

ICU Court Chair's report
A report by Hamish Common

After a peaceful couple of terms things were more active over the summer term, with five determinations and a set of appointments to the Union Court itself.

Membership

The Union Court welcomes Andrew Heeps (life member), Rahul Mudannayake, Jaimie Henry, Leslie Uzan and Thomas Cosnahan (student members), to add to the current life members Stephen Brown and Alex Grisman. There are also discussions with a College staff member about appointment to that position which will be welcome.

Appeal and discipline procedure

As promised in 2008 (!) I have finally finished the draft Appeal and discipline procedure which sets out each of the Trustee Board's appeal and disciplinary powers as established across the constitution and regulations. It also endeavours to provide a 'road-map' for any of these functions to ensure they are disposed of constitutionally. A number of areas are delegated in various respects and the Trustee Board Chair (or nominee) can individually screen requests as necessary.

The delay was in part because the first draft highlighted a number of significant complexities due to various requirements in Union regulations (such as the whole Trustee Board having to decide a number of minor matters). These difficulties have been removed in the last couple of years' constitutional revisions, and the draft procedure is about half the length it would have been otherwise.

Summary of recent determinations

The rulings covered the following matters:

1. Sabbaticals as candidates

Those holding sabbatical office are entitled to stand for any office which they would be eligible to hold in the following year. This ruling was an extension of last year's ruling on contingent eligibility (eligibility dependent upon a future event).

A particular feature of this case was the fact that the Union's electronic elections system does not appear to cater for those changing course types for the following year. This ruling says that the following year's predicted course registration is the relevant criterion, and the Union's electronic election system should be adapted to deal with this.

2. Election Ties

A departmental society had had a tied vote in the first round of voting in one of their elections. A ruling was requested setting out how returning officers should deal with election ties. The first principle is to follow the Electoral Reform Society STV rules which is normally to determine ties by lot: however they leave discretion on election ties for winning

candidates. This discretion can be exercised by returning officers to allow a run-off election for tied candidates (which uniquely could exclude RON), though this would presumably be extremely rare.

3. Election Disqualification Appeal (Facebook communication)

This was an appeal involving election campaigning on Facebook. A candidate had adopted another person's Facebook "event" for the purposes of his campaign and in effect sent an unsolicited message to a group of people, which is normally prohibited in Union elections, and was in this one. The difficulty was that the candidates' campaign pack was not particularly clear in certain respects, and a loose interpretation of the rules for social network campaigning had been adopted before. The ruling clarified the fact that social networking messages were as much covered by election rules as others, and unsolicited messages would normally be treated as misconduct.

The ruling also covered when a candidate might have a legitimate expectation that the returning officer's decision was final, that the burden is upon a candidate to seek publicity approval, and that only the Union Court can re-open ICU-wide elections after completion.

4. Summer Elections complaint

This determination is under appeal to the Trustee Board.

The Union held a combined set of elections for a number of posts and committee positions, one of which was Community Action Group (CAG) Chair. A candidate for the post of CAG Chair was asked to withdraw by the returning officer on account of the fact he was a Trustee-elect, a post one cannot constitutionally hold simultaneously with that of CAG Chair (among others). That e-mail was followed by a further chain of e-mails discussing it, which was the subject of the primary complaint. It was alleged that the returning officer's approach to the candidate was intimidating, incorrect and motivated by the returning officer's close professional relationship with another CAG Chair candidate (they were both sabbaticals).

The other head of complaint was an inconsistent approach towards approving publicity for candidates. This was on the basis of two grounds, first using a Facebook account called "RON Imperial" to approve publicity on some but not all candidates' campaign walls (at other times approval was sent by e-mail). Secondly the complaint was on the basis of delays in approving some candidates' publicity.

The complaint was dismissed on each ground, though all but one parts of complaint had some merit: it was ruled that use of "RON Imperial" should cease and a consistent approach towards publicity approval should be adopted; that during a 4 day trip away it may have been better for the returning officer to have appointed a deputy at least for publicity approval; that all candidates' seconders should be made public automatically and not just on request and that people are not permitted to run for mutually exclusive posts to those to which they have been already been elected.

The e-mail chain was ruled not to be intimidating on its face, and nor was the returning officer motivated by bias. The alternative suggestion that the CAG chair candidate said in e-mail he was withdrawing upon alternative grounds (the strength of an opposing candidate)

but was actually withdrawing due to intimidation was ruled to be without merit as it was plainly contradicted by the e-mails at the time and the suggestion only arose several weeks later.

An ancillary request for the Union Court to demand that the returning officer apologise in public was rejected on jurisdictional grounds on two bases: first it is not the Union Court's role to pass judgment on officers except in limited circumstances which didn't apply here, and secondly it is a quasi-disciplinary sanction imposed without any of the protections of disciplinary procedure.

5. Awards Policy and Regulation 6 (Meeting Standings Order)

This ruling concerns the Council's power under its own policy (the Awards Policy) to exclude the potential recipients of colours and awards from attending the debate. Though it may be a common sense provision to exclude them, ICU Regulation 6 covering how Union meetings conduct themselves is explicitly clear in stating that all Full Members of the Union can attend Council, and so any policy deviating from this was ruled to be unconstitutional. An equivalent ruling was made in respect of self-proposals for Colours. The award of HLMs to the sabbaticals (and in one case a refusal to award) was quashed and remitted back to Council in the new academic year. It was also recommended that Regulation 6 be amended to permit the prohibition of self-nomination and attendance of one's own award debate.

On a separate matter the section in the Awards Policy requiring a two-thirds majority to amend the policy itself was quashed as an unconstitutional self-binding provision.