

Imperial College Union

TRUSTEE BOARD GOVERNANCE REFORM

Detailed Drafting Notes

Introduction

1. This is a draft based upon the recommendations of phase II of the Governance Review, as well as a large number of minor or technical changes. The more significant changes are summarised in this note below.
2. There are previously made or proposed changes to the Representation and Welfare Board (campaign portfolios), Faculty Union titles, and removing discipline from the Executive Committee, and NUS/ULU delegates. Some of these have undergone minor textual redrafts but these do not change the meaning rules concerned.
3. The post of Deputy President (Graduate Students) is replaced with Graduate Students Association Chair.
4. This and the last constitutional review has resulted in an extension in the length of the constitution and regulations. This is inevitable with the creation of entirely new committees, such as the Court and the Trustee Board. However, attempts have been made to cut down the Regulations where possible, particularly if the same rules can be expressed more concisely. For example, the Court regulation has been cut by 1,000 words, and part of the Union Officers' regulation has been slimmed down as well.

Regulations structure

5. The Trustee Board obviously necessitates its own Regulation. Given the particular role of the Council and the Executive Committee under the new structure, they and the Court are given their own Regulations, listed straight after the Trustee Board. The remainder are in the same order afterwards. There would be an increase to 10 regulations from the current 8.

Comparison with other Trustee Board systems

6. King's College London and Reading University's student unions have adopted trustee boards following rather different governance difficulties to those faced by Imperial College Union. It appears that their governance structures, particularly their representative councils, were much weaker than ours. Their trustee boards are effectively an "elect-and-forget" system of democracy, or to put it another way, an "elective dictatorship". This isn't necessarily a bad way of running things – the United Kingdom constitution is not dissimilar.
7. Another contrast with other student unions is the greater involvement in management by the sabbatical officers, compared with the permanent staff. Whereas it is recognised that the staff at ICU perform an essential role with great professionalism and are obviously and rightly influential in policy and management of the Union, ICU has traditionally involved its sabbatical officers much more in day to day management than other student unions. This is probably a function of the typical sabbatical officer at ICU: more management and less politically-inclined than at other student unions.
8. However, the system of electing sabbaticals who then form an effective sovereign government with appropriate lay input, over whom the only real mid-term democratic control is the threat of removal, is not a system which is likely to find favour at Imperial College. The challenge of a new constitutional settlement with a Trustee Board appropriate for Imperial College is:
 - a. to ensure the Trustee Board is able to function effectively as a sovereign body in a light-touch role,
 - b. that the elected sabbatical officers are retained as the leading managers of the Union, complemented by the staff,

- c. that the will of the student body is still expressed in binding form through the Council.
9. The role of the Council is of particular interest in this structure, particularly as it differs substantially from other Trustee Board models where their Councils have no real powers at all. The role of the Executive Committee and Court are mostly unaffected, though the former's status is somewhat diminished in the new model.
10. The two reasons for other student union for stripping their Councils of power appeared to be: firstly their Councils had been defunct as a practical tool of governance for some time, and secondly incorporation as a limited company requires the appointment of a board of directors who form a sovereign body without interference from others. Neither apply in the case of ICU. Indeed, were ICU able to incorporate later as a charitable incorporated organisation, it would not have to comply with these provisions of the Companies Acts.
11. Apart from its usual scrutiny functions, the Council would be entitled to pass binding policy upon the whole Union, subject to any direction of the Trustee Board. Such policy would also bind the Executive Committee. The Trustee Board is likely therefore to take an interest in what the Council are considering. It is hoped that the two bodies can work in partnership. Many policies, such as carbon-neutral activity and prohibiting smoking, are likely to be better received if approved by the democratic policy-making body as well as the Trustee Board.
12. However, this will place an additional burden upon the Trustee Board to work with both the Executive Committee and the Council in governing the Union.

Sovereignty and principal / paramount committees

13. There is no escaping the fact that the Trustee Board would be the sovereign and governing body of the Union. It could overrule any other on any matter. However, it would still have to comply with the constitution and regulations, which can fetter its discretion to a significant extent.
14. The Council, Executive Committee and Court are referred to as the "paramount" committees within their respective functions. The word "paramount" appears to be the best synonym for "sovereign" which could be found. Obviously this paramount status is subject to the Trustee Board; however no other committee outside the Trustee Board is entitled to overrule these committees within their respective areas of jurisdiction.
15. The Council, Executive Committee and Court are mentioned in drafting together and in that order. This is to emphasise their joint role in governing the Union.

