



**Imperial College Union  
Governance Review 2006**

**Draft Proposals**  
**For consultation**

**September 2006**

## **ACKNOWLEDGEMENTS**

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## FOREWORD

On August 8<sup>th</sup> 2006 the ICU Executive established a Governance Review Working Group and instructed it to undertake a review of the Union's governance and report by October 2006. This document is the report written by four contributors to this governance review, reviewed and supported by over twenty participants and is due for consideration by the Union Executive on September 21<sup>st</sup> 2006. Over 300 hours of effort has been put in to this report, making it one of the most substantial reviews of its kind ever to be undertaken by this organisation.

The motivations behind initiating this governance review are summarised in chapter one. Both external factors, such as the incoming charity bill, and internal factors, such as the Union's strategic review, are described along with the methodology that was adopted to ensure that this review was conducted in a democratic and efficient manner. One key strategy that was adopted by the Governance Review Working Group was to establish six Sub Groups designed to examine specific issues pertinent to the Union's governance processes and structures. These Sub Groups have written reports which form Chapters 2,3,4,5,6 and 7.

Chapter two, written by the first two Sub Groups, explores the Union's relationship with the College and describes two legal models (i.e. College division and charitable company) that the Union could adopt if it wishes to clarify its legal position. At this stage no model has been explicitly endorsed by the Governance Review Working Group or any democratic body in the Union and it is proposed that this chapter will initiate a wide ranging debate about the Union's legal position with a view to making a decision towards the end of the academic year. Chapter two also builds a case for deregulating the Union's constitution and lists which sections of the document would be affected; this is a move that has been largely supported by the College.

Chapter three, written by the third Sub Group, describes a plethora of creative and highly original ideas that this group believes will engage more of the Union's members in the Union's governance processes. These ideas include expanding the number of open meetings and forums, developing the Union's website resources, transforming elections from "farces" to "festivals", and turning the Union Council in to a representative, legislative body rather than an oversized management board. Some of these proposals are more controversial than others, and although a handful of controversial proposals are highlighted and described in Chapter three, it is envisaged that they will be discussed individually at Union Council, separately from the bulk of these governance proposals.

Chapter four, written by the fourth Sub Group, examines the relatively narrow area of governance concerning the commercial services of the Union. Here a brief proposal is made to move the democratic element of the Union's trading outlets away from formal committees towards open meetings.

Chapter five, written by the fifth Sub Group, builds a case for reducing the number of procedural motions that are employed at formal Union meetings and makes further suggestions on how election processes could be reformed.

Chapters six and seven, written by the sixth Sub Group, put forward a detailed case for separating the powers of the Union between a legislative body, an executive body, and a judicial body. The Council and Executive committee are discussed in chapter six and the proposed new Union Court is described in chapter seven. Further reforms to change the way in which student activities are governed are also proposed in chapter six, along with a myriad of miscellaneous policies that this Sub Group believes will improve the efficiency, transparency and accountability of the Union governance processes. Again, a handful of controversial ideas are discussed and highlighted in chapter six and it is envisaged that these policies will be proposed as individual policies, rather than as part of this bulk report.

Chapter eight describes how the Governance Review Working Group believes these changes could be implemented. A timetable is proposed along with categories of policies which the Group believes should be introduced separately from the broad Governance Review report.

The Appendices document detailed legal discussion concerning the Union's present legal status, list the precise constitutional changes that would need to be adopted if these proposals are to be adopted, and show three structure diagrams for each of the three legal models that are described in chapter one.

Although this review touches almost every corner of Union governance, three areas of interest have not been considered. The first is Club & Societies governance, which is being addressed by the ongoing Clubs & Societies Review that is expected to report this autumn. The second is academic representation, which will be reviewed in 2007 in line with the expectations of the 2005 ICU Strategic Review. The third is the Union's Memorandum of Understanding with the College, which is presently being redrafted by the College Secretariat and will be integrated into this review at a later date.

It is important to emphasise that these proposals are just that; proposals. Nothing should be considered a *fait accompli* and the recommendations in this project will range from the consensual (abolition of the trading committees) to the controversial (introduction of general member votes on council). Now that these proposals have been prepared, it is time to take them to the electorate.

Over the next two months, October and November, this report and its proposals will be discussed in formal and informal meetings with a view to coming to a consensus in time for a crucial College Council Meeting on 24<sup>th</sup> November. These proposals will only work and last the test of time if the student body buys in to these changes. If a consensus is found, and these proposals are implemented, then the Working Group is confident that the governance processes and structures of the Union will become more accountable, more transparent, and more engaging.

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## **CHAPTER ONE**

### **THE MOTIVATIONS FOR A GOVERNANCE REVIEW**

#### **Introduction**

1. This chapter explains why the Imperial College Union (ICU) chose to review its governance processes and structures now and describes how the review was conducted.

#### **Motivation for this Review**

2. The idea for a wide-ranging governance review was conceived during the ICU Strategic Review 2005-2009 (undertaken in 2004) in response to a student surveys, focus groups and external advice. In response to the findings of the Strategic Review, minor governance changes were proposed by a small working party at the end of the 2005 academic session. Although many of the changes proposed by this working group were relatively logical and reasonable, only a few of them were implemented due to time pressures and the political climate of the time.
3. Since then two key external issues have developed that require careful consideration this academic year (2006-07):
  - The incoming Charities Bill, which will force all Students' Unions in England and Wales to reconsider their governance structures and administrative procedures.
  - Imperial College's imminent secession from the University of London, which has prompted the College Secretariat to review all of its statutes, regulations and ordinances (including the ICU constitution) and recommend amendments to our governance procedures.
4. Therefore, on August 8<sup>th</sup> 2006 the Executive elected to bring the planned governance review that was envisaged by the writers of the Union's Strategic Review (2005-2009) forward one year in order to address all of the governance issues that have arisen from external influences as well as the Strategic Review. A Working Group was set up and instructed to report its findings to the Executive by the end of September 2006 with a view to starting the wider consultation process in the autumn term.

#### **The Scope of this Review**

5. The scope of this review was more far-reaching than previous reviews, largely because it was driven by the external influences described earlier. In addition to the issues that were examined by the 2005 review, the Working Group also examined the following areas of interest:

- **Legal Status:** The legal status of the organisation and our formal relationship with the Imperial College Council and the Charity Commission.
- **Commercial Services:** The interaction between the commercial services element of the organisation and the students was also examined as it is widely acknowledged that the current arrangements (particularly the Trading, Services and Retail committees) are not working well.
- **Committees Structures, Procedures and Officers' Roles:** There is a desire to build on that which was produced by the last working group to review the Union's governance structures.

### Methodology of this Review

6. Due to the complexity of the task and the encouragingly large number of students, staff, external advisors and sabbaticals who wanted to be involved in this exercise, it was decided to break the process down into smaller working parties. Six Sub-Groups were established with the following remits:
1. The Charities Bill and the Union's Legal Status
  2. The Union's Relationship with the College
  3. Improving Student Involvement
  4. Governing Commercial Services
  5. Meeting and Election Procedures & Regulations
  6. Committee Structure and Committee & Officer Powers
7. At an early stage it was clear that the remits of group 1 and 2 were closely aligned and so these groups were merged.
8. The participants of these Sub-Groups are shown in table 1.1. Full participants are displayed in normal text and participants who were consulted or participated in part of the review process are shown in italic text (Also involved in the Working Group were Rebecca Coxhead, Jad Marrouche, Steve King and James Fok).

Group	Group #1: Charity Bill	Group #2: College	Group #3: Involvement	Group #4: Commercial Services	Group #5: Procedures	Group #6: Committees & Officers
Leader	John Collins	John Collins	Ben Harris	Jon Matthews	Danny McGuinness	Hamish Common
Members	Peter Haldane Dave Parry Rob Park (ULU) <i>Dan Snowdon</i> (ULU) <i>Jim Dickinson</i> (NUS)	Simon Matthews Hamish Common Peter Haldane Nichola Hawkins Shiv Chopra <i>Sid Singh</i>	Mark Flower Emma Persky Richard Fautley Robin Pitt Alex Guite Adele Peel <i>Shama Rahman</i>	Peter Haldane Sue Bedford Shiv Chopra John Collins <i>Etienne Pollard</i> (McKinsey)	Rob Park John Collins Hamish Common Ashley Brown Katherine McGinn	Dan Sauder Rob Park (ULU) Dave Parry Emma Persky Jon Matthews John Collins <i>Jimmy Tam (LSE)</i> <i>Daryn McCombe</i> (Kings) <i>James Yearsley</i> <i>Ashley Brown</i> <i>Andy Sykes</i>

Table 1.1: Sub-Group membership

9. The leaders of the Sub-Groups formed a small informal Steering Group that played an executive role in managing the Sub-Groups, communicating ideas between them and resolve conflicts.

### **The timing and progress of the review**

10. Although August was clearly not the best month to undertake a major review that requires a great deal of student input, it was felt by the Executive that it was important to start this process as soon as possible. August is a relatively quiet month when there is usually enough slack in the timetable to conduct an exercise of this nature, and almost all of the students who volunteered for this exercise were available during evenings at this time.
11. The Sub-Groups met several times over July and August, drafted proposals at the end of August and presented them to all participants on August 24<sup>th</sup>.
12. The following six chapters were written by the Sub Groups and amended by the Working Group on August 24<sup>th</sup>. These chapters describe the discussions that took place in each respective Sub Group and outlines detailed recommendations that the Sub Group believes will improve the effectiveness of the ICU governance system. Appendix B documents the precise constitution and regulation changes that would need to be approved by the Council to implement those recommendations that require constitutional changes.
13. These recommendations have been reviewed by all members of the Working Group to ensure that they are coherent and widely supported. A handful of specific policies were picked out by the group as inherently controversial and no consensus was reached as to whether or not they should be implemented. **These controversial policies have been included in this document but have been boxed to indicate that they are still disputed.** It is envisaged that these policies will not be included in the final proposal, but may be implemented separately at a later date.
14. The recommendations of this review, detailed in this document, are now open for full consultation. A proposed implementation timetable is presented in chapter eight.



## **CHAPTER TWO**

### **THE UNION'S LEGAL STATUS AND ITS INTERACTION WITH COLLEGE**

#### **Introduction**

1. This chapter, written by the 1<sup>st</sup> and 2<sup>nd</sup> Sub Group, examines the legal position of the Union and explores three different governance models that the Union could adopt in the medium term future with a view to improving relations between the Union and the College, clarifying the Union's legal position and ensuring that the Union comfortably complies with Charity legislation.
2. This chapter first describes the how the ICU operates at present and how it interacts with the College, both formally and informally. Several weaknesses in the present legal position of the ICU and its administrative and governance processes are highlighted and the motivations for the recently launched ICU Governance Review are briefly explained.
3. The implication of the incoming Charity Bill (2005) on the ICU and its relationship with the College is then described and a case for changing the Union's present legal position is made. Two alternative legal models (and a further "Do Nothing" option) are then proposed and described in some detail. This is followed by an appraisal of all three options, but no decision is suggested at this stage. It is only through co-operation with the College and approval of the student body that any model could be recommended with certainty.
4. The remainder of this chapter describes further proposed governance changes to deregulate the Union's constitution.

#### **The Existing Arrangement**

5. The Imperial College Union (ICU) was established under the Imperial College charter at the time of the College's creation in 1907. It exists to advance the education of the students of Imperial College, to promote their welfare at all times, to promote and encourage student led extra-curricular activities, to represent the needs and interests of students to the College and external bodies, and to ensure that a range of facilities are provided for students where necessary. All students of Imperial College are automatically members of the ICU, although the Education Act (1994) allows students to opt out of membership if they wish to do so.
6. The ICU receives a substantial block grant from Imperial College on an annual basis and is permitted to use one of the College's buildings almost entirely free of charge. This arrangement exists because the

educational aims of the Union are aligned with the College's academic mission as both bodies wish to further the interests of the students of Imperial College and, more importantly, because the Education Act (1994) obligates the College to ensure that a Student Union for Imperial College exists in some form.

7. Regardless of the legal status of the Union and its position within Imperial College, there are two key features of the Union that make it very different from all other divisions and departments of its parent institution.
  1. Firstly, the ICU is a democratic and membership led organisation. Many of the senior positions of responsibility in the Union are held by elected student officers rather than appointed support staff. There is a small team of professional staff based at the South Kensington campus to support these officers, but in terms of governance and strategic management, the students are largely in charge. To an outsider this may appear a little perverse, however, it must be acknowledged that the ICU exists to benefit its members and it is the members who themselves are best placed to understand their needs. At the time of writing the author is delighted to report that the democratic tradition of the ICU shows no sign of weakening. Indeed, in 2005 the ICU recorded the highest sabbatical election voter turnout in the UK.
  2. Secondly, the vast majority of the ICU's activities are undertaken and managed by unpaid volunteers. In total there are over 1,000 active union officers who work tirelessly in their free time to manage clubs, represent students, govern constituent unions, organise tours and arrange social and charity events. There is no doubt that these volunteers benefit enormously from such experiences and many have developed skills through student activities that have enabled them to pursue careers outside the remit of their academic course. From a financial perspective the work of the volunteers can only be regarded as extremely cost effective, and any estimation of the value of labour given in kind by these volunteers is likely yield an astronomically high value.
8. The ICU is governed by a student Council and its Executive Committee according to its constitution and regulations, which are approved by the Imperial College Council. The formal relationship of the ICU with Imperial College is governed by a Memorandum of Understanding, which is also approved by the College Council and is presently being updated. Day-to-day operational policy and specialist or devolved matters are governed by Union policy, which can be passed by various sub-committees of which the highest sovereign body is the Union Council.

## **Weaknesses with the Existing Arrangement**

9. The Union and the College have agreed to work together to resolve several concerns that have been highlighted by both parties in recent years. In particular, the College is seeking to reduce the financial, legal and reputation risks associated with the Union's current legal position and how it relates to its parent institution. Furthermore, the Union is concerned that its administrative and governance structures and processes may no longer meet the needs of its members. In essence, there is probably room for improvement.
10. Perhaps the most serious concerns arise from the present legal position of the ICU, which is ambiguous and may leave the Union exposed to unlimited legal action should the Union breach a legal contract or agreement.
11. The status of the ICU as an integral part of the College, an unincorporated association and a charity is summarised in Appendix A although this discussion can only be considered a starting point for a wider debate. The incoming Charity Bill (2005) has sparked a country-wide discussion within the student movement around the status of university student unions and how they relate to their parent institutions. Many of these issues are discussed in a recently published report by the University of Warwick and its student union entitled "Universities and their Unions", and this report includes a considerable amount of legal analysis by Pinsent Masons that is referred to in Appendix A.
12. There are other consequences of the Union's unclear legal status that further complicates matters. For example, the College has suggested that the Union may be unable to benefit from its wide software licence agreement with Microsoft unless it can be clearly demonstrated that the Union is a part of the College. Furthermore, the Union currently presents itself to be a part of the College when paying corporation tax whilst stating that it is separate from the College for all VAT processes. It can only be a matter of time before the newly amalgamated HM Revenue & Customs department spots this anomaly.
13. In addition to the legal concerns described above, there are further anxieties over the administrative and governance functions of the Union that the College has asked the Union to address. Much of the infrastructure of the Union, particularly its Estates, IT and finance resources, has suffered from a lack of investment over the years and the College has stated on several occasions that it believes that the administration of the Union is massively under-resourced. Consequently, it has been suggested that the Union could benefit from more support from the College and one model designed to this objective is described later in this paper.
14. This is not to say that all areas of the ICU administration are ineffective and there are many examples where the Union administrative

standards reach or even exceed the levels that would be expected of the College. For example, the ICU has been widely praised for the quality of its health and safety policies and culture by College managers in recent years and, whilst there is always scope for further improvements, the Union is confident that its procedures, policies and culture are of a high standard and are improving. Human Resources issues, too, is another area where best practice is being employed although this is only achieved through collaboration with the College HR division and the Union is grateful for the support it receives from the College's professional HR staff.

15. The College is, understandably, keen to protect its reputation and it has expressed concerns that some of the student activities sanctioned by the ICU may undermine the College's reputation, particularly if legal action were taken against the College. The Union is sympathetic to the College's concerns but cannot see how, for example, it could possibly prevent a boisterous sports team from behaving badly on an overseas tour without banning all club tours from taking place. Such behaviour, as unfortunate as it is, will inevitably occur from time to time regardless of who manages Imperial's clubs, be it the Union or the College. Furthermore, the College is perfectly able to discipline any student who behaves poorly in accordance with the College's own disciplinary processes without requiring support from the Union.
16. There are further concerns about the effectiveness of the ICU governance and leadership that have emerged from recent studies, including the ICU Strategic Review that was completed in 2005. Findings from such surveys, along with the issues described above, are being examined by a major Governance Review, which is being conducted by the ICU at the time of writing.
17. That said, it should be noted that the present governance structure of the ICU has worked relatively well over recent years and has been widely praised by other student unions for its prudent culture and relatively high participation levels.

