ago.

LK Amending A&P through LTP may not be a bad thing. A lot of stances the Union takes e.g. USI membership are LTP and if things came up for renewal the advantages may be forgotten. LTP should be able to outlive 4-year term of students and only be removed when irrelevant.

YG DOR made point on LTP and A&P amendment being same mechanism - it's not due to differences in signature counts.

LK As LTP essentially amends A&P the best interest of members test shouldn't be necessary as it is already of interest to members by being brought as referendum. Maybe should just be made clearer.

PH Old policy doesn't have modern use but is still useful from an archival perspective. Maybe should have section for archival policy. Union has 4-year memory and retaining information is important.

EH Somewhat different discussion.

LKE Action point is deciding what is STP and LTP. Written in same section that mandates in Schedule 4 can be changed or removed by Council.

DOR Council can't remove LTP.

CW Agreed.

LKE Council can't remove it but students can change it by referendum.

CW That is correct.

LKE And Council can change motions.

CW Correct.

LKE Have responsibility as students to remove superfluous policy through referendum or Council.

CW Three points that we should focus on in Review document is permanency - whether there is a niche in between Council policy and A&P for some middle LTP. If it should, how long should it be? On issue of renewing things at Council, of opinion that that is personnel more than process. In the past things have been blindly renewed and leads to disasters where referenced original policy no longer in Schedule 4. Know for a fact we haven't blind renewed anything this year as I've made sure we haven't. Scope for mechanism re renewing LTP that Council renews it or sends it to referendum rather than having it always renewed by referendum. Wouldn't have to be massive task of sending it to referendum for renewal. However, we should focus less on mechanism for now and more on concept of whether it should exist and how long should it last for.

YG Completely disagree with idea that culture leads to blind renewals. Union made up of series of ideas and everyone has their own. As discussed we are a fairly political union and that tends to happen through Council motions. Motions are how people present their ideas to the SU and make an impact - only mechanism to do something. To say people using the mechanisms are incorrect is wrong as how else are PTOs etc supposed to push forward ideas. Does mean that it creates bloat but fault to process rather than people.

MOC Cultural aspect to political nature of our generation in particular. Local level and USI. People keep mandates and motions for the sake of it even if same thing is repeated. YG's point is valid as you can't blame culture entirely. CW made point about middle ground. A&P is core of what we do, and at the other side we have Council mandates. LTP is in middle with referendum and they should go out of date. Could we have a mechanism that rather than being renewed at referendum, those LTPs go to Council to renew them. Importance of referenda should be maintained but also rigid structures put in place. Over years, Council has become radical leftist movement and we need to change culture around that. Anonymous voting is a start and culture somewhat to blame but they coexist. LTP should go to referendum and be renewed at Council with something like a two-thirds majority

to renew. Should also be something between LTP and A&P that are not political and represent our stances.

LK Preamble should be looked at as solution. LTP should have expiry built into it so rather than going to Council it falls once the aims have been met e.g. when abortion info met its aims it falls.

MOC What do you intend to put in the preamble?

LK Preamble is introductory section to constitution that generally outlines the aims in a general sense.

CW Something late but want it noted that wasn't attacking process of passing motions at Council per se, more the cultural thing of blind renewing mandate with no consideration of relevance or change.

DOR Disagreed with any policy lasting longer than 4 years. Weird that you can be a student in College for four years and not change something in the Union. What if LTP was indefinite but after 4 years Council could remove it with supermajority so we could still clean up things. Also niche for Executive non-binding policy that can be easily changed e.g. carbon costing policy.

IOC In terms of actual structure of Constitution, archive should be separate from actual document. Fulfilling objectives of LTP seems to be a circular task as they are achieved by the A&P anyway e.g. in Cambridge SU constitution.

LOC Should have a procedure for renewing LTP rather than expiring. Maybe a group like CRWG rather than Council due to the time required. Group could make recommendations to Council about renewing.

MOC Council can be biased and we need to recognise and protect against that. Council often leans a particular way and does not necessarily reflect the wider student body. Regulations should protect against this. Reps should be consulting their classes on voting and doesn't happen. Good place for debate but views of members are biased at this point in time.

LOC Maybe group recommendations could go to referendum.

EF What is meant by Council is biased?

DOR Often passes things it can't.

MOC Called for vote to go in camera.

CW Note that we should be careful with in camera at CRWG.

MOC CTR was bad motion, EC or OC could issue recommendation to Council on how to vote on those motions. Against outright banning.

CW Difference between rejecting and banning. Of opinion that nothing unconstitutional should get to Council. Secretary should be working with proposer/Education/EC to avoid unconstitutional motions. Don't have to release those decisions right now but maybe should. If there is a way of fixing motions, but if I find motions that can be fixed I try to fix them. A certain degree of power has to be given to someone to reject unconstitutional motions. Council votes emotively and is not always well versed on Constitution. More of a governance issue, but that process kinda exists and rejection should be kept.

LKE Process does exist for constitutional issues. Makes sense for Education and EC should be involved.

CW In current form, Education and EC is involved.

CW Have lost rail of conversation.

DOR Mechanism exists to overturn EC decisions on unconstitutional motions. Trying to figure out why but this is the case - rejecting motions. Best way of dealing with it. No one should have unilateral power to reject motions even on constitutional grounds. Council has parliamentary supremacy - can go against the Constitution.

EF Who has final say on interpretation of Constitution - is it Council?

CW Ultimately through the mechanism DOR mentioned yes.

EF That's insane.

CW Disagree with idea that Council can overrule Constitution but at the moment they kind of can. Relies on how much you trust the Commissions whether that mechanism needs to exist. Of opinion they shouldn't always be trusted as they also make mistakes. Having mechanism doesn't always mean Council will overrule - hard to see 2/3s of Council going against ruling. More of a governance question.

EH Let's bring to a close. Half an hour overtime, may need to revise time plan.

MOC To wrap up, what we are doing is okay but there is room for error and improvement.

LK Council shouldn't be allowed bulldoze through rulings on constitutionality. Should be 100% external.

CW AOB Want to get started on report, will organise collaborative document today.

Meeting adjourned.