Amendment provisions

16. These are becoming complex. At the start of the year, a change to the constitution and regulations required two readings at varying majorities with approval of the Imperial College Council. Since then, three complicating factors have intervened: the wish to allow for referenda to approve changes as an alternative to the Council, the wish of Imperial College not to have to approve so many regulations, and the advent of the Trustee Board.
17. Currently the constitution and regulation must be approved twice by the Council with varying majorities, though the Council can replace its own second reading with a referendum. The College must approve some, but not all of the regulations.
18. The new system preserves the College's selective role (as it must under the Education Act 1994), though whittling it down to an irreducible core of Finance and Memorandum of Understanding. Referenda could still be adopted in place of the second reading at the Council. The constitution and selected regulations (those governing the Trustee Board, paramount committees and discipline) would have to be approved specifically by the Trustee Board: others would become regulations after one month if the Trustee Board did not reject them.

Court and Council Chairs on Trustee Board

19. No other student union's Trustee Board includes a Council Chair, and none appears to include a Court or quasi-court. The role of these independent individuals upon the top 'management' board needs to be carefully justified.
20. The Council, as previously discussed, will need to have a separate link to the Trustee Board given its continuing binding policy-making role in the new constitution. The Council Chair is in a good position to undertake this, though it is a role which must be undertaken carefully since the Council Chair must remain outside the political debates proceeding within the Council. The knowledge that the Council Chair is a Trustee will enhance the status of the Council and be a matter to which senior officers would have to have regard in paying attention to the Council's resolutions.
21. The Court exists explicitly outside the political structures of the Union – its members cannot be Union Officers or members of any of the other leading committees. Its role in disciplinary and election matters would increase under the new constitution. Currently the view of the majority of the Executive Committee is that the Court Chair shouldn't be a Trustee, and the view of the majority of the Court is that it should be. The Court Chair paper summarises the arguments both for and against allowing the Court Chair to have a vote.

Regulations:

1. Trustee Board

22. This is the only new regulation (the other one resulting from a split into two of one current regulation).
23. It is split into fairly self-contained parts, expanding a deliberately short section of the constitution dealing with the Trustee Board.
24. The Trustee Board regulation covers appointment, removal, payment, conflicts of interest, sub-committees and delegation.
25. The rules for disqualification and removal of Trustees are set out in length (for which specific constitutional approval is provided in section 6.6). It is split into two parts: disqualification, which sets out those who cannot be Trustees to begin with, and removal, which is self-explanatory. It will be advisable for guidance to be provided to potential Trustees to check whether they are prohibited "by operation of law" from becoming a Trustee (for example if they are bankrupt or have a dishonesty conviction) because to become a Trustee in such circumstances would be a criminal offence.
26. Any Trustee can be removed by $\frac{2}{3}$ of the whole Trustee Board. In the case of *ex-officio* Trustees, this does not remove them from the post they hold. Non *ex-officio* Trustees can also be removed by a referendum called for that purpose. It is likely that the only acceptable body to remove a non *ex-officio* Trustee would be the whole membership (at least those who participate). A referendum was viewed as fairer than a general meeting, and particularly with a 15% quorum rather than general meeting's 0.18% or so quorum has much more legitimacy. The referendum could be called by petition or by the Council by $\frac{2}{3}$ majority.
27. An *ex-officio* Trustee who resigns as a Trustee (as opposed to being removed as one) resigns from office also: this is because the three relevant posts require people to take responsibility for their actions, and being a Trustee is one of them.
28. Delegation and sub-committees are tightly confined: there are various matters which cannot be delegated, and no delegation is permitted to staff except by the President. This is a particularly important restriction, without which the sabbaticals could easily be by-passed by a Trustee Board which would have a longer term relationship with the permanent staff than with the sabbatical officers. Sub-committees can be formed, comprising only of Trustees.
29. New Trustees would be required to undertake training, and could have their vote removed if they do not, though the details of this have been left to it to work out. The Trustee Board would also approve a code of conduct for Trustees.

2. Council

30. The Council's role is clearly altered in the proposed constitution: however, the draft attempts to retain its key practical features in the new system.
31. The Council has the power to pass policy which binds the rest of the Union – notably the Executive Committee. For the avoidance of doubt, the requirement of the Executive Committee to obey policy is put explicitly. The Council's disciplinary authority (see below) remains.
32. The Council has explicit constitutional authority to require people (except the Trustee Board and Court) to attend and answer questions.