### **The Charities Bill (2005)**

18. Under the new Charities Bill (2005), student unions whose income exceeds £200,000 will lose their exempt status. Consequently, they will be forced to register with the Charity Commission and subject to the following regulations and powers:
  - a. Student Unions will need to demonstrate their public benefit to the Charity Commission.
  - b. Student Unions will be required to file an annual report and audited accounts to the Charity Commission. The annual report would need to include a list of all Union Officers.

- c. Student Unions will be advised to conform to the Charity Commission’s Statement of Recommended Practice (SoRP).
  - d. Student Unions that own land will be subject to regulations on dispositions and mortgaging charity land.
  - e. The Charity Commission will have the power to initiate an inquiry into a registered Student Union.
  - f. The Charity Commission will have the power to act for the protection of a registered Student Union (for example, by suspending or removing trustees, making certain orders or appointing a receiver or manager).
  - g. The trustees of the Charity would need to be clearly defined and would be required to attend structured training sessions in trustee law and the roles and responsibilities of trustees.
19. The College and the Union both acknowledge that the legal position of the Union probably needs to be resolved and clarified before the Charity Bill becomes law. This Bill, along with the concerns highlighted earlier in this paper, make a strong case for the Union to change its legal status and clarify it in the eyes of the law.

**Changing the legal status of the Union**

20. To this end both the Union and the College have started to develop two models that could, in theory, be implemented within the year. The first model would require the Union to take a small step closer towards integration with the College and retain its unincorporated status whilst the second, more radical model, would transform the Union into an incorporated body. As both of these models would require considerable change, there is, by implication, a third “Do Nothing” model that is also briefly discussed.
21. Diagrams of the governance structures for each model are given in Appendices C, D and E.
- |   |
|---|
| 22. It is proposed that the Union Council should discuss and vote on the legal status of the Union issue separately from the wider proposed governance changes. |
|---|

***The Unincorporated College Division Model***

23. Under this model it is proposed that all relevant College and Union documentation should be amended to clarify the status of the ICU as an integral part of the College. In doing so the ICU would need to concede that any ambiguity in its legal status would be removed.
24. Under this structure the position of ICU within the College would be analogous to that of a department or a division. This would not change

the Union's normal day-to-day operations or the Sabbatical Officers' management role. The President would continue to raise issues of concern at the highest level through his or her monthly meetings with the Rector and Deputy Rector as at present. Similarly, the Union's position on the Senate and the Imperial College Council would be unaffected.

25. In addition to clarifying the status of the Union, the College would also be in a position to provide additional administrative support to what would be, in essence, a division of the College by integrating it in to the Devolving Central Services (DCS) structure. The DCS model is widely used in the faculties of the College and works by placing HR, finance and ICT specialists within faculty clusters under the direct control of faculty principals. Presently the Union does not directly manage any ICT or HR specialists and it is proposed that these services would be available to the ICU under this new structure. Although recruitment and appraisal of these specialist staff would be undertaken by the Union, the "home" divisions would be able to provide professional training and support to these staff in the background.
26. Figure 2.1 illustrates how the DCS system would work in the case of the Union's finance division, whereby the Union's Head of Finance would continue to report directly the Union's Permanent Secretary but would also report indirectly to the appropriate College finance official.
27. Perhaps more controversially, the specialist support staff presently employed by the Union would in essence find themselves working under two divisions of the College; the central services division (e.g. finance) and the Union. This creates a degree of ambiguity in the status of the support staff that may undermine the sovereignty of the Union in the eyes of its members, particularly if future College management were to decide to recentralise the support services of the College and seize direct control of Union staff that used to be directly managed by the Union. If the Union does decide to go down the route of further integration with the College then it is strongly recommended that a clause should be inserted in to the Memorandum of Understanding document to guard against such a scenario.

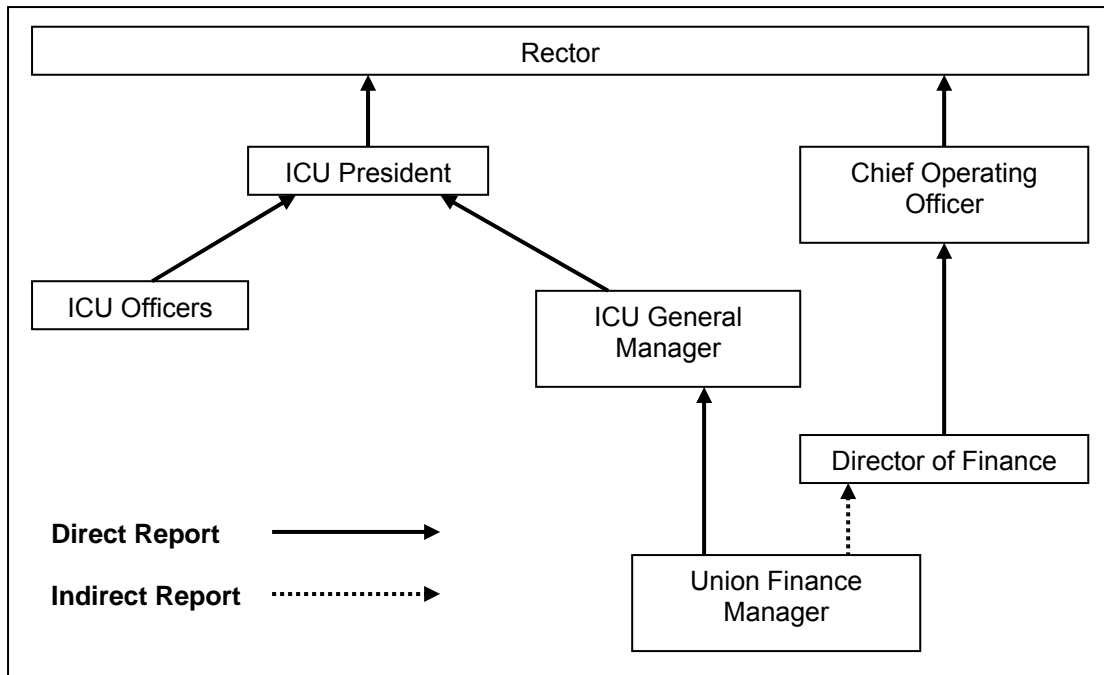


Figure 2.1: Example reporting structure under the integrated DCS model

28. The governance structure of the ICU would remain as it is now, although the present governance review will recommend further structural changes that are summarise towards the end of this paper.
29. Under this model the ICU President could only be removed from his or her position by the ruling of the ICU Council or the Imperial College Council. It is not clear whether or not the Director of Finance could, for example, remove the Union finance manager from his or her position.
30. This model may appear to be somewhat conservative on the surface, but with no legal precedents it is unclear if it would be acceptable to the Charity Commission or HEFCE.
31. Indeed, evidence received from Jim Dickinson, who is conducting negotiations with the Charity Commission on the behalf of the National Union of Students, suggests that the Charity Commission may consider Union's that are formally University or College departments still eligible for registration. In an email to student union managers that was sent in August 2006, Dickenson writes:

*"The regulatory impact assessment for the Bill clearly singles out Students' Unions as needing to be regulated by the CC [the Charity Commission] and as you may know HEFCE didn't want to become a principal regulator of unions. All of this points to a likely scenario that "becoming a department" won't cut the mustard."*

*Jim Dickinson, 2006*



32. Clearly, if the ICU were seeking to avoid registration with the Charity Commission then it would need to be established whether or not this could be achieved by becoming a College division. Advice from Pinsent Masons is not conclusive.

*“While it might be possible for a students’ union to be legally integrated into a university, there are some obstacles in the way of this happening. The definitions in the 1994 Act ... are strongly suggestive of separation and independence; there would be the question of the transfer of staff employment and pension rights (and liabilities) and whether the Transfer of Undertakings (Protection of Employment) regulations (TUPE) would apply to protect staff terms and conditions and continuity of employment; the university would have to take on the risks associated with students’ union activities; there may be VAT implications which would not necessarily be welcome; accounts would have to be consolidated; and there is the question of how a students’ union can be a representative body if it is wholly a part of the university”*

*Nicola Hart (Pinsent Masons), 2006*

33. Even if such a move were possible, legal opinion suggests that there would need to be an explicit shift in the Union’s position to that which is fully integrated in the College’s organisational structure.

*“In order to integrate a students’ union into a university, there would need to be some kind of definite transfer in order to make the position clear.”*

*Nicola Hart (Pinsent Masons), 2006*

### ***The Incorporated Company / C.I.O Model***

34. Under this proposal the College would be invited to form a charitable Company Limited by Guarantee or a Charitable Incorporated Organisation (C.I.O) and appoint a board of Directors who would act as trustees. The students of Imperial College would act as “shareholders” of the company and would have the power to remove trustees through General Meetings.

35. The membership of the board of Directors would be:
- a. The President (Acting as the Chair) \*
  - b. The Deputy President (Finance and Services) \*
  - c. The Deputy President (Clubs and Societies) \*
  - d. The Deputy President (Education and Welfare) \*
  - e. The Deputy President (Graduate Students) \*



- f. One Faculty Union President \*
- g. One Clubs & Societies Committee Chair
- h. One academic or welfare Officer
- i. Up to seven lay members, appointed by the ICU Council (the College Council may wish to appoint some of these lay members as well).

*\* indicates a paid trustee*

- 35. Lay members would be introduced to bring specific skills and expertise in matters such as law, finance, health & safety and higher education matters to the table. It is also a requirement of the Charities Bill 2005 that non paid trustees form a majority of the board.
- 36. The Permanent Secretary would continue to be a permanent observer of the board. The Honorary Senior Treasurer could either become a lay member trustee or retain permanent observer status.
- 37. The trustee board would be ultimately responsible for the administration and financial management of the organisation and for the preparation of financial accounts. It would be formed of paid Officers and lay members. It would convene around six times a year to discuss trustee related issues such as strategy, financial statements, budgets, reports and staffing matters.
- 38. The ICU Council would continue to meet on a monthly basis to discuss policy. It would no longer be the ultimate sovereign body of the Union, although it could be delegated all policy responsibilities. The trustee board would have the power to veto anything the Council does in a similar way that the College Council can do so now, although the trustee board is likely to exercise its power of veto more often than the College Council does at present.
- 39. The Executive Committee would continue to meet regularly to discuss day-to-day administrative issues of the organisation.
- 40. There is a potential for conflicts of interest if a College member of staff or College governing body member were to sit on the ICU trustee board, as he or she would be compelled to act in the interests of the ICU and not necessarily in the interests of the College.
- 41. There are several further serious consequences that would arise if the ICU were to become an incorporated body:
  - a. The ICU would be fully regulated by the College, the Charity Commission and Companies House. The latter body would not regulate the ICU if it were to become a Charitable Incorporated Organisation (C.I.O.), a new type of legal status that is proposed

in the Charity Bill (2005). In any case, there would be an increase in the regulatory burden on the ICU.

- b. The introduction of a sovereign trustee board would inevitably lead to an erosion of the democratic structures and traditions of the ICU, which are still relatively strong throughout the organisation.
- c. This move would explicitly push the Union and the College apart, which may not be desirable to either party as, ultimately, a good working relationship between the College and its Union is essential if the ICU is to be effective in representing its students.

***The “Do Nothing” model***

- 42. Of course, the ICU could choose to remain as an unincorporated body and not explicitly become a division of the College. However, under this model the ICU would no longer enjoy its exempt status when the Charity Bill (2005) becomes law in 2007 and so it will still be required to register with and be regulated by the Charity Commission.
- 43. Although the prospect of further regulation may seem daunting, the National Union of Students has advised the ICU that the Charity Bill (2005) would not have a serious regulatory impact on the ICU. All the ICU would need to do would be to submit its annual report (which it already produces for the College) to the Charity Commission each year, define who its trustees are and ensure that they are trained.
- 44. Under this arrangement the Union would still be able to be governed by a student council, whereas an incorporated body would almost certainly need to be governed by a board of trustees or directors.

**The Advantages and Disadvantages of each model**

- 45. There are essentially three types of legal entity the ICU could realistically choose to become at present; it could become an unincorporated division of the College (Model 1), it could attempt to become an incorporated body (Model 2) or it could remain as an unincorporated association (Model 3). The benefits and drawbacks of each option are summarised in table 2.1 and it must be stressed that the Union is still considering all three options and is not expected to state which model it prefers until a full consultation has taken place in the autumn term. Needless to say, the opinion of the College on this matter is paramount and no action can be taken without full support from the College Secretary and the College Council.

Model Type	Advantages	Disadvantages
Model 1: Unincorporated	There would be an explicit shift of legal liability from the ICU to	It is not yet clear if such a move would remove the ICU’s obligation to

<p><b>College Division</b></p>	<p>the College.</p> <p>There would be a reduction in administrative overheads and financial risks to the ICU.</p> <p>The ambiguity of the Union's legal position would be resolved.</p> <p>The Union Council would remain the sovereign body of the Union; therefore the democratic structures of the Union would be protected.</p>	<p>register with the Charity Commission and conform to its regulations. This issue is pivotal and requires further research and authoritative legal opinion.</p> <p>Furthermore, HEFCE may be unwilling to remain as the official regulator of the ICU.</p> <p>There would be a perceived loss of autonomy.</p> <p>Should the DCS system ever be abandoned, there would need to be a formal safeguard protecting the ICU's staff from being explicitly annexed to a College division, hence undermining the ICU's sovereignty.</p> <p>The ICU may need to abide by the Freedom of Information Act</p>
<p><b>Model 2: Incorporated Company or C.I.O.</b></p>	<p>The Union would achieve a greater degree of independence.</p> <p>The Union would be forced to bring in more effective governance procedures and appoint experienced trustees. Whilst the transition process to this governance model would be painful, the Union could be governed in a more effective way than it is at present.</p> <p>The ambiguity of the Union's legal position would be resolved.</p>	<p>There would be a substantial increase in the regulatory burden, and hence administrative costs, on the ICU.</p> <p>Some important business (e.g. removal of trustees, elections and constitutional amendments) would have to be conducted through General Meetings. This would add undergraduate and South Kensington bias to the Union.</p> <p>Separate IT licences would be required, increasing costs to the Union.</p> <p>The College may be less able to formally assist the Union in certain matters such as finance, HR, and ICT.</p> <p>A sovereign trust board may be politically unacceptable to the membership.</p> <p>The ICU would be more responsible for its actions than at present and therefore would be more exposed to legal actions and regulation.</p> <p>Corporation Tax would increase by</p>

		around £60k.  The ICU would be forced to sign formal contracts with the College, thus driving the two bodies explicitly apart.
<b>Model 3: Unincorporated Association (i.e. the “Do Nothing” option)</b>	The Union Council would remain the sovereign body of the Union; therefore the democratic structures of the Union would be protected.	The legal position of the Union would still be ambiguous.  The Union would still need to register with the Charity Commission. Hence, all of the regulatory concerns (including additional costs) noted for Model 2 would apply.

**Table 2.1: Summary of the advantages and disadvantages of each model.**

### **De-regulation of the Union’s Constitution**

46. The College Secretary has advised the Union President that the government is permitting the College to de-regulate its ordinances when it achieves university status in July 2007. As the Union’s constitution is considered to be one of these ordinances, it has been suggested that the Union should seek to de-regulate parts of its constitution and regulations. In doing so, the Union would no longer be obliged to propose any amendments to devolved regulations to the Imperial College Council so long as they have been amended according to the correct procedures.
47. The rationale behind deregulating the Union constitution is that the College Council lacks the interest, time and technical knowledge to make a judgement on minor regulation changes but is bound by law to oversee changes to important regulations, such as those that affect financial or election procedures.
48. A summary of the Union’s proposal to deregulate sections of its constitution and three of its six regulations is given in table 2.2.

<b>Document</b>	<b>Section</b>	<b>Proposal</b>
<b>ICU Constitution</b>	1. Name	1. Retain
	2. Aims and Objects	2. Retain (Amend to include reference to diversity and the democratic nature of ICU’s governance)
	3. Membership	3. Retain
	4. Affiliation	4. Retain
	5. Officers	5. Retain
	6. The Council	
	7. General Meetings	

	<ol style="list-style-type: none"> <li>8. Referenda</li> <li>9. Committees</li> <li>10. The Executive Committee</li> <li>11. Trading and Services Committee</li> <li>12. Faculty Unions</li> <li>13. Finance</li> <li>14. Elections</li> <li>15. Policy</li> <li>16. Personnel</li> <li>17. Discipline</li> <li>18. Relationship with Imperial College</li> <li>19. Interpretation</li> <li>20. Amendment</li> <li>21. Regulations</li> <li>22. Revocation</li> </ol>	<ol style="list-style-type: none"> <li>6. Retain</li> <li>7. Retain</li> <li>8. Retain</li> <li>9. Remove reference to trading committees</li> <li>10. Retain</li> <li>11. Remove</li> <li>12. Remove reference to titles</li> <li>13. Retain</li> <li>14. Retain</li> <li>15. Retain</li> <li>16. Retain</li> <li>17. Retain</li> <li>18. Retain</li> <li>19. Retain and amend for reference to the Court</li> <li>20. Retain</li> <li>21. Retain</li> <li>22. Retain</li> </ol> <p>An additional section (and possibly a new regulation) would be inserted to set out the role of the Court if the Council approves its creation.</p>
<b>ICU Regulations</b>	<ol style="list-style-type: none"> <li>1. Titles and job descriptions of Union Officers</li> <li>2. Elections and referenda</li> <li>3. Composition of Committees</li> <li>4. Standing orders of meetings</li> <li>5. Disciplinary Procedure</li> <li>6. Financial Regulations</li> </ol>	<ol style="list-style-type: none"> <li>1. Devolve except for references to paid officers</li> <li>2. Retain</li> <li>3. Devolve</li> <li>4. Devolve</li> <li>5. Retain</li> <li>6. Retain</li> </ol>

**Table 2.2: Summary of proposal to deregulate the ICU Constitution.**

## **CHAPTER THREE**

### **IMPROVING STUDENT INVOLVEMENT IN ICU GOVERNANCE**

#### **Introduction**

1. The third Sub Group interpreted its Terms of Reference and set out to understand the extent to which our members are not engaged with the Union, and devise innovative solutions to rectify this problem. The group was not overly concerned by the practicality or political desirability of its solutions, only the extent to which they engage with students.

#### **Methodology**

2. In the first instance the Group considered the results of a straw poll of students who are not currently involved in Union Governance to set the tone for further investigation. The Group then considered detailed voting data from the 2005 sabbatical elections to understand to what extent and why different sections of the Union are engaged in Governance. Headline voter engagement figures, such as turnout and the ratio of candidates to positions, were compared and contrasted with all other British Unions for which data is available (from the most recent AMSU Survey). Data and comments from the 2005 Strategic Review were examined for clues explaining why some students are not involved in Union Governance. Finally, the members, considering all of this evidence and informed by their own experiences, moved into a free thinking stage to propose and evaluate possible solutions to increase student involvement.

#### **Recommendations**

3. The group's recommendations are coalesced into broad themes.

#### ***Mind the Middle Gap***

4. Although we should always strive to improve, our sabbatical election turnout ranks as one of the highest in the country. Meanwhile our system of Year Representatives and Departmental Representatives is uncommonly effective at addressing the chalk-face concerns of our members: from poor lecturing to unmanageable deadlines.
5. Conversely, the group identified a problem with the Union's "middle management": Faculty Unions, Clubs and Society Committees, Student Activities Committee, Welfare Committee, Academic Affair Committee and others at this level. Particularly in the case of Faculty Unions and Clubs and Societies it is not at all that they fail to engage with Union

members, rather than that this engagement rarely translates into involvement at higher and central levels. Indeed, club members rarely feel that they are involved in a “Union” activity, but merely the activity of their club despite the organisational and financial support provided by the Union.

6. It was felt that this stemmed in part from a lack of awareness about what the Union can do for its members and what its members can do for the Union. More specifically it was noted that the Union often does not take credit for its achievements: 24 hour library opening is not seen as a victory for students achieved through the Union, but merely as something which College “just does”. Involvement in any democratic body, from the state downwards, is in part a function of the perceived sphere of the influence of the body. When students don’t see their Union effecting change, even though it often is, they see no incentive for involvement.

### ***Elections: Festivals not Farces***

7. The fulcrum about which Union Governance turns are the crosses marked on each voter’s ballot paper. The group considered factors which affect voter turnout and interest in elections and determined that in part responsibility lies with candidates and their agents to run engaging and exciting campaigns. However, the group further established that some of the current Election Regulations present a barrier to such campaigns and genuine debate.
8. In particular the group looked again at the rules on negative campaigning. Noting that candidates with a string of Union positions appear more impressive than an eager novice candidate, even if their Union involvement has been lacklustre, the group concluded that it should be possible to legitimately question and even attack a candidate’s Union record. This would not extend to personal or *ad hominem* attacks, but would level the electoral playing field towards greater involvement rather than those who have an unhealthy desire to sit as faceless members on yet more Committees.

### ***Council: More Than a Talking Shop***

9. As the Union’s sovereign body Council inevitably has an important role in engaging with students, and involving them in the governance of the Union. As the most visible forum for discussion of Union policy it is often the first place that students turn when they seek to become involved in the Union. However, many students find Council overly bureaucratic; distant from the very members it is supposed to represent, and a forum for petty political point scoring instead of debate about the issues which affect students.

- |   |
|---|
| <ol style="list-style-type: none"><li>10. At the root of Council’s problems is the perception, strongly based in reality, that it is too unresponsive to the wishes of “ordinary” students: those who turn up with interest in an issue Council is debating can</li></ol> |
|---|



have limited influence over the decision reached. One way to answer this problem is replacement of Council with a Union General Meeting, where all those members attending have equal voting rights, and an equal voice in the Union. However, given Imperial's multi-campus environment this could create a democratic deficit among those members who are unable to attend. A solution is to allocate a number of votes on Council to observers (who must be full members of the Union). This allows anybody to attend Council and influence its decisions, while maintaining the representative structure. If this is to work it is essential that the "ordinary votes" have significant weight, and accurately reflect the opinion of all observers. The recommendation is that 10 votes are allocated in this way, and they are cast proportionately according to the result of the observers vote.

*Note: this is a "controversial policy" that shall be proposed separately*

11. Addressing the matter of Councils bureaucratic nature, this can often be attributed to those who possess a mastery of the Union's constitution using this knowledge to hijack Council. The tool most commonly used for this theft are procedural motions, which can seem arcane and bewildering to those new to Union Council – and even those with more experience. While some motions need to be retained, point of privilege may be an example of this, most can be, and should be, scrapped with no adverse effect on proceedings.

### ***Council: Representing Students***

12. Council should be the democratic parliament of the Union. Its role should be to set policy, to scrutinise and to hold officers to account. It therefore should represent the views and interests of the Union's members, not the Union's Officers. Council should represent students as Members, not students as club members or students as Faculty Union members. The current situation, where Officers form the clear majority of votes on Council is not in keeping with the principles of a democratic parliament. Officers should form the minority of votes, as is usual and recommended for any charity's board of governors. It is suggested that representatives should have a clear majority so that they can vote down the Officers on any issue. Any concerns that a body of this nature could become unwieldy and break the law are addressed in chapter seven with the proposed introduction of a Union Court.

*Note: this policy shall be proposed separately*

13. For councillors to truly represent students they need to regularly canvass the opinions of those in their constituencies. It should be stipulated that a key requirement of the position is for councillors to hold surgeries before each Council to enable students discuss their views. Currently, this practice is rendered unfeasible by the tardiness with which papers are submitted to Council. It is not possible to canvass opinion on an issue which is raised only hours before a



meeting. The rules regarding submission of papers already exist, but they need to be more stringently enforced (possibly reducing the lead time for reports to 2 days to reflect the pace with which events can take place) with clear sanctions against those who fail to adhere to them – particularly Sabbatical Officers. It should also be possible for students to lend their support to motions which have already been submitted without going through their councillor. This can be facilitated by allowing online seconding of policy that has been submitted to Council.

### ***Union Officers: Action People***

14. Those students who do become involved as Union officers usually do so with the intention to carry out specific activities. Few people are tempted by a life of endless meetings and reams of paper. The current system does not facilitate this desire to actually do things: if an officer wanted to run a relevant campaign or event they would need to wade through the Union's committees to secure money – a process which could take weeks and lead to the original proposals being diluted to fit the whims of another officer. This stifles new initiatives and is an unproductive use of people's time. It is proposed that officers are given the power to act on the manifesto commitments they gave, along with other ideas they may develop. For this power to be of use they also need to be given money: all Union officers should have a personal budget which they can spend on relevant activities – which do not need to be approved in principle (though claims would need to be signed off at the appropriate level, i.e. DPFS for Sabbatical Officers and central Union officers, FU Treasurers for Faculty officers). The size of this budget would vary depending on the post in question. In descending order this could be: Sabbatical Officers, ICU Welfare Campaigns Officer (or equivalent posts), ICU Equal Opportunities Officer (or equivalent posts) FU Presidents, FU AAOs, FU Welfare Officers, Department Representatives and Councillors. Suggested amounts range from £1000 for Sabbatical Officers to £50 for Councillors. (See *appendix A for costing details*.) If this is to work effectively an additional central reserve of money is needed to allow successful initiatives to grow and continue to succeed.
15. It is vital that all officers feel an integral part of the Union. To help with this there should be a constant flow of information and consultation throughout the representative structure in both directions. This needs to be combined with appropriate training and support throughout the year to ensure that officers feel they are valued by the Union and can contribute to its success. Consideration should also be given to providing Officers with benefits such as discounted entry to Union events to encourage a sense of belonging, and also as a reward for what is often thankless work.

### ***Performance Related Pay***

16. It is vital that the Union's Sabbatical Officers are held to account and fulfil their duties properly. Unfortunately incompetence and laziness are often left unpunished as the available sanctions, censure and no confidence, are seen as too extreme. It should be possible for the electorate to constantly hold those it has elected to account, and take action if things are amiss. A proposed method of this is to introduce performance related pay for Sabbaticals. This would be achieved but cutting the basic salary by a given amount, and introducing bonuses of equal value. Currently this could be cutting the salary of £15k to £12k and introducing a bonus of £1k per term. This bonus would be dependent on the officer meeting a series of pre-defined targets which could include things such as running a campaign or submitting reports on time. Deciding such an important and tangible issue is an effective means of engaging with students. Council would therefore need to play a key role in the process, but the final decision would have to be taken by a more impartial body to ensure fairness.

*Note: this is a "controversial policy" that shall be proposed separately*

### ***Meeting the Rector***

17. Although the Union President has regular meetings with the Rector for many students it can seem impossible to make their views known to him. The Union should not simply be a conduit through which student views flow to the College, but rather a facilitator for direct discussions between students and the College. Introducing an open forum where anyone can raise pertinent issues would help address this. However, to prevent this from appearing as a pointless PR exercise it is vital for these forums to be followed up with actions by the relevant parties in the College and the Union. The outcomes should be reported clearly to all students so build confidence in the ability of the Union and students in general to effect changes within the College.

### ***Communicating Success***

18. All too often the Union fails to communicate its many successes to students. Issues such as 24hr library opening and the location of a cash machine are taken for granted. Although the Union does communicate through e-mails and the Union newsletter these are often discarded. New methods of breaking through students apathy should be looked at to ensure that students recognise what their Union does for them. Furthermore the Union should actively promote its responses to student opinion. Initiatives such as "Your Say" are well conceived but can, despite reality, seem like a black hole: ideas go in but nothing comes out. The comments submitted to Your Say should be reported to students, both through Council and the media, along with any actions that are the result of those suggestions. Importantly, each submitter should receive a personal reply from the Deputy President (Finance and Services).

## **CHAPTER FOUR**

### **GOVERNING THE UNION'S COMMERCIAL SERVICES**

#### **Introduction**

1. Sub Group Four of the ICU Governance Review was broadly tasked with investigating the mechanisms by which ICU's Commercial Services are currently governed and led by the student body and devising mechanisms by which students could better influence the commercial services provided to them by their Union.
2. The first step was to look at the structure currently in place, and what services come under this structure. Once this was done, the strengths and weaknesses of the current structure were looked at, and also the suitability of the current structure for governing individual services.
3. After this process, possible solutions to problems identified were investigated, some of which rely entirely on the recommendations of other groups (as do many of the recommendations and options put forward by all groups indicating the holistic and inclusive nature of this review, and also the depths to which the current review is looking) but others can be effected independently of decisions taken impacting other sections of the Union's governance structure.

#### **Aims of Group Four**

4. Group four specifically sought to:
  - a. Investigate the level to which democratic governance should influence the direction of commercial services within a student led organization.
  - b. Define the boundaries between governing policy and operational management of our commercial services.
  - c. Consider the current role and structure of the Trading, Services & Retail (TSR) committees, the need for these committees and why they are historically so poorly attended.
  - d. Consider what the overarching direction should be for our commercial services and how they can best serve the student body.
  - e. Investigate the circumstances under which a commercial service can be classified as a welfare operation.

### **The current structure**

5. Commercial services are currently governed via the TSR committees. Historically, this was three committees, the Trading committee, the Services committee and the Retail committee. The trading and retail committees were merged to create the trading and retail committee (TRC) with the services committee (SC) remaining but still grouped under the same umbrella with direct reporting to Exec.
6. The SC was effectively a minibuses committee but also considered reports from the Union Advisor.

### **The Services Committee**

7. The services committee was the first to come under scrutiny.
8. It was agreed by all that the consideration of welfare issues as a commercial service was not particularly suitable. With the recommendation from Sub Group Six to split SAC into a Clubs & Societies Board (CSB) and a Representation and Welfare Board (RWB), both of which would have policy making powers and their own budgets, it was unanimously agreed that the Union Advisor should report to the RWB rather than the SC.
9. This then left the SC as a *bona fide* minibuses committee, however, it was not felt that the Union minibuses warranted their own individual committee with policy making powers and that the minibuses were not actually a commercial service so should not be considered by the commercial services section of Union management. As the minibuses are primarily used by clubs and societies, the group felt that the Union Transport Team should report to the CSB.
10. This leads to the proposed dissolution of the SC with all its considerations transferred to other committees.

### **The Trading and Retail Committee**

11. Consideration of the TRC was more involved as it was felt that the current system was not working and that a new approach was needed, rather than a simple reorganization as was carried out with the SC.
12. The main failing of the TRC is that it is very seldom quorate and, because of this, has seldom used its policy making powers. It was also felt that the committee was very staff heavy and that the staff present often felt that they needed to defend their particular departments making for a somewhat confrontational attitude in some instances. This introduced the level of student involvement in policy itself and how this could be best effected.
13. It was felt that the committee was too negative, the students often less educated with regards to running commercial services than would be

ideal, the staff defensive when their departments were being looked at and the students that did attend were often the same ones, all of whom were hacks but unfortunately tended to present their own views rather than those of the student body. Thus the TRC effectively became a cabal.

14. It was agreed that the only way to truly gauge student opinion on the performance of commercial services was through large-scale consultation rather than through a TRC. If one launches too many questionnaires, the response rate rapidly falls making the result less useful and decreasing the quality of the result of the consultation. It was felt that, at best, only one large questionnaire could be put out each year without boring people into non-submission.
15. Obviously, gauging opinion once per year is not suitable and would not engage the students so there must be a mechanism for interim consultation. It was proposed that we should hold forums where students could freely put forward their views to the DPFS and the Head of Commercial Services but without other staff being present. This would allow people to have a large amount of input at a high level in the governance of the commercial services provided but not cross the line into management which is where problems have historically been caused.
16. It was stated that the Medics already hold large forums for their members to comment on all student activities, the bar and also their clubs and societies. This ran as a Q&A session for about 300 people followed by drinks. These forums were held twice a year; it was agreed that these were effectively non-sovereign general meetings that only addresses student-facing issues. These forums were felt by the Medics to be extremely useful and provide a good amount of useful information and opinion.
17. It was suggested that a system like this could be run by the other Faculty Unions. However, this would not be entirely suitable to looking at the commercial services provided by the Central Union as it would be difficult to use the Faculty Union structure to consider Central Union commercial services. It was felt that smaller scale and more informal forums would be more useful, more inclusive and make students feel that more consideration would be given to their points.

### **Trading and Retail Forums**

18. The frequency and format of the forums has been discussed and is proposed to be that they shall meet approximately once monthly in the first instance with this arrangement being reviewed regularly to ensure that the forums are effective and suitably fulfilling their purpose.
19. The forums will be quite large-scale in order to filter out the effect of small groups pushing their individual agenda. The target will be for about 80 – 100 people per forum.