2. Executive Committee

33. The Executive Committee's role is altered, in cases strengthened and others weakened. The intent is to focus its activities on managing the Union, rather than policy, and to prevent it from acting like a 'mini-Council'.
34. There is some discussion about changing the name of the Executive Committee, but it has been left with its current name in this draft.
35. The authority of the Executive Committee to determine general policy is removed – this is to emphasise the Council's role in determining policy. The Executive Committee will be permitted to implement operational policy, but only in support of specific Council policies, when the Council authorises it to. The extent to which the Executive Committee is permitted to pass policy could be the subject of Court decisions to begin with.
36. The Executive Committee deals with money and budgetary allocation, but must consult the Council on the overall budget.

3. Court

37. The Court's role is not altered in any significant practical sense.
38. The Court regulation is significantly cut down from its current 73 paragraphs to 58. This is achieved by
 - a. putting things in standing orders, which in many parts will still have to be approved by the Council;
 - b. redrafting completely the text of the membership rules, though not changing them, except to remove the rules specifically applying to the members upon the Court's inauguration;
 - c. removing the compliance section and incorporating it into the rest of the orders;
 - d. removing the staff matters section and incorporating them into appropriate places elsewhere in the regulation.
39. Provision is made for emergency 'orders' to be conducted more quickly by a single person pending a full panel meeting – a problem which was dealt with by finding panellists at short notice earlier this year. Standing orders will define carefully how this would operate, including time limits upon any such orders.
40. Provision is also made to allow the Court to authorise or require another Union committee to be in open or closed session. Appeals would go to the Trustee Board rather than the Rector (still only through the President), and a decision concerning a reserved matter would be included in the small number of issues which allows for a potential appeal.

4. Union Officers

41. The Deputy President (Graduate Students) is replaced with Graduate Students Association Chair, as previously mentioned.
42. The President is formally named in the constitution and job description as the chief executive and administrative officer of the Union. This is now mentioned explicitly to

ensure that with the creation of the Trustee Board there is no doubt that a student officer remains the executive and representative head of the Union.

43. Part B (General Provisions) is removed entirely. Many of its provisions are mentioned elsewhere: of those which aren't: "people may only hold one Union Officer post" is promoted to the constitution and "President co-ordinates and delegates" is moved to the appropriate job description.
44. The AAO (Research) and AAO (Taught) job descriptions have been condensed into a single one.
45. A general job description for FU President, CSC Chairs, CAG and Rag chairs is created to cut down duplication for common provisions for each of them.

5. Elections

46. The returning officer for sabbatical elections would be appointed by the Court, rather than default to the President.
47. Supervisory authorities have been amended in light of the concern about the continuing role of the bodies or individuals who may not be independent in what should be an independent process. However, part of the role of supervisory authorities is maintained (imposing elections committees and scrutineer) to allow some supervision without having to involve the Court.
48. Returning officers, election committee members and scrutineers can now only be removed by the Court and no other body, unless they resign. The role of the Executive Committee and Council as a supervisory authority is removed, with that of the President remaining. The principle for this is that if it's serious enough to involve those committees, it is serious enough to go to the Court. The President can deal day-to-day with junior elections where some supervision is needed.
49. Electoral disqualification could also apply to any person whose conduct did not necessarily cause disqualification of a candidate (currently necessary) but was still reprehensible.

6. Union committees

50. The Council and Executive Committee have been severed from this regulation and given their own to reflect their particular status.
51. A large section of the Faculty Unions' and CSCs' parts was removed for redundancy, particularly in light of the fact they have their own constitutions or standing orders, which are rarely criticised for excessive brevity.
52. Several Rag Committee posts were removed in light of the fact that they can co-opt additional members anyway, so the Regulations shouldn't be too prescriptive in mandating particular posts.

7. Meetings standing order and rules of procedure

53. It has been commented that the first part of the meetings standing orders regulation could be cut down significantly, as it generally says only things which are obvious, or creates somewhat arbitrary rules which are not well known. Many committees (one may suspect all of them bar the Council) run informally and are not hide-bound by procedure.
54. Committees running themselves informally is unobjectionable, and a careful read of the current regulation will find little to suggest that they cannot be – much of it is just common sense. However there a number of provisions included to prevent more influential members of the committee or other abusing their power. For example, no-one can veto agenda items, papers should be properly circulated, the chair can only vote as casting vote (not vote twice), multiple or non-evidenced proxies are banned, one can't create joint posts and create more votes thereby, one must be quorate and chair's action is heavily limited. Each of these listed rules is based on experience of them being broken.