20. Numbers will be controlled by ticketing, an all-student email will be sent out advertising the forum with free tickets available on a first-come, first served basis initially. This will allow the people attending to be monitored in order to determine if the forums are reaching a large and representative cross section of the student body, or if they are only being attended by the same select group of people.
21. The forums will be attended by the DPFS and the Head of Commercial Services. No other staff members will be present although other sabbatical officers will, of course, be able to attend *ex officio*.
22. The forums will include a question and answer session with the DPFS and the Head of Commercial Services; this will provide some structure and allow for agenda to be proposed in advance. The question and answer session would then be followed by an “open floor” session with people able to speak directly to the DPFS and Head of Commercial Services on a one-to-one basis or in small groups.
23. It is also proposed that there will be some drinks and snacks provided at the forums to attract more attendees and also make the forums seem less like a formal meeting and more like an informal focus group.
24. Formal policy matters for Commercial Services would be taken to the Executive Committee rather than be considered in a sub-committee or President’s committee.
25. The TRC currently considers the financial accounts of Commercial Services, this obviously cannot be done in forums. Therefore, Exec must consider written and financial reports from Commercial Services twice per term to ensure continued scrutiny of these areas by the student body. This would have the added advantage of the ‘management’ arm of the student body directly considering the reports from Commercial Services rather than a small, and often in-quate, group of students that may or may not represent the student body as a whole.
26. To ensure regular feedback from the forums, the DPFS should present a report giving details of the discussion to the next meeting of the Executive, this would also allow the Executive to monitor progress and efficacy of the forums.

## **CHAPTER FIVE**

### **ELECTION AND MEETING PROCEDURES**

#### **Introduction**

1. The Governance Review delegated the task of examining meeting procedures (particularly those for Council and General Meetings) and election procedures to Sub Group Five.
2. The group came to a consensus on suggested variations to the procedural motions at Council and General Meetings. Another novel proposal on Chatham House Rules did not reach a consensus and will need further discussion.
3. The group also considered the election rules, and came to a consensus on a set of rules allowing election material to deal with other candidates' records, to a limited extent.

#### **Procedural motions**

4. The prevailing view of the group was that the procedural motions do have a purpose, and can provide structure to a meeting which can be substantial in size, but has been abused and sometime brought ridicule upon the Council.
5. It was commented that several years ago such procedural motions (even though they all existed) were rarely used, and the chair ran the meeting with greater freedom. This was viewed as a consequence of the culture of a particular group of people in a year, rather than what the regulations said.
6. In an ideal world, the procedural motions would be hardly ever used, and the chair would use his or her judgement to determine the length of debate, run the votes and adjourn the meeting at the end. If the chair having difficulties running the debates, or the meeting was particularly fractious, than the procedural motions would be more likely to be used.
7. The meeting came to the following view upon the procedural motions in regulation 4:

<b>Motion</b>	<b>Consensus</b>
a. Point of order, *	Chair to rule, that decision being final
b. Point of information, *	Do not change; make it clear that has always been at the speaker's absolute discretion
c. Point of privilege, *	Chair to rule, that decision being final



d. To vote on a ruling of the Chair, +	Do not change (now doesn't apply to a – c)
e. An objection to consideration of a question,	Modify name of motion to “An objection to consideration of a question or motion”
f. To suspend or revoke a guillotine, ++ #	Chair to rule
g. To recess the meeting, #	Chair to rule
h. To vote on a question in specific parts, * #	Chair to rule
i. To vote on a question as a public roll-call vote, & c	Abolished for censure and dismissals (automatic secret ballot), abolished for election disputes if remaining with the Council, doesn't apply to procedural motions
j. To vote on a question as a secret ballot vote, ++ c	Same amendments as roll-call vote
k. To reconsider something already voted on, * ++	Chair to rule
l. To consider something out of its scheduled order, * +	Chair to rule
m. To move to a vote, + #	Chair to rule
n. To stop a question being considered, and not vote on it, +	Abolish – can cause a ping-pong between this and <i>h</i>
o. To adjourn the meeting. + #	Do not change

**Table 5.1: Summary of proposed changes to procedural motions**

- The basic concept is to give more power to the chair to direct the proceedings. No longer would a vote have to be carried to go to a vote or to move agenda items around. Obviously chair's ruling could be challenged if someone wished to do so. But the emphasis now lies much more heavily with the chair.

### **Roll calls and secret ballots**

- The prevailing view, though with some differences of opinion, was that the roll-call and secret ballot provisions ensure that in Council meetings, where people are the representative of various constituencies (a feature which has become more prevalent, and may go yet further) allow their constituents to know how their representative has voted. This is something students have the right to know – by way of analogy the House of Commons' divisions list which MPs have voted for or against particular motions. It would appear poor practice of democracy if people could hide their views from their electors.
- Set against this is the need in certain circumstances for people to be able to vote according to conscience – the most important examples of



which were the disciplinary motions and election disputes. Therefore the view was that the roll-call/secret ballot system would remain, but an exception be made for those votes. It would also be disappplied to other procedural motions – the idea of a secret ballot on whether to move an agenda item around did not seem very attractive.

### **The Chatham House Rule**

11. A discussion was had, without reaching consensus, on introducing the Chatham House Rule (named after the institution of the same name which created the rule in 1927) into a particular debate, if the Council wished. This rule states:

*When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.*

12. The arguments for its introduction were that it would replace a large proportion of the closed session as a tool for ensuring that people could speak their mind freely on a topic without being worried about the consequences – it thus allows more open discussion. The Chatham House Rule would therefore open up debate a little more, because closed session would not be needed.
13. The arguments against its introduction were that it would look very poor if the likes of STOIC who were videoing Council were told to switch its cameras off, particularly if the debate was important. The fact of its creation may tempt Council into invoking it more often than they might otherwise used closed session now.
14. Another suggestion was made that closed session for Council should be abolished and entirely replaced with the Chatham House Rule. People should always know what was debated, and Full Members in particular should be able to participate in debates, but if freer discussion was regarded as in the student interest, it could be done just through anonymised debate, rather than secret debate.
15. The Chatham House Rule implies a moral obligation not to divulge the speaker's name, though it could be enforced with disciplinary measures if desired.

*Note: this is a “controversial policy” that shall be proposed separately*

### **Election procedures**

16. The election procedures were generally regarded as working well, with the introduction of electronic ballots creating an enormous increase in turn-out. This has significantly changed the culture of elections. The introduction of two year sabbaticals has also occasioned the need to look at some of the rules again.

17. It was decided that hustings could include, if it could be arranged, a “Paxman” style interview or round-table debate among the candidates. This may put pressure on candidates to flesh out their views or ideas on policy. The normal hustings speeches and questions would remain.

### **E-mail campaigning**

18. The problem of e-mail campaigning was discussed – the consensus being that it was endemic, even if frequently against the rules. The normal rules were that no spam was permitted, a specific sender had to be shown on the e-mail and the e-mail had to be to people the sender personally knew. No group mailing lists were permitted, and sending email in an official capacity was forbidden.
19. It was agreed that some e-mail campaigning was appropriate, because it ensured those on other campuses or impecunious candidates would not be unfairly disadvantaged. However it had to be tightly regulated, as otherwise elections would turn into spamming competitions, which would do neither democracy nor the Union’s reputation a service.
20. It was also agreed that the problem of breaches of e-mail rules couldn’t be dealt with by the rules themselves – it was going to be a constant battle with the spammers, with the assistance of the Union and College IT services.

### **Campaigning on the record**

21. A consensus was come to that the rule prohibiting any reference to other candidates’ records and achievements withdrew perfectly proper and reasonable information from the knowledge of electors. This was particularly noticeable in elections for a sabbatical officer to serve a second term. The group was adamant that negative personal publicity and abuse could not be permitted.
22. It view was that candidates could include in their publicity references to other candidates: commenting on their record, but not their character. A quote attributable to a candidate (in writing in minutes or a publication, or at a recent public event such as hustings) would be permitted, and this compared with a candidate’s performance in his elected role. Unattributed remarks, or those without compelling evidence would not be permitted, and the candidate wishing to raise them would have the burden to show they had been made.
23. Candidates could advertise their own political or religious affiliations, but not draw attention to others’. Political affiliation in this sense covers political views outside the student domain. If candidates make inconsistent attributed comments, this could be highlighted.
24. Examples of what would and would not permitted follow:

- A candidate says in a Felix interview and hustings “I have helped and will continue to help the X campus”, and accepted in Council minutes six months ago that she had never visited it. **Permitted**
  - A candidate is alleged to have made racist remarks in dB’s to his friends. No minute or record was made of any comment. **Not permitted**
  - A candidate is a member of a political party, or believes the UK should withdraw from the European Union. **Not permitted** (but candidate could advertise his own view)
  - A candidate believes that full price flexible fees are the best hope for higher education. **Permitted** (political, but student-related)
  - A candidate did not attend half the year’s Council or Exec meetings as an FU President. **Permitted**
  - A candidate who previously or currently held sabbatical office took excessive holiday leave or worked short hours. **Permitted**
  - A candidate is promiscuous. **Not permitted**
  - A candidate has failed an academic year. **Not permitted**
  - A candidate is an orthodox and devout Christian. **Not permitted**
25. No detailed discussion was had on whether the results of a disciplinary hearing where the student was found to have committed misconduct could be aired – this might be pertinent if a student was found to have been involved in fights, abuse or similar conduct.
26. Comments on publicity would still have to be approved by the returning officer or elections committee. If a candidate about whom a negative comment had been made demonstrated that it was untrue, the candidate who made it would have to remove all posters, or print retractions (if e-mail or publication publicity) within 24 hours. No new negative publicity would be allowed in the final run-up to the election.

### **Two year sabbaticals**

27. The group discussed an amendment prohibiting a President from either being elected thereafter as a Deputy President or holding Presidential office for two consecutive years. The restriction on undergraduates who have not completed their degree yet would still apply.
28. These new restrictions should be considered together with new elections rules of “campaigning on the record” – which is the right of candidates (including New Election) to raise any weaknesses on suitability for office related to a candidate’s past performance in it. This may have particular resonance in a sabbatical campaign.

29. The reasons for prohibiting a President from becoming Deputy President thereafter may be obvious (though no-one has yet actively sought to be so elected); it would, among other things, place the management structure of a sabbatical team in some serious practical difficulties. A President could still be elected as Felix Editor or to other sabbatical office.
30. The prohibition on a President holding office for two consecutive years would not prohibit a President from spending a year back in his studies before returning to office later – though this could not be undertaken by a President who would have left the College but for taking office. It may encourage a person seeking office for two years to become a Deputy President first, and then seek the students' approval for promotion.
31. Previous experience of those holding Presidential office for a second year has led to some further knowledge about the practicalities of the system. One difficulty is the powerful dissuading effect upon good potential candidates when an incumbent stands again – something which is more acute in senior posts (though campaigning on the record would assist). The advantage of continuity in post may be outweighed by the distance from the student body that can develop over time.
32. Other methods of screening second sabbatical year candidates can be considered: there is one student union which requires a secret vote of the Council in relation to any holder of sabbatical office who wishes to stand again.

### **Agents' actions**

33. It has been a fundamental convention in election practice that a candidate is responsible for the conduct of anyone acting on his or her behalf. This is not formally provided for in the regulations. A proposed section would ensure that it is.

### **Permanent disqualification**

34. A brief discussion was had on the idea of permanent disqualification, without any consensus being sought or details being worked out. Permanent disqualification would mean a candidate who had been disqualified from an election would not be permitted to stand in any other election. A short set of draft rules have been provided in case this idea is pursued.
35. This would only be appropriate in cases of disqualification, which themselves only arise when a candidate or an agent has been dishonest. In national or local elections, electoral dishonesty is normally a criminal offence, and those convicted are disqualified for life from voting or standing in any election again. It may be appropriate in cases of calculated dishonesty.

36. One potential system may be that a person disqualified from any election would remain permanently disqualified, but the Council can remove the disqualification. That would mitigate the harshness of the rule, while still providing some further incentive for people not to corrupt the electoral process again.
37. There would also be a provision to disqualify those who were not candidates in an election who were assisting a candidate in a dishonest act, as they were just as culpable as the candidate.
38. There are, of course, various ways of implementing such a system, to distribute the substantial powers so as to ensure that it doesn't give excessive authority to the returning officer. Therefore the returning officer could disqualify a candidate as before, but would have to make a reference to the Union Court (discussed in chapter seven) in order to disqualify any agent from standing again. Also a disqualification of these sorts does not remove a person from any post they currently hold.

## **CHAPTER SIX**

### **ICU COMMITTEE STRUCTURE AND COMMITTEE POWERS**

#### **Introduction**

1. Group Six examined the committee structure and powers of officers and committees, particularly taking in suggestions from other Groups since each of their deliberations would affect this one, and came to a consensus on various reforms and ideas.
2. The next two chapters, written by Group six, are substantial. The suggested reforms would leave few parts of the upper reaches of the Union unaffected and would change our relationship with the College. Some of the ideas may require careful consideration before fully understanding them, and, as ever, many ideas represent compromises between different interest groups and occasionally competing policy considerations. The intended reforms are designed to be ones that should attract support from within the Union.
3. The report consists of this introduction and an executive summary of the changes. It then splits into separate chapters for each theme of governance reforms, and includes an appendix with draft changes to the various governing documents so it can be seen what precisely is intended.

#### **History of governance reforms**

4. The Union considers some form of governance reform nearly every year, and in the last few years the Council has been busy considering relatively small constitutional and regulatory amendments. The Union amends its own governing documents with great frequency, mostly due to the ever-changing membership and leadership: each generation brings their own ideas and implements them. This is not process that is ever going to stop.
5. The memory of Group Six extends back to the constitutional reforms of 1994 under the then President Lucy Chothia, although one member recalled meeting an ex-ICU President from the 1950s, when the Council consisted of twelve people and chose the President itself. Lucy's reforms instituted the Council as the sovereign body, taking this role away from General Meeting. The GM had created real and practical problems for the Union at the time, with whichever dominant interest group in the ascendant (they change from year to year) being able to 'pack the hall' and push through ill-considered policy.

6. Eric Allsop, President in 1996 – 1997 made some further reforms, replacing the Appendices with Regulations and clearing up much of the drafting, including making the new Regulations much more self-contained. After some difficulties with the sabbatical elections, the rules governing the 'New Election' campaign were toughened. One sad reform was the removal of the Bookstore Committee, made necessary by the Union's book shop being removed by the College and replaced with Waterstones.
7. The post of Deputy President (Education & Welfare) was created in 1999 after several years of debate. Previously the roles had been conducted by the President and the Welfare Officer.
8. Hamish Common, President in 2000 – 2001 conducted a substantial review, re-drafting about  $\frac{2}{3}$  of the current constitution and regulations. His reforms instituted the policy-making and money-authorising Executive Committee (was previously a talking shop), abolished the Union Finance Committee, created the Student Activities Committee, instituted two year sabbaticals, created the register of officers' interests and substantially revised the election rules, meeting procedures and procedure for censure and dismissal. The constitution was also reduced by about a  $\frac{1}{3}$  in length. The Memorandum of Understanding was also fully re-negotiated in this year.
9. In the summer of 2001, just as Hamish Common's governance reforms had been finally approved by the Council and was being sent to the College, the new Rector Sir Richard Sykes announced his plans to create Faculties spanning over the departments. These reflected the old role of the Constituent College Unions sufficiently to replace them as the major academic sub-divisions of the College. This has arguably strengthened CCU/FU activity and identity significantly: the CCUs had been facing a slow decline and there had been repeated attempts to whittle them down or abolish them until 2000. However the Faculty structure did not match the original constituent colleges – the differences have created some anguish and constitutional difficulties.
10. Sen Ganesh's (President 2001 – 2003) term saw through the moving across from CCUs to Faculty Unions and reforms of the Council membership: the departmental representatives were removed and the number of ordinary members was substantially increased. Various other Faculty representatives were also added.
11. Mustafa Arif's (President 2003 – 2005) term saw the abolition of the Annual General Meeting and the abolition of several of the President's Committees, including Health & Safety, House and Student Development. The Retail and Trading Committees were merged. The Finance Regulations were amended, to require the Executive Committee to approve consolidated budgets and investment of surplus. The reforms also included in the Finance Regulations (paragraph 6(b)) a new requirement for the Union General Manager (head of the staff) to personally consent to any agreement made by signature by any part of



the Union creating legal relations. This, in the view of the Sub Group, significantly reduces the ability of elected officers to govern the Union.

12. The post of Deputy President (Graduate Students) was created in 2005, along with the Graduate Students' Association.

### **The Current system**

13. Two models were considered for Union governance (in chapter two): one where the Union's position as an integral part of the College was clarified for certain, and another where the Union became a legally separate entity from the College. Being an integral part of the College leaves the Union with substantial flexibility for any structure subject to the Education Act 1994; becoming a separate charitable organisation will require substantial changes, some which will not be in keeping with current notions of student democracy.
14. The current system was regarded by the Group as being, very broadly, good. The basic structure of the sovereign, policy-making Council, managing Executive and Union officers (both sabbatical and otherwise) remains.
15. Difficulties with the current system are inevitably numerous, but the following is a list of issues which are often regarded as problematic:
  - i) The policy-making and budgeting powers of Council, Executive Committee and Student Activities Committee (SAC) mean that they each become 'mini-Councils' and appeals can run up through the chain.
  - ii) The Council involves itself too readily in technical and management issues (with very long meetings). Students who are not involved in the Union do not feel part of the Council's process.
  - iii) SAC's success in building a forum for clubs and societies has highlighted the lack of one for those more interested in welfare and academic representation.
  - iv) The relative ease with which people are forced to go on the record in Council meetings in votes of some sensitivity, such as disciplinary motions and elections disputes, has meant that people were dissuaded from voting according to their own conscience and judgment.
  - v) The political nature of the Council rendered it frequently an unfit forum for election disputes, quite apart from the voting rules.
  - vi) The lack of a firm system for resolving media disputes and complaints, a problem all the more serious with the current direction of defamation law and harassment (including criminal penalties).



- vii) Poor performance by officers or representatives, whether senior or junior, was not easily remedied. Derisory or insubstantial reports did not attract any adverse consequences.
- viii) The authority of the President to interpret the rules and staff-student protocol can result in him or her determining the limits of his or her authority, and deciding what the rules say. It permits, or gives the impression of permitting, senior officers to declare the regulatory position to be whatever favours them.
- ix) Officers, with the exception in certain respects of the President, have very little discretion to do anything without first taking it to a committee – they are thus often unable to implement their manifesto.

16. The above list is not meant to be comprehensive, and does not look in detail at the work of the other Groups, with some exceptions. The reforms attempt to address all of the above problems.

### **Proposed reforms**

- 17. The Council remains sovereign overall, although sovereignty in election disputes and interpretations is moved to an independent body (discussed below). The Executive Committee remains the management committee for the Union.
- 18. One theme of the reforms has been a clearer separation of powers and duties among the senior bodies and officers. The separation of roles of the Council and Executive Committee is reflected in their membership overlapping less, hopefully creating a different culture between the two committees: the Council legislating and saying “who we are” and the Executive Committee helping manage and saying “what we do”.
- 19. A significant separation of power would be instituted with the creation of the “Court”, consisting of various students and a small number of external members. This would deal with interpretations, election disputes, media disputes, conduct inquiries if asked and any other appropriate role it was asked to perform.
- 20. The name of the “Student Activities Committee” would be changed to the “Clubs and Societies Board”, more accurately reflecting its remit. Its role and powers would remain unchanged.
- 21. A “Representation and Welfare Board” would be created to provide for those areas what the SAC provides for clubs and societies. It would be entitled to make policy and spend money.
- 22. The ability of officers to have more discretion in what they do without having to take things to a committee would be extended marginally by providing them with relatively small budgets, which of course would have to be spent within the Finance Regulations. Any areas where officers

need to be able to take decisions in certain matters are best addressed by amending policy where appropriate.

23. The Aims and Objects have been amended to include democracy, equality and diversity as principles the Union must have regard to while pursuing the main aims. This would be the first mention of democracy in the constitution; though this ought not to change what is a strongly held tradition (and requirement under the Education Act 1994) it may reinforce any argument about whether the Union should, in some respect or other, act democratically or not. The reference to equality and diversity also reinforces the Union's duty to treat its members equally and that its highly diverse membership is well accounted for.
24. There is a philosophical reason in having democracy, equality and diversity as principles through which the aims are pursued rather than aims themselves. Some student unions have chosen to treat them as aims, frequently to the apparent exclusion of everything else. This can distort such unions' priorities and distract them from properly serving their student membership. It can also be undemocratic, because policy-making bodies spend disproportionate time examining themselves rather than holding anyone else to account.

### **The composition and role of the Council and Executive Committee**

#### ***Present system, history and principles***

25. The Council is currently the sovereign and governing body of the Union. The Executive Committee is the managing board of the Union.
26. Until 1994 General Meeting had the right to overturn any decision of the Council. This was then replaced with the current system, whereby General Meeting is entitled to refer back a policy to the Council, who would be under a moral obligation to reconsider it.
27. Until 2001 the Executive Committee and Union Finance Committee shared the role of management board between them, though neither were entitled to pass binding policy. Their memberships overlapped substantially.
28. The Council is, by its nature as a democratic parliament of the Union, a large body whose members vary substantially in their involvement in and knowledge of the Union's structure and rules. This is entirely laudable as it is a body which should attract a wide range of students to sit upon it and restricting membership in some manner to those with deep innate knowledge of the Union's rules would not be democratic and would result in a very inward-looking governing body.
29. It is vital to maintain a significant presence of student members of Council without a long history of high-end Union involvement: it increases involvement from a wide range of students and it maintains

fresh thinking at the top end of the Union. If those members are elected from the whole student body, it is also democratic.

30. It is further vital that the Council maintains its overall position as the “sovereign” (that is, within the Union, no other body can over-rule it) and governing body of the Union.
31. It is also important, if trite, to ensure that the Council is representative of the membership. It is a frequent criticism that the Council is in some way not representing students. Whereas often this criticism is merely asserted and not usually accompanied by any kind of analysis, it is important that the degree to which the Council represents the membership is continually assessed.
32. The current, newly instituted membership of Council, with proportionally elected “Union Councillors” should go a great deal towards a system which would answer such concerns. The proposed system would partly expand it.

### ***Present membership***

33. Council is currently composed of the Sabbatical Officers, non-sabbatical Union Officers, FU welfare, education and research representatives and 15 Councillors drawn by approximately proportional representation from the faculties’ undergraduate and postgraduate student bodies.
34. The Executive Committee currently consists of the Sabbatical Officers, FU Presidents, 2 members appointed by SAC, 1 by Welfare Committee and 1 by the Academic Affairs Committee.

### ***Proposed membership of Council***

35. Council would be composed of each member of the Executive Committee, a representative each from Silwood and Wye and an expanded number of Union Councillors (up to 30), elected in the same manner as before.
36. There was a proposal which did not receive consensus or agreement, for a sex balance to be incorporated into the Union Councillor elections. This stems from the small number of women on the Council, even in proportion to their number within the student membership. The proposal would be that each ‘constituency’ (i.e. Faculty of Engineering graduates, or Medicine undergraduates) which elected two or more Councillors would elect at least one man and one woman, if both sexes stood. The advantages and disadvantages were discussed as follows:
  - + The lack of women on the Council means that it is not representative of them and their concerns as women;
  - + A male-dominated Council behaves differently as a group to one where the sexes are balanced, the latter being more measured;

- + Imperial College Union in particular is male dominated and should consider ways to redress the balance;
  - + It is the most conservative and simple way of ensuring a better balance of the sexes on Council;
  - + It ensures, unlike special women's or men's positions, that all Union Councillors represent their whole constituency, and everyone can vote for against them;
  - + It is sex-neutral (and shouldn't be otherwise in case it falls foul of the Sex Discrimination Act)
  - It restricts the right of the electorate to choose whom they want to represent them;
  - A person could stand in a field as the only member of his or her sex and be elected, despite being very unpopular with the electorate;
  - There may be a perception on the Council that they have a reduced electoral mandate;
  - The Single Transferable Vote with Quota for multi-member constituencies is complicated enough without introducing this measure – the rules adapted and software written to accommodate it would be difficult.
37. The Council would, under a separate proposal which did not achieve consensus or agreement, arrange for Full Members of the Union in attendance to be able to contribute towards a vote on policy and amendments thereto. Full Members not on the Council could contribute up to 10 votes in addition to those on the Council. The distribution of those 10 votes would be in proportion to the voting patterns of the people voting. If fewer than 10 such people vote, then they have one vote each.

*Note: these are “controversial policies” that may be proposed separately*

### ***Proposed membership of the Executive Committee***

38. The Executive Committee would be composed of the Sabbatical Officers, FU Presidents, 2 CSC Chairs, 2 members of the new Representation and Welfare Board, Officers and potentially one member of the College academic staff.
39. The CSC Chairs and R&WB members would be “ordinary members” of the Executive Committee, as they were appointed by the Council. As such, they could summarily be dismissed by the Council too – purely from membership of the Executive Committee.

40. The member of the College academic staff would be nominated by the Rector upon the proposal of the Council. He or she would be a full member of the committee with the same rights as any student member. The idea of a College member is to provide “sobriety without domination”. It may temper the debate and provide access to some continuity and expertise, but a single member is never going to be able to dominate the committee. The restriction to academic members of staff prevents members of the College administration being able to sit on it.

### ***Council procedure***

41. Group 5 examined Council procedure in detail in response to repeated concern that the use of procedural motions at the Council were debilitating the quality of debate and bringing it and the Union into ridicule. It was concluded that culture had a significant role to play. However, some amendments were made to give the Chair greater discretion in managing the debate. Censure and dismissal motions would also only be voted upon in secret ballot.

### ***Role of the Council as a scrutiny and accountability body***

42. The Council and to a varying but usually lesser extent other committees are responsible for examining the actions of various officers and representatives, and have the power to hold them to account. In particular the Council can dismiss any person from their post.
43. However, the fact that the Council members – noting in particular the expansion in recent years of members whose presence on the Council is not due to holding a Union post – do not know the details of Union’s rules creates some problems:
  - (i) They are not aware if those rules are being broken.
  - (ii) They defer to those at the top of the Union’s administration for assistance as to what the rules are, which allows undue authority to those people to declare, potentially, the regulatory position to be whatever may favour them.
  - (iii) In the worst case, a malign senior officer could fabricate or exaggerate rules, or make threats to the body (or members thereof) holding them to account based upon an incorrect understanding of the rules or law.

This is a problem which may be replicated in various respects in other autonomous parts of the Union.

44. The Council’s standing orders, adapted from Robert’s Rules of Order, are designed for very large committees (including parliaments), sometimes with hundreds of members. The main purpose of such rules of order are for the committee to progress through an agenda and come to firm decisions on the matters before them. This may work effectively

for determining policy and resolving disputes with finality (subject to general meetings and referendums).

However, it works less well when more detailed analysis is justified of an officer's or committee's actions, if close questioning is required, or when expertise should be brought to bear. The problems are:

- (i) Close questioning of an officer on a single topic can be difficult because different members of Council have (entirely rightly) different agendas and viewpoints; either one person takes up substantial time to the detriment of others' speaking rights, or the focus and momentum of the questioning is lost.
- (ii) Members of the Council may or may not be experts on various fields of the rules, policies, law or student activity. This can allow those who are to dominate those who are not. If expertise in one area is thin on the ground, it may allow those with a little knowledge to be deferred to rather more than is commensurate with their genuine understanding of the subject. Senior officers may in particular be deferred to in many such matters of expertise, which may or may not be justified by reality.
- (iii) The Council is not a good forum for detailed analysis of topics, in part for the same reasons as close questioning and expertise (above). Also, detailed analysis of a specific topic may not be a beneficial use of a large number of students' time, and may deter otherwise interested student members and observers.

### ***Scrutiny role of the Executive Committee and proposed Court***

- 45. The Executive Committee fulfils many of the roles that Council cannot in these respects. However, the purpose of the Executive Committee is to manage, and potentially to hold subordinate parts of the Union to account to the Union as a whole. It will not be effective (and nor is it designed to) in holding the most senior officers to account.
- 46. The Executive Committee has substantial powers to scrutinise other parts of the Union if it so wishes.
- 47. The Union Court, proposed in a later chapter, will be able to take on inquiries on behalf of the Council or other parts of the Union. Its small membership, all appointed or elected by the Council, will be more capable of conducting such inquiries as are needed.
- 48. The proposed changes to the membership of the Council and Executive Committee would not change their respective abilities to examine the conduct of officers. Such a change could only come with a significant restructuring of their roles and procedures, which would then affect their ability to do the rest of their job. Thus it is suggested that some of this role is delegated to the Court.



## **Student Activities Governance and President's Committees**

### ***Present system and difficulties***

49. The Student Activities Committee was created out of the ashes of the Union Finance Committee in Hamish Common's constitutional review of 2000/2001. This was designed to bring together the clubs, societies and related activities, give them a budget, policy-making powers and, simply speaking, let them get on with it.
50. Beforehand there had never been any body where all the club and societies were represented (if indirectly) whose job it was to discuss relevant matters – except for the Council. The name "Student Activities Committee" was adopted as "Clubs and Societies Committee" was already taken by the CSCs: they had only been called that since 1997, before which they were called Major Subcommittees (MSCs) or Minor Subcommittees (mSCs).
51. The SAC is generally regarded as a success, though its remit is so wide that its meetings can be akin to that of the Executive Committee and the Council. This success has however drawn attention to the lack of an equivalent forum for debate on issues relating to representation, academic cases, campaigns and welfare. In the same way that people interested in certain clubs can contribute helpfully to debates on other types, those interested in representation and welfare can often help in debates on other related issues, if they had a forum to do so.

### ***Representation and Welfare Board***

52. A "Representation and Welfare Board" would be set up upon a similar basis and with similar status to the Student Activities Committee (itself to be renamed). Its membership would consist of the Sabbatical Officers (with the DP(E&W) chairing), FU Presidents, Academic Affairs Officers, Welfare Officers, a representative of the Halls Committee and any equalities officers that are introduced.
53. The R&WB would deal with campaigns, student representation, education, accommodation, welfare, diversity and equality.
54. The R&WB would be able to spend money from an allotted budget, and set budgets for the year for the various areas within its remit. It would be able to determine policy, subject to the Executive Committee and the Council.
55. The Accommodation Committee (possibly renamed the Halls Committee) would become a sub-committee of the R&WB.

### ***Clubs and Societies Board***

56. The Student Activities Committee would be renamed the "Clubs and Societies Board" reflecting its specialism and giving it an equivalent name (both ending in "board") to the R&WB, also distinguishing it from a



CSC. Its name would also reflect the fact that it does not deal with all student activity in the Union. Its powers and role would remain unchanged.

### ***Trading, Services and Retail Committees***

57. Supervision of the commercial trading and services of the Union was looked at by Group four in detail and is discussed in chapter four. They have concluded that the current system is not successful and should be abolished. The Executive Committee would continue in its supervisory role, with presumably more attention now placed upon these services. Forums would be instituted for a more congenial discussion of issues relating to the trading and service provision of the Union.

### ***Health and Safety Committee***

58. The College normally requires each department to have a Health & Safety Committee, chaired by its head of department, who is accountable to the Rector. Until recently the Union adopted a similar system and it is intended this be re-instated.
59. Substantial civil and occasional criminal liability can be occasioned by many of the activities conducted by the Union if things go awry. A specialist committee is needed to examine them.
60. It would consist of the Sabbatical Officers (with the President chairing), FU Presidents and CSC Chairs. It would be a President's Committee.

### ***RAG and CAG Committees***

61. It is proposed that the CAG Committee, which is currently a President's Committee, should become a non membership club. This would require a slight adjustment in operational policy to protect the committee's funding and would offer the club greater freedom in its governance. The RAG Committee, on the other, should remain as a President's Committee (or possibly become a sub committee of the CSB) for the time being as it plays an important role in co-ordinating a large proportion of the Union's fundraising activity, which is an activity that the 1994 Education Act requires the Union to report on an annual basis.

## **Accountability of Officers**

### ***Introduction***

62. There have been a number of censure and no confidence motions put to the Council in relation to sabbatical officers. A robust but fair system should be in place for holding the most powerful officers to account, even those acting in a malign fashion who are looking for procedural or other ways to avoid liability. A particular query has been: "how do you sack a President?"

63. This section suggests some methods for making the censure and no confidence system more practically useful, including a more robust mechanism for dealing with rejected reports to Council. The little-noticed constitutional provision for emergency general meetings to “hold the Sabbatical Officers and Felix Editor to account” has also been strengthened to some extent.

### ***Secret ballot and roll call system***

64. The secret ballot and roll call vote system has come under sustained and serious criticism for forcing people to go on the record in voting for a highly contentious issue. The original intent in drafting the provisions ( $\frac{1}{3}$  of committee could force a roll call,  $\frac{2}{3}$  could force a secret ballot) was to require democratically elected representatives to be held to account to their own constituents for decisions taken on their behalf. This policy may be outweighed by the necessity for freedom of choice in voting on matters of discipline. (The same could be said for election appeals if this remains with the Council). The original drafting intent was to swap the  $\frac{1}{3}$  and  $\frac{2}{3}$  around for such decisions. The current proposal is to require secret ballots for all such motions.