55. To put it another way, a meeting (informal or not) which breaks these rules is almost certainly not conducting itself openly or democratically. If they can be shown to have broken specific rules, it is easier to demonstrate how and why they are not governing themselves well.
56. To that end, the bulk of the rules remain, though opportunities have been taken where possible to condense the prose. The provisions for roll-call and secret ballots have been cut down significantly (though left in for Council).
57. The quorum rules were re-written with the intention of making them a little clearer.

8. Discipline

58. The current system of discipline is threefold –
 - a. misconduct of a general nature by students, Life or Associate members is dealt with by the Disciplinary Committee under Union policy;
 - b. misconduct by a post-holder is dealt with by way of censure or no confidence at an appropriate committee under Regulation 5 (would be 8 in new draft);
 - c. misconduct by staff is dealt with by the President and Union General Manager.
59. These follow the three very different forms of conduct attracting censure: an officer failing in his duties to those who elected him, anti-social behaviour by any student or other member and employee misconduct. There may be conduct which necessitates parallel proceedings under two or more of these systems. (for example a student barman in a fight may be suspended from employment and face a Disciplinary Committee hearing).
60. The basic premise is that the Council, in its guise of holding all officers to account, is responsible for censuring and dismissing them from office as part of the democratic process. However, the authority to deal with general anti-social behaviour by students (involving personal fines, bans and community service) should be explicitly independent – thus it is under the supervision of the Court. The Trustee Board must have some form of accountability to the membership and should have some quasi-disciplinary role to allow it to prevent ruinous conduct by senior officers – though this should be carefully confined.
61. Apart from working out the role to be played by the Trustee Board under a new system, current difficulties with discipline are as follows:
 - a. The rules on procedural propriety and natural justice are not as explicit as they could be, which may lead well-intentioned committees into undertaking improper disciplinary action;
 - b. Systems for ensuring senior staff accountability are weak;
 - c. Sabbatical officers, particularly those in their second year, have full employee's rights, which are not currently explicitly catered for;
 - d. Unclear whether Regulation 5/8 applies to disciplinary procedure outside censure and dismissal (Court was divided on the point, though the majority said it did not).
62. Constituent parts of the Union and the Clubs and Societies Board also have various disciplinary regimes, notably through the Clubs and Societies Policy and Transport Policy. The way in which these fit into the structure will need to be considered.
63. The proposed system leaves authority to censure and no confidence any officer or representative in the Union to the Council. In the case of sabbaticals, a no confidence motion would have the effect of suspending the officer on full pay and accommodation pending a meeting of the Trustee Board, which can decide whether or not to dismiss the officer or remove the suspension. If the officer's suspension is removed the officer is automatically censured.

64. An appeal remains possible to General Meeting against a censure or dismissal by the Council. This is to prevent officers and representatives who are popular with the student body at large being dismissed by the Council. Of course, it is exceptionally rare (no case is known of such an appeal in the last 12 years at least) but it is a useful democratic protection.
65. New provision is made for suspending people apart from the suspension following a motion of no confidence. The Trustee Board may suspend any person in the Union for any time, and allocate their duties. They would not be permitted to dismiss someone, unless after a motion of no confidence by the Council. However, indefinite suspension and allocation of duties to others achieves this task, without giving the appearance of an undemocratic body removing elected officers.
66. The President may also suspend any person (except the Council Chair and Court) for up to 14 days upon reasonable grounds if either they are a sabbatical officer or there is a motion of no confidence or disciplinary investigation against them. A suspension for more than 14 days requires the Court to agree that it is reasonable. This is not the same as the Court saying it approves the suspension, merely that the grounds for it are not unreasonable. It would also allow the Court to press the President on what steps are being taken in any investigation to take the matter to the Council and not be delayed further.
67. The Court is put as a "paramount" body for disciplinary matters, except for those relating to staff and dismissal. This is relevant mostly to Disciplinary Policy matters, but can also review disciplinary action taken by any other body or person in the Union.

9. & 10. Finance and Memorandum of Understanding

68. These remain unaffected.