### ***General meetings***

65. General meetings can be called to “hold the Sabbatical Officers and Felix Editor to account” though there is nothing to say what this would mean, or what powers it has to do so. The proposed system would require the relevant sabbatical to furnish the general meeting with a report, which if rejected would go to the next Council for a further explanation and a potential censure or no confidence motion.

### ***Responsible authority***

66. The responsible authority is responsible for disciplinary warnings to individuals, and receives any censure or no confidence motions against them. For everyone except the Felix Editor, it is the President, and the Council Chair deals with the President and Felix Editor. With the introduction of the Court, it is proposed that this is amended slightly – the Court Chair deals with other members of the Court and the Council Chair. The Council Chair deals with the Court Chair.
67. As a matter of logic the responsible authority system will eventually involve two people being the responsible authority for each other, or some kind of circular chain to that effect – the alternative is that someone at the top isn’t responsible to anyone. With this system the independent Council Chair and Court Chair would watch each other, rather than the President and Council Chair watching each other. The President can concentrate on watching everyone else.

### ***Method of proposing motions***

68. Currently the only means by which a disciplinary (censure or dismissal) motion arrives at the Council is for a proposer and twenty seconders to put their name and details down. This very short petition (far smaller than most petitions required to call emergency meetings of most committees) is, of course, rather harder to fill when dealing with highly contentious issues.
69. There have been instances in the past where officers' reports have not been accepted by the Council. This raises serious questions as to the level of confidence the Council has in the officer concerned.
70. There have also been instances in the past where more junior officers or representatives have not performed satisfactorily, but the process to remove them has been seen as too cumbersome or contentious.
71. One method of dealing with these difficulties is to expand the number of avenues through which a disciplinary motion to Council can be proposed. This does not suggest any amendment to the procedure when the motion itself arrives at the Council.
72. None of this should be seen as an encouragement for such motions to go to the Council. In an ideal year, there would of course be no motions or contemplated motions.

### ***Rejected reports***

73. The 'rejected report' avenue applies if a person holding any post is required to report to the Council by any rule: for example the constitution for sabbatical officers, or a resolution for a more junior officer or club captain whom the Council wanted to hear from. If a report is voted on and rejected, rather than merely not discussed, then it must be re-presented to the next Council, which, if it rejects it, goes immediately on to discussing a motion of censure. If the person has already been censured, then it is a motion of no confidence. General Meetings have been able to formally 'hold the Sabbatical Officers to account' for over a decade, but now if it rejects a report then that too would have to be re-presented to the Council.
74. The philosophy behind this is that any officer or representative should have the confidence of the Council, this confidence being expressed through the acceptance of their report. It will also encourage people not to write derisory or insubstantial reports. If the person has been unwell, unavoidably absent or anything else then the Council should be sensible enough to take it into account. The re-presenting rule would not apply to members of the Court as it would give the Council potentially dangerous leverage over members of a nominally independent body; though one could still have a petition for their removal.

75. The draft rules for re-presented reports exhibit some degree of complexity to ensure the system is robust, fair and unambiguous.

### ***ICU President***

76. The draft rules allow for the ICU President to be able to propose a censure or no confidence motion for anyone except the nominally independent Council Chair, Felix Editor and Court. This should obviously not be confused with being able to censure or dismiss someone directly – that is the preserve of the Council, or other committees for their officers.
77. This provision is aimed at more junior officers or representatives who are for some reason not performing up to standard. Such an authority is not so much a “right” as a “duty” – it is the President’s job to deal with cases where a post is being held by someone who is either doing nothing or harming the student interest: it is very likely that another student would do the job better.
78. In such cases it is frequently very difficult to find people to second a petition, and would give the (accurate) appearance that the President is trying to force people to go on the record against the officer or representative before the debate itself, merely adding to the unpleasantness. It would be better if the President takes the responsibility alone and stands alone on the merits of the proposal.
79. This last point brings one on to the self-regulating nature of the system: if the President made a vindictive, unmerited or facetious disciplinary proposal he or she will be made to look like that in front of the Council, which no President will ever want. Proposing alone is also fairer than having it done by a group (such as the Executive Committee) proposing it, as no-one will be able to have safety in numbers behind which they can throw stones.

### ***Union Court***

80. This gives to the Court the power to refer any person for a censure or no confidence motion. This can only be done after a hearing, which has resulted in a person receiving an order to comply with the rules or a PCC-style determination, and who then ignores it. This means the Court’s rulings have some teeth, and is the very approximate equivalent (at least for individuals) of the contempt of court provisions for people who simply ignored a real court order.

## CHAPTER SEVEN

### THE UNION COURT

#### Introduction

1. This discussion paper looks at the current system for officer accountability and scrutiny in the Union, and any weaknesses and advantages of it. Some comparison with other models is made, and the difficulties of liability are considered, particularly the intractable problem of a democratic body attempting to enforce an unlawful act.
2. A proposed system is then set out which is intended to ensure thorough, fair and independent scrutiny that officers are held to account when appropriate, that is difficult for officers to circumvent inappropriately, and ensures the Union acts lawfully.
3. This paper only deals with scrutiny and accountability, and other issues which may be affected by it (namely democracy and legal liability). Other governance reforms and issues are dealt with elsewhere.
4. Much of the discussion paper deals with the consequences of the committee being able to interpret provisions and give rulings on them – this has all sorts of consequences across the Union, which the paper attempts to answer.

#### The present system

5. Chapter six (Council and Executive Committee) deals with the capability of the Council and Executive Committee to scrutinise officers.

#### ***Judicial acts currently exercised***

6. The Union Council, Executive Committee and President currently exercise various forms of judicial authority over its constituent parts, each authority having advantages (+) and disadvantages (-):
  - (i) The President interprets the Constitution and all other Union rules.
    - + They usually based on a sound knowledge of the rules;
    - + They are not likely to cause real practical difficulties in administering the Union;

- It is a conflict of interests for the President to determine rules which may involve setting the scope of his or her own authority, or whether his or her actions are proper or not;
  - The stability of the rules and principles of regulatory interpretation are weakened by the changing nature of different Presidents;
  - Presidents differ in their capacity to write down such interpretations for use in determining precedent;
  - Arbitrary exercise of executive power is less controlled;
- (ii) The Council may determine whether or not to agree with a Presidential ruling, and if they do not it forces the issue up to the College.
- + It is democratic;
  - It is a blunt tool, which means only the President or the College Secretary have a say in determining an interpretation;
  - Members of the Council may not have the detailed understanding of the rules required to make a reasoned decisions on an interpretation;
- (iii) The Council determines whether an officer or representative has breached a rule under Regulation 5 (officer discipline), before going on to consider whether this merits censure or dismissal;
- + The second half (considering censure and dismissal) is the ultimate form of accountability and an essential part of the Council's sovereignty;
  - + The provision entails respect by officers towards the democratic governing body;
  - The first half (determining a breach of regulations) may involve a detailed investigation and questioning and/or regulatory interpretations, which the Council (for reasons above) has systemic difficulties in undertaking;
- (iv) The Executive Committee and Council determine whether or not an election complaint is well-founded and can affirm or reverse the decision of a returning officer, and disqualify candidates or order a re-run of an election – in so doing they interpret the rules and frequently make determinations of disputed facts;
- It can be gravely undemocratic – people on either body may assume that their electoral mandate to sit on the body gives them the right to determine an election appeal by reference

- to the candidate's suitability for office, which usurps the position of the student electorate;
- Detailed investigations, determination of facts and interpretations are systemically difficult for the Council to do well;
- (v) The Executive Committee performs a role equivalent to that of the Press Complaints Commission under the Memorandum of Understanding and makes rulings upon whether a publication has breached the code;
  - + It is a relatively small and knowledgeable body with the status to make decisions bearing moral weight;
  - It consists of the people whose actions may need careful scrutiny by the publications themselves – as opposed to the real Press Complaints Commission whose founding purpose is independence;
- (vi) The Discipline and Appeals Committees (made up frequently by members of the Executive Committee, and always from the Council) determine whether a registered student has committed an act of misconduct and if so, what penalty if any should be imposed;
  - + It is a small, knowledgeable tribunal, more likely to question, inquire and determine facts effectively;
  - + It is student-run;
  - Its membership, drawn from the senior (albeit non-sabbatical) officers may intimidate those who scrutinise the senior officers' conduct;
- 7. The nature of judicial work differs in various respects from what the Council and Executive Committee normally do, which is to pass policy, consider political questions (to a certain extent) and manage the Union. There are also areas where the roles overlap: for example dismissing an officer involves judicial, political and democratic considerations.
- 8. The absence of an independent board to consider high level Union disputes became very apparent in 2004 during the first online Sabbatical election, which became a somewhat farcical affair when the technology and some processes failed. When the Union came to appoint a senior Union figure to write an independent report on this affair, no person was available as everybody had declared a conflict of interest. A ULU Sabbatical was invited to write a report and unfortunately this report was lost during a handover between the ULU Sabbatical and his successor. The report was salvaged and eventually delivered over one year after the fiasco occurred. An independent



internal body would clearly have been a more appropriate body to execute such a task.

9. Most of the above situations are contested issues of significant importance to the Union, which is why many of them are constitutionally the preserve of the Council. The Council in particular has the advantage of being able to come to a firm decision one way or the other on the issue, and whatever the quality of the decision it has never been traditionally doubted that it has democratic support.

### **Other models and the question of liability**

#### ***Other models for governance, interpretation and scrutiny committees***

10. The conflict between judicial, legislative and scrutinising work is dealt with in a large number of different ways, both within student unions and in governments of other democratic organisations.

Most student unions operate some form of sovereign council or general meeting as the governing body and executive to manage it. Most other student unions are more political (in relation to external issues) than ICU, and more of their Councils' time is spent debating such matters.

11. The LSE students' union has weekly general meetings during term time, which are frequently very well attended. They are also the sovereign body of the union. They deal with both serious and comic motions and are often very political. A "Constitution and Steering Committee" vets proposed UGM policies, advises the UGM chair on conduct, are the final appeal board for elections, advises on the constitution, proposes constitutional amendments for "the proper functioning" of the constitution, ratifies club constitutions and adjudges constitutional disputes. Its membership is (it appears) independent.
12. The University of London Union has a sovereign Council with a "Governance Committee" as a sub-committee. This committee is chaired by the Council Chair and has the President and one other elected member and its decisions can be overturned by a  $\frac{2}{3}$  majority of the Council. It rules on Council procedure, constitutionality of motions, agenda, suggestion of correcting motions to constitutional amendments, enforcement of advance notice for motions, time limits and constitutional interpretation. This last duty appears to conflict with the Constitution (which grants it to the President alone).

This committee is very much designed to deal with the Council, and perhaps can be viewed as an adjunct of it: for example it can meet during a Council meeting. It is also not remotely independent.
13. Student unions (often known as "student governments") in the United States follow the separation of powers principle that the U.S. and state constitutions impose upon the national and state governments. This model differs substantially from U.K. unions: the President is normally

elected, but then appoints other officers. The policy-making body excludes the President and other officers, inquires into and censures/dismisses them. Their decisions can frequently be vetoed (subject to a  $\frac{2}{3}$  override) by the President. A separate Court decides interpretations and resolves some disputes, particularly election disputes.

14. There are not any known student union models (though they probably exist) for a small sub-committee to examine the actions of officers in the U.K. In the U.S., the role is more easily conducted by the policy-making body as the officers do not sit on it, giving it a measure of independence.

The House of Commons (and Lords) has a system of Select Committees which scrutinise Government departments (normally with one committee per major department). These conduct inquiries which are normally initiated by the committees themselves and produce reports. Their membership is drawn from the House and are represented according to party political strengths in the House. Committees can summons witnesses, and their reports frequently receive press attention.

The House of Commons Public Accounts Committee, to which the National Audit Office reports directly, and examines public spending, is traditionally chaired by a member of the Opposition.

15. The Local Government Act 2000 and the Health and Social Care Act 2001 implemented "Overview and Scrutiny Committees" in local government and local NHS bodies. This coincided with the creation of cabinet-style teams of councillors to run local authorities rather than every decision being taken by a committee. As part of the package of reforms, the oversight and scrutiny committees, some of which have sub-committees called 'select committees', examine and review decisions of the executive councillors. Councillors may not sit on these bodies. They can also require executive Councillors to appear before it and answer questions.

### ***The Charities Bill, the Board of Trustees and liability***

16. This section is not a discussion about the Trustees, but their inclusion may affect the role if any of a Court.
17. The Charities Bill may require the Union to designate a board of trustees for the Union, which would reserve certain duties and liabilities to itself. The legal position on whether it will become necessary has not yet been fully determined. The Trustee Board could also be the Executive Committee, or alternatively a two-tier structure instituted with a normal (by current standards) Executive Committee and a Trustee Board meeting less frequently, perhaps around six times per year.

18. The Trustees will in many respects be personally liable for actions of the Union, subject to the Union purchasing indemnity insurance, which is allowed for in the Bill. The Trustees would be required to obey any governing documents (that is, the constitution, subsidiary rules and presumably rulings from committees created under them) but would not be required to break the law. If the Council (currently the only body senior to the Executive Committee), or potentially, the Court mandated them or anyone else to break the law, the Trustees could potentially have several options:
- (i) Resign;
  - (ii) Over-rule the Council (i.e. assume sovereignty upon a breach of the law);
  - (iii) Ignore the Council's decision, without over-ruling it, and invite them to pass a motion of no confidence if it wishes – and presumably to elect a Trustee who is prepared to face the legal liability;
  - (iv) Delay a decision and refer it back (akin to what a General Meeting does now), while referring it for legal advice (only a temporary solution);
  - (v) Refer it to an internal independent committee for a ruling or advice (if an advice, only a temporary solution);
  - (vi) The current probable position: one Trustee (the President) makes an interpretation that the Constitution, a legal document, cannot implicitly permit a breach of the law, and thus any unlawful action is also unconstitutional, and over-rule it;

The current right of the College Secretary to issue a binding interpretation of a Union rule (if the President and Council disagree) may mean that the Trustees could be liable for a decision which was not taken within the auspices of the Union at all.

19. If the Union decides to become a separate organisation as a company limited by guarantee or charitable incorporated organisation (a new form of corporation created by the Charities Bill) then the Trustee Board would be the sovereign body – there is no other distribution of sovereignty permitted.
20. Any trustee appointed by the College would have to owe his or her ultimate duty as a Trustee to the Union, as indeed would any other trustee. Any conflict of interest or deliberate contravention of that duty could result in personal and substantial liability for the individual concerned, particularly if a court viewed the conduct as bad faith. It is further likely that the indemnity insurance would not cover such conduct.

21. In addition, were the College to appoint so many Trustees to the Union that they dominated the body, an English court may potentially treat it as a sham for College control of the Union. If the Union was adjudged liable for a substantial sum of money (for example an accident causing paraplegia and £4m damages), the claimant's legal team would be looking for any way they can to sue the bigger, richer defendant, i.e. the College – such an appointment system would lead to the argument that the Union is still a part of the College.
22. If the Union decides to formalise its position as a part of the College then the Trustees of the Union would be the members of the College Council. Any system of “sovereignty” (now wholly subordinate to the College) could be created within the Union.
23. King's College London Student Union recently adopted a novel means of governance, partly, it appears, to deal with the question of liability: a company limited by guarantee was incorporated, which owns the student union. Under the articles of association for the company, the Trustees are the sovereign and governing body. There is nothing within the articles to say what authority the general meeting has. The Trustees are the four sabbatical officers, four non-sabbatical students and four lay members.

### **The powers of the proposed Court**

#### ***What must be achieved***

24. Certain core aims and principles can be distilled setting out what the Union should achieve with a new system of scrutiny and accountability:
  - (i) the Union should only act within the law;
  - (ii) the Union should be democratic – in particular policies should be determined by elected bodies;
  - (iii) the actions of any officer should be able to be inquired into properly, even it is undertaken through members of staff;
  - (iv) members of staff should not have their conduct discussed in open forum;
  - (v) the system should not be open to abuse by those who are in a position to state what the law is;
  - (vi) no person (particularly the Trustees) should be liable for some act which they were unable to prevent themselves.

#### ***The proposed Court***

25. A Court would be established taking over the majority of the judicial functions of the Council, Executive Committee and President. Its functions would be:

- (i) Interpret the Constitution and other Union rules – judicial review;
- (ii) Adjudge disputes between parts of the Union if appropriate (follows from above);
- (iii) Act as the final appeal board for elections;
- (iv) Act as the equivalent of the Press Complaints Commission;
- (v) Inquire fully into conduct of officers, committees, or any constituent part of the Union;
- (vi) Make recommendations on any Union rules, for the purposes of clarity or consistency;
- (vii) Other jurisdictions of a judicial nature as granted from time to time by the Council or any constituent part of the Union.

The Court would exercise sovereign jurisdiction over interpretations and elections, and make referrals to the Council or other committees on the remainder.

The rule-determining and scrutinising jurisdictions should complement each other appropriately, each type allowing the other to be better performed.

### ***Interpretation of the Constitution and other Union rules – judicial review***

- 26. The power to interpret, or effectively to state what the rules are, is the foundation of any judicial body's authority. If another body, such as the Council or President, exercises that jurisdiction, it will stymie the judicial body's capacity to do its job, possibly fatally. It would also remove from the President a power which can be criticised on a number of grounds listed above.
- 27. The power to interpret ensures each of the other jurisdictions are better performed, and with more authority, and attracts people who understand the rules properly, which is essential in exercising the other jurisdictions with competence.
- 28. The interpretations would be binding on the whole Union, including the Court itself. It would be able to depart from its own precedent only if the law intervened, or in compelling circumstances.
- 29. Interpretations could be made by the Court sitting within any of its jurisdictions, as well as performing "judicial reviews": an examination of the constitutionality of the actions of another part of the Union.
- 30. The constitutionality of intended policy or regulatory changes could also be reviewed and advice to Council given.

## ***Elections***

31. Nearly every scrutiny board, governance committee or court in other student unions determines election disputes without recourse to the governing body.
32. It would take over the role of the Executive Committee and Council acting as appeal boards under the election regulations. It would not take over the role of the “supervisory authority” (currently the senior policy-making body for the relevant constituent part of the Union, President, Executive Committee or Council) which may take over elections and appoint new returning officers, as this is inherently a management role.

## ***Press Complaints Commission***

33. The actual PCC is designed by its own articles of governance to be an independent board, and to be free, fair and efficient. A majority of its members are not connected with the press, though it does have a significant press membership. It attempts amicably to resolve complaints through correcting articles, apologies or an explanation from editors. It can also require a member publication to put in an appropriately prominent article with any adjudication.
34. The Court would act as the PCC in same way that the Executive Committee does now. There would be no need for a complainant to go through any other route beforehand, though of course an amicable resolution should always be encouraged.
35. It would also have one power not given to the actual PCC – that of referring the editor of any Union publication directly to the Council (or subsidiary governing body of its constituent part of the Union, if appropriate) for censure or dismissal, such referral being sufficient proposal for the Council/committee to debate it. This ensures its resolutions have force in the face of an editor who wishes to ignore them.
36. An order could be made requiring the publication to publish a correcting article of similar prominence to an incorrect one – as the real PCC does regularly.
37. The jurisdiction would include reviewing online publications, and those on non-College web servers, if they are published by a part of the Union.
38. The Executive Committee would act as the PCC if a complaint was made by the Court or a member of it. This ensures both that the Court is not both a victim and arbitrator, and that members of the Court have some independent body to go to themselves. The Executive Committee, in this role alone, would also be able to make a censure or no confidence proposal to the Council.

### ***Mediation Board***

39. The Media Group currently acts as an informal mediation facility for complaints about publications – but does not exercise jurisdiction over Faculty Union or club and society publications. In order to provide for an informal mediation service for other publications as well, without impinging on their sovereignty by moving them into the auspices of the Media Group, a Mediation Board would be set up.
40. It would be under the supervision of the Court, consist of the publication editors and chair of the Media Group, other editors and a chair appointed from amongst the members of the Court. A complaint would be heard before this board and an amicable settlement hopefully reached, without the formality of the Court itself. It would provide for a significant degree of self-regulation amongst publication editors – with an independent chair.
41. If no settlement were to be reached it would be sent to the Court, which would make a final decision one way or the other.

### ***Inquire fully into conduct of officers, committees, or any constituent part of the Union***

42. This may seem a similar jurisdiction to the other ones exercised, but is fundamentally very different, though independence, fact-finding, real competence and understanding of Union processes are essential to both this and other jurisdictions.
43. This would be a jurisdiction similar to that of a Select Committee of the House of Commons, or a public inquiry at the behest of a government. The Court would be able to require witnesses (anyone holding a Union post or member of staff) to attend, and ask them questions, though no-one should be required to incriminate themselves.
44. Such inquiries may involve “judicial review” elements such as examining constitutionality but would go further, thus straying out of what is strictly judicial: examining and commenting on the conduct and competence of Union officers, effectiveness of policy and making proposals upon them.
45. Therefore, when acting upon an inquiry the Court would be the servant of the Council, or other committee requesting an investigation. Any such committee could request an investigation into their own area of the Union, though the Court could refuse if they cannot spare the resources to do it, as such investigations could be time-consuming. The Council would be able to require an investigation to be pursued.
46. The resolution would be in the form of a report and recommendations to the requesting body.



***Make recommendations on any Union rules, for the purposes of clarity or consistency***

47. This is a role akin to that of the Law Commission, which produces non-political reports making recommendations about law reform. It aims to clarify and simplify the law, removing duplications, unnecessary procedures and obsolete or unfair provisions.
48. The Court could undertake this task concurrently with its others, or alone. It would not be used for political policy, or policy which is contentious within the Union, unless, perhaps, to set out principles for fairly resolving that contention.
49. Clearly, such recommendations could be properly made by any other part of the Union or student as well.

***Other jurisdictions***

50. There may be other situations in which the Court is given jurisdiction to deal with some form of dispute or independent appeal by a policy or club constitution.

**Topics on Court powers and name**

***Sovereignty, democracy and the “rule of law”***

51. Where sovereignty lies is of the highest importance in the governance of the Union. Of course, the Union is not itself sovereign: it is bound by the law, and by College – to what extent will be determined by the question of whether it is an unincorporated association or not. “Sovereign” in this respect means that it cannot be over-ruled by any other part within the Union itself.
52. Sovereignty should flow from the student body, and is expressed partly by elections to any official post and to the policy-making bodies which govern the union. This is a common sense element of democratic government.
53. The current position of sovereignty within the Union is not entirely simple. Currently the sovereign body is the Council, but it cannot override the constitution or regulations, which set down in substantial detail how the Union governs itself. It is also does not hold sovereignty over interpretations of the rules. It also cannot break the law, though there is no specific system for ensuring independently that this is imposed (at least within the Union).
54. It is intended that the Court would be sovereign in two areas: interpretation and election appeals. It would not hold sovereignty in any other area: inquiries are referred to the Council for determination and PCC-style adjudications are ultimately enforced by a proposal to the Council.

55. Sovereignty over election disputes ensures an independent tribunal considers them, for reasons that have been explained above.
56. Sovereignty on interpretation has greater consequences than one may realise initially, for example:
  - (i) It would allow the Court to strike down any regulation, policy or other subordinate rule on the basis of unconstitutionality or illegality;
  - (ii) It could require an officer to act or abstain from acting in some way. Such a power would not be controlled by any of the senior Union committees or officers;
  - (iii) It could rule that a no-confidence motion at the Council which dismissed someone was incorrectly petitioned and re-instate the officer;
  - (iv) It could rule whether a group of students registered under a new classification are Full or Associate members of the Union;
57. The ‘spectre’ of a small ‘elite’ body overruling democratically elected committees or officers is almost guaranteed; even though those who are over-ruled will complain that they a democratic right to behave in the way they did. It is a common complaint made by government ministers when their actions are ruled unlawful by the courts.
58. The principle that justifies the Court doing this is the “rule of law”, which could be summarised as: those who make and enforce the law are themselves bound to adhere to it. It is not a total restriction of power, as the rules can be changed – certainly the interpretation of any rule not in the constitution or regulations can be effectively overturned by the Council changing the rules.
59. It would require officers who assert that the rules justify some action to show what rule it was and which committee passed it. This should provide an incentive to improve the quality of record-keeping, maintain attention to detail in passing policy and prevent officers referring to some nebulous rule that appears to justify what it is that they are arguing for.
60. The Court can also enforce the democratic will of the Council (or other senior committees) – by revoking contradictory decisions of the Executive Committee or other subordinate ones more quickly and easily than would happen currently. Its independence means that it will be less easily persuaded by a dominant senior officer that his or her decisions are constitutional.
61. It would be able also to rule that conduct in some part of the Union is unlawful, which raises a number of further points.

### ***Judicial review – what else makes decisions unconstitutional***

62. Judicial review, within the Union, would be the power to examine the constitutionality and lawfulness of an action and potentially make an order correcting any contravention. However, judicial review in law involves other forms of standards to be held to, and judicial examination to see that it does. There is a strong case for arguing that the College and therefore the Union would be expected to adhere to those principles, even if, instituted under a Royal Charter, it is not currently amenable to judicial review by the courts (instead going to the Visitor, who would most likely appoint a lawyer or judge who would approach disputes in the same way).

Decisions should not be *ultra vires*: that is, outside one's powers. Decisions become *ultra vires* if they are:

- (i) It is outside the jurisdiction conferred;
- (ii) It is irrational – also known in law as '*Wednesbury* unreasonable';
- (iii) It is procedurally irregular;

Decisions should also not breach the European Convention on Human Rights ("ECHR") as Imperial College is a public authority within the HRA 1998, and thus bound by the ECHR.

An action being "reasonable", in the sense meant above, does not mean that you or I would agree with it – but that it is possible for someone else to come to that view. A *Wednesbury* unreasonable decision is a decision that is "so unreasonable that no reasonable person could ever have come to it".

A procedure which breaches the rules of natural justice would be treated as irrational or unreasonable.

### ***Reviews contrasted with appeals***

63. A "review" by a Court and an 'appeal' to it are two fundamentally different things. An appeal, such as the current appeals up through the committee structure on policy, or elections appeals, requests the more senior body to take a different view of the facts, substitute a different rule, or some way reverse the decision. A 'review' does not permit the reviewing body to consider what it would have done if it had been asked to take the same decision, because it is the democratic right of the officer or committee to act in whatever lawful way it wants. It simply checks it was lawfully made, and was furthermore 'reasonable'.
64. This distinction, which is important in a democracy, leaving more freedom for committees to take their own decisions, may result in misunderstanding among students who wish a Court to reverse a decision of an officer or committee which they disagree with.

65. Incidentally, one area in which the Court would have full appellate jurisdiction would be on election appeals, though it would still be open to it to defer to some extent to the discretion of the returning officer or elections committee.
66. There is scope for a Court to misunderstand the nature of the review process, and part of any training will need to make this clear.

### ***Law, Trustees' liability and Human Rights***

67. The Court would be entitled to review a decision on the basis that it is simply illegal. This could be upon the basis of a breach of the ECHR or, more likely, some legal provision which had presumably missed the attention of the officer or committee.
68. Such decisions ought to be rare: any obvious problem of illegality will probably be picked up higher in the management chain and dealt with appropriately before involving the Court.
69. It may be used if the Council passed a motion in haste which otherwise committed the Union to some illegal act, placing the Trustees in legal difficulty – as discussed in the Trustees' section. This would allow any unlawful action to be corrected sufficiently without needing, as has been done by King's College London Student Union to put the Trustees themselves in command of the Union.
70. There remains the possibility that both the Union and the Court fail and commit the Union to an illegal act, though the prospect of this should be significantly reduced by the new independent body.
71. The ECHR may potentially be argued before the Court – which may present some problems as its provisions are widely misunderstood by the public. Again, training for new members may go some way towards dealing with this. Policies, particularly the Disciplinary Policy, are normally written in conjunction with the College who have taken legal advice on any ECHR ramifications.

### ***Name***

72. This chapter has described this judicial body as a "Court", however there were other titles that have been considered. Although the title "Court" more accurately describes the judicial functions of this body, the title "Scrutiny Committee" would reflect its inquisitorial nature. One name will need to be adopted. Some advantages and disadvantages of the different names are listed below:
  - (i) The name "Court" may sound overly pompous for a student union, or attract those who are;
  - (ii) "Court" more accurately describes the majority of its functions;

- (iii) The name “Court” describes its judicial review function, which is its most powerful one;
  - (iv) Membership of a “Court” may sound better on a CV – particularly for those students looking to convert to law, who may be potential candidates as members;
  - (v) The name “Court” sounds more authoritative;
  - (vi) The name “Court” may encourage an aggregation of power by those on it – though “scrutiny committee” may encourage excessive or oppressive inquiries;
  - (vii) It reflects the “Court” and “Council” terminology in College (if not reflecting the respective roles);
73. Another title which has been adopted elsewhere and may capture the various roles with sufficient accuracy is “Governance Committee”, “Constitution Committee” or “Judicial Committee”.
74. One member of the consultative group discussed with various colleagues, noting wryly that Conservatives and Old Labour thought “Court” sounded better, and New Labour types preferred “Scrutiny Committee”. One may wish to draw one’s own conclusions.

### ***Constituent parts of the Union***

75. The Court would be more than a top-level service for the Council and senior officers. It should be available for any constituent part of the union, such as FUs, clubs or societies: acting as the appeals board in their elections, making interpretations, adjudication on complaints for their publications and so on. Recommendations, if appropriate, can be made to their policy-making body. Proposals of censure or no confidence, when the Court is authorised to make them, can be made directly to their policy-making body instead of the Council.

### ***Interpretation elsewhere***

76. The Court cannot be everywhere at once, and nor should every question of interpretation require detailed analysis. The current position is that the President, if present, determines the matter, or the chair of the relevant committee would make a ruling. People having to check the rules, if they were unsure, could apply their common sense – though now they would be able to request a declaration if the issue was important.
77. This should continue on an informal basis, without restricting the right of the Court to rule otherwise. The President would remain the person who makes any preliminary interpretation.

## **Jurisdiction over staffing, finance and health & safety issues**

78. Jurisdiction over any interpretation would also mean jurisdiction over the more sensitive rules and procedures of the Union. The challenge is to ensure that an officer or committee cannot evade scrutiny or obligation to obey the rules, while ensuring that decisions that are sensitive, require expertise or may impose personal liability on officers are not unduly interfered with.
79. Apart from the various ideas below for ensuring some discretion remains with those who are liable for the decisions they make, the Court would be expected to show some deference to the judgements of those who have to take operational decisions, and are experienced in doing so – like the English courts do regularly.
80. The balance between assessing the constitutionality of more sensitive actions, and ensuring officers are not put in a difficult legal position is partly achieved through the use of 'orders' which the Court must make. The Court may well find that someone acted unconstitutionally, but not make any order as a consequence.

### ***Staffing matters – the staff-student protocol***

81. The staff-student protocol would apply to the Court like any other committee, and internal staff matters would not fall within its purview.
82. However, the interpretation of the staff-student protocol would be determined by the Court – i.e. it would determine its own jurisdiction, as it would anywhere else. If so, may be necessary to amend the protocol to state that it is the committee, not the President, who clarifies its meaning when in session, though it would be the President at all other times.
83. The President, in particular (though it may also apply to other officers) can exercise the powers and duties of his office through employed members of staff. The fact that this has been done does not change the fact that it is the President's responsibility, nor should it mean that the President should avoid accountability for his or her actions. There may be times when inquiries or reviews may wish to establish what staff did, or take evidence from them. With increasing regulation and numbers of staff, this issue may become more significant.
84. The Court could follow the following principles and rules:
  - (i) Any act of a member of the Union staff would be seen, in effect, as an act of the President, who would be regarded as responsible for everything the staff did – this being one of the consequences of the staff-student protocol;

- (ii) Any taking of evidence from staff would have to be done in private, unless there was some compelling reason to the contrary and the staff member consented;
- (iii) The Court would not criticise the staff for any action, though it may come to the view that there was conduct by staff subject to criticism for breach of policy, that criticism being directed at the President;
- (iv) Any staff matters that were considered would only be done to assist in determining something that is not a staff matter.

**85.** Example of a hypothetical staff matter which the Court might consider would be: the DP(F&S) was mandated to publish some financial figures, the member of the Finance Office who had them was off sick and no-one else could ascertain them. Someone complained to the Court that the DP(F&S) hadn't complied with the mandate. Evidence from staff might be taken for those details in private. The Court may then criticise the President for any problem with the system for getting such figures.

### ***Finance and health & safety issues***

- 86. Jurisdiction over finance and health and safety rules would be tempered by a restriction on the Court being able to make any order requiring the spending of money, resulting in the breach of a contract or doing of an act which an officer certifies would breach health & safety rules.
- 87. An example of where an order imposing the spending of money might be requested would be where a sports club committee resolved to spend a set sum out of a permitted budget on new shirts, which the captain and treasurer personally disagreed with and refused to authorise.
- 88. An order requiring the spending of money (which would be against the principle of the Finance Regulations, imposing individual responsibilities on budget holders for spending money separately from any committee resolutions binding them – and potentially dangerous as the officers should not be held liable for financial decisions they couldn't control) could perhaps be replaced by an order allowing or recommending a higher officer (in above example the ACC HJT) to spend the money instead – which would maintain the integrity of the Finance Regulations and enforce the democratic will of the club committee.
- 89. An alternative system would be to prohibit an order to spend money if the relevant sabbatical officers said it would breach the budget, and in any case if it would breach the law.



90. Occasionally the Union enters into a contract with an outside agency on the basis of an officer exceeding his or her financial responsibility. The Union is bound to perform the contract despite it not being properly authorised. The Court would not be able to prevent this, though it could clearly criticise the officer concerned, as presumably would the management.

### ***Health & Safety matters***

91. Health & Safety rules are increasingly complex and may involve personal liability for the officers concerned, and sometimes criminal liability. The Court would probably not be the best forum for considering whether an activity was safe or not, let alone the fact that others must face the responsibility for running it. Therefore it would not be permitted to make an order requiring an activity to go ahead, if an officer certifies to it that it would breach health & safety rules, or that no-one is prepared to take responsibility for running it.

### ***Disciplinary matters***

92. It is not currently intended for the Court to exercise any disciplinary powers – however if it could interpret, then it could review the decisions of the Disciplinary and Appeals Committees, though purely upon the question of whether they had obeyed the policy, and not upon their own discretion. This is similar to the power of the High Court to review decisions of the Magistrates' Courts under the Supreme Court Act 1981.
93. How this is done would need to be specified quite clearly – of course one option would be to exclude the disciplinary process from the Court's jurisdiction altogether. However if it could review, the following principle of High Court review may be worth applying:
- (i) Committee does not interfere with any factual decision, unless it is unreasonable;
  - (ii) A request for a review by the committee prevents an appeal to the Appeals Committee;
  - (iii) Cannot review anything until the committee has decided initially.

### **Membership, internal procedure and restrictions of power**

#### ***Checks and balances***

94. The major underlying reason for creating the Court is to act as a check, or balance, to the powers of the President and Executive Committee (which have got greater over the last 7 years) and occasionally to the Council itself. Another way of looking at it is as an enacting of a 'separation of powers', so no one person can completely dominate the Union.

95. Of course, what applies to the rest of the Union must apply to the Court itself. The most important restriction on power is that the Court would never be able to exercise policy-making powers itself, or have any delegated to it – it would never be allowed to manage any part of the Union.
96. Other restrictions on its power would be:
- (i) Any of its members, and the chair in his capacity as chair, could be censured or dismissed by the Council;
  - (ii) The Council would be able to close down any inquiry (probably voting by secret ballot to do so) – this is justified because it is acting purely on behalf of the Council or a more junior committee when doing so;
  - (iii) Inquiries and PCC resolutions can only result in recommendations or proposals to the Council or more junior committees;
  - (iv) It would be bound by a code of conduct and standing orders – this is dealt with in more detail below;
  - (v) The committee could not start hearing a case of its own motion – someone else must ask for it to do so.

### ***Membership and appointment***

97. Membership of the Court would need to satisfy various criteria:
- (i) Members need to be competent;
  - (ii) Members need to be independent;
  - (iii) The membership should never become dominated by a faction;
  - (iv) The membership should have a strong participation among current students.
98. It is proposed that there are ten members of the Court, three each appointed in three different ways, and the tenth one in another way:
- (i) Three members elected by the Council from the full membership of each of the Faculty Unions – one per FU;
  - (ii) Three members nominated by the Executive Committee and ratified by the Council;
  - (iii) Three Life members nominated by the Executive Committee and ratified by the Council;

- (iv) One member of the College academic staff, nominated by the Council and approved by the Rector.
99. Members in categories (i) and (ii) above would be Full Members of the Union, and appointed for one year renewable terms, like most positions in the Union. Life members would be appointed for three year renewable terms. Life members would not be able to attend Council for their appointment or renewal debate.
100. A member of the College academic staff would, like his or her equivalent on the Executive Committee, provide some sobriety, continuity and authority (the latter particularly useful if College staff were for some reason involved in a Court hearing). He or she would have to have been supported by the Council to be put on the Court. He or she would not be able to be Chair or Deputy Chair of the Court.
101. To ensure the Court was independent, no member could simultaneously be:
- (i) A Union officer or Felix Editor;
  - (ii) A member of the Council;
  - (iii) A member of the Executive Committee or Trustee;
  - (iv) A member of the Clubs and Societies Board or Representation & Welfare Board;
  - (v) A member of the permanent staff or an Honorary Senior Treasurer
102. If Life members are to sit on the Court in any meaningful sense, they would need to be able vote on and participate in it fully and properly. The Constitution, Regulations and policies are littered with restrictions of rights to participate in meetings and other matters to Full Members only – and quite rightly. Rather than attempt to make exceptions in every place a Life Member or College appointee would be given the rights of Full Members just in respect of their job. Therefore a Life member of the Court could vote on it, but can't propose a motion to the Council or vote in an election.
103. It may also be prudent to restrict the right of the Executive Committee's disciplinary function over Life members for members of the Court until such time that they ceased membership of it.

### ***Chair, Deputy Chair and panels***

104. The Court would have some difficulty in constituting itself fully. Life members, or Full members on other campuses, will not necessarily be able to attend all meetings, and there will also be the inevitable problem of some Full members being excluded due to a conflict of interest (e.g. a club issue comes up and they were formerly a member,

their lab-partner or former flatmate is arguing before the committee, etc.)

105. A panel of members of the committee would therefore need to be appointed to hear any particular case from those who are able to spare the time (in inquiries for example, the time commitment could be substantial) and can be seen to be independent in the context of that case. It may be impractical (and possibly unsuitable if some members have a personal interest in the case) for the whole committee to choose a number of its members to sit on a panel.
106. Advantages of a large committee from whom panel members are drawn occasionally rather than a small committee which sits fully includes drawing in a wider range of ability, diffusing the concentration of power and allowing those who cannot sit all the time (e.g. those on other campuses and life members) to still be able to play a part in the committee.
107. One system of appointment that should work practically without concentrating power excessively is:
  - (i) Chair and Deputy Chair agree on size of panel;
  - (ii) Chair and Deputy Chair agree on members' appointment to a panel, and its chair;
  - (iii) Individual members can recuse themselves if they do not feel independent, or cannot attend;
  - (iv) Chair and Deputy Chair can agree to recuse another member of the committee;
  - (v) Chair and Deputy Chair can recuse each other;
  - (vi) If the Chair and Deputy Chair do not agree, the committee must vote on the matter;

The Chair and Deputy Chair would not both be life or full members of the Union. This would further ensure mutual independence and diffusion of power.

108. The Chair would be responsible for issuing any disciplinary warnings, should the need arise, to members of the Court. The Chair would also assume this role in relation to the Council Chair – one of the very few roles of a member of the Court going outside its auspices.
109. It is also foreseeable that a contentious issue could arise with many conflicts of interest and/or absentees, thus allowing only a single person to hear a case; it may be that the committee and the Council could choose to authorise some of the members, whose integrity and ability are up to it, to hear cases alone – when there are no other options. One may bear in mind that currently only a single person (the

President) determines most of the committee's potential jurisdiction currently.

110. The Life members on the Court should add some experience, independence and neutrality to the committee, but it is important that they should not dominate it – the Union should always be predominantly governed by current students, a principle that applies to this committee as much as it does to any other part of the Union. The requirement for the chair's and deputy chair's agreement should assist, as would a rule that any panel (apart from a single-member one) should have at least one full member of the Union. The presence of a  $\frac{2}{3}$  majority of full members would also reduce significantly the life members' influence.
111. In determining the issue – each member would be required to have a view: abstaining would not be an option. Each member would have to write an opinion, or support another member's. Dissenting opinions could also be written, and agreed to, though they would not of course have any binding effect. There may be times when disagreements are only in part. The majority view would prevail.

### ***Code of conduct and standing orders***

112. The code of conduct would set out rules and responsibilities for the members of the Court. This would be necessary because the principles of acting 'judicially' may not come intuitively, and provide some assurances to the rest of the Union that members of the Court understand their role, and the particular ethical responsibilities it brings, properly.
113. In the light of the role of the code of conduct, it would be approved by both the committee and the Council. It would assist in maintaining independence, impartiality, and avoiding impropriety, for example dealing with:
  - (i) When a member should not sit;
  - (ii) Exercising courtesy and temperance;
  - (iii) Activities in the Union outside the Court (can participate as much as one wants to, though not so much in the government side);
  - (iv) Candidacy in elections while a member of the committee (members can stand for other offices, but there may be some restriction on their activity as members while they do so);
114. Standing orders would be required, approved by the Court, to deal with its own internal administration.

### ***How the Court starts hearing a case***

115. It is proposed that there would be different methods of requesting the Court to convene, depending on the jurisdiction it would exercise:

- (i) A request for a PCC-style adjudication of a published article could be made by any person, whether or not a member of the Union or College, if the article related in some way to them;
- (ii) An election case can be heard upon the request of any candidate in the election (this could be expanded to any other person, who would then have to justify why an appeal should be heard);
- (iii) A request for an interpretation could be made by any member of the Union; however it would need to satisfy some criteria (to ensure purely academic or worthless requests are filtered out):
  - The issue related in some way to the person making the request, or
  - The issue is in some way significant for the Union, or any part, and
  - The issue is not purely hypothetical or academic;

A constituent part of the Union could make a request in its own name.

The President, Executive Committee or Council could request an interpretation, or support another, which would require the committee to then hear the issue irrespective of the above criteria.

(iv) A request for an inquiry could be made by:

- A petition of 50 students
- The Council
- The Executive Committee
- Any Faculty Union committee, club or society

A petition or Council request must be acted upon by the Court. Other requests would be with its agreement (as such inquiries may take up much time). Subordinate parts of the Union can request inquiries within their jurisdiction only – though a higher body may request it be expanded.

116. Requests could be made online, with assistance provided to ensure the process is as easy as possible.

117. If an issue cuts across several jurisdictions, the committee would be able to deal with them concurrently. If it appears another jurisdiction is the more appropriate forum, then the committee should carry on in that one. Technical arguments about summoning and jurisdictions are best avoided.

### ***Meetings, hearings and openness***

118. The Court may meet from time to time to deal with its own internal administration, meeting like any other Union committee.
119. When hearing a case, as a panel, the hearing would normally be in public. It would go into closed session if:
- (i) It was taking evidence from staff;
  - (ii) It was reviewing a decision of the Disciplinary or Appeals committees;
  - (iii) Evidence or arguments of a particularly sensitive nature were being put;
  - (iv) There was grave disorder
120. If the staff or defendant/appellant in cases (i) and (ii) above consented, the hearings could be in public anyway. In the case of staff evidence, only the part where the evidence was being given would be in public. In disciplinary or other sensitive cases, the name of the relevant student could be replaced with a letter.
121. The exception in (iii) would need to be tightly drawn to stop people avoiding public scrutiny of their actions, which is the purpose of the committee. One example where it may apply is a publication making an allegedly untrue accusation against a person of some unpleasant act: parading details of this in front of a group of people again would add little to the justice of the case and dissuade justified complaints in the future.
122. All hearings should be as informal as possible, consistent with its obligations to do its job properly and fairly. Any member of the Union, or other person involved with the case, would be entitled to speak at them.
123. The opinions and orders would be in public (appropriately anonymised in sensitive cases). The deliberations of the Court in coming to their opinions would be in closed session and remain permanently confidential – which is the practice in law courts and most quasi-judicial bodies.



### ***Directions – compelling evidence, search and seizure***

124. The Court would be able to direct its own procedure to manage any hearing efficiently.
125. The Court will be able to require people to give evidence or produce any item or documentation. Only people who have some form of elected or appointed post would be bound by this – a student who was not involved in Union governance would not be subject to the rule.
126. The Court would also be able to order a search of most areas of the Union to find any relevant evidence.
127. These compulsory powers are obviously quite substantial, and would therefore be regulated by the Court's standing orders, which in this case must also be approved by the Council.

### ***Orders***

128. Any decision the Court took would have to be supported by full reasoning.
129. The Court could exercise its various powers through being entitled to make any order it wishes, or through a specific set of orders. Giving it specific set of orders would first reflect English legal theory somewhat better (it being based upon 'remedies' rather than 'rights'), secondly require the committee to apply more intellectual rigour in making their decision, and thirdly remove some potential ambiguity about what its authority is. It would also restrict its power to some extent (as it has to fit a resolution into one of the categories, rather than do anything it likes).
130. The Court would be required to give full reasons for the making of any decision.
131. The orders would include the following basic ones, among others:
  - (i) Declaring what the rules say;
  - (ii) Quashing a rule (which may include quashing part of it);
  - (iii) Quashing the decision of an officer, committee or constituent part of the Union;
  - (iv) Remitting a decision back to an officer, committee or constituent part of the Union with its opinion.
  - (v) Prohibiting a decision of a certain type being made in the future, either at all or until some condition has been satisfied;
  - (vi) Mandating a decision to be made, case to be heard, or act to be done;

132. One should always bear in mind that all these orders are only pursuant to some rule made by the Council or some other committee requiring or prohibiting some act, or the law. There would be some restrictions on the sorts of orders that could be made: the Council could not be mandated to do something (as it would not befit its dignity as a sovereign body), nor could staff – an order instead being made on the President when some rule was being breached *through* the staff rather than *by* the staff.
133. There would be specific orders, published in an appropriate forum, for specific jurisdictions, for example:
- (i) Requiring a publication to publish a correcting article;
  - (ii) Ordering a re-run of an election;
  - (iii) Disqualifying an election candidate;
134. The Council or other parts of the Union could create further orders for specific reasons. The orders would be subject to the restrictions suggested in the staffing, finance, health & safety sections above.

### **Compliance**

135. The Court would be able to check to see if its orders were being complied with, and take action if not. Such action could include, in relation to an individual, a proposal for censure or no confidence. In relation to some constituent part of the Union (except the top-most ones) a ‘penal order’ suspending them or banning them from use of facilities, modelled on the order made by the DP(C&S) for a club with incomplete documentation.
136. The justification for this is, again, the “rule of law”. If the Court could not do anything to enforce its orders it may be too tempting for someone who doesn’t agree with the decision to just ignore it. A penal order could be rescinded by the Executive Committee or Council, and a disciplinary proposal merely refers it to the Council or other committee, so the compliance provisions are very much under the superintendence of the sovereign and managerial committees. However, the fact that the Court could at least instigate such orders may persuade people to comply with it, without handing the Court any excessive power.

### **Appeals**

137. The Court may set up an internal appeals structure – any such structure subject to the Council’s approval.
138. Anyone would be able to appeal a final decision of the Court to the Rector – this would provide some protection against a Court whose decisions created serious difficulties. Any such appeal would have to be within two weeks.

## **Examples of the Court in action**

139. There follows some imaginary examples of the Court in action, to give some idea of what it would do in practice.

### ***The Election***

140. An election for Beans Officer (a new post on the Council) is held. Fred Hinds, a candidate, broke the elections rules by squatting next to the only ballot box and soliciting votes. The returning officer didn't regard this as problematic, dismissed the complaint and declared the election result in which Hinds won. John Campbell, the losing candidate (by 99 votes to 91) appeals to the Court.
141. The Court regards Hinds' actions with distaste, but accepts that the returning officer had acquiesced in it. They order a re-ballot, and recommend the President appoints a different returning officer. They further recommend the ballot box proximity rule is enforced, and warn Hinds that disqualification will be likely if he breaches that rule again.

### ***The coup***

142. The FCC (Fun Clubs Committee), a new CSC, managed to pass through a sleepy Executive Committee their new standing orders proclaiming them to be the sovereign body of the Union.
143. The Court issues a declaration saying that the part proclaiming sovereignty is unconstitutional and quashes that part of it. The rest of the standing orders, which were unobjectionable, remain.

### ***The purchase***

144. The Skidoo Club, a recently created and well-funded outfit, had after an impressive fund-raising session received the money to buy two new Skidoos to race around with. The club was split between those who wanted to buy the red Skidoos, which were very fast, and the green Skidoos, which rode more easily over rough terrain. The captain and treasurer were in the 'red' camp and refused to buy anything else. The committee and club general meeting voted in favour of the 'green' Skidoos.
145. The Court is not entitled to make any person authorise anything under the Finance Regulations, so it could not mandate them directly to buy the Skidoos – indeed, such an act would be pointless because they have already been mandated to do so. The Court could however make an order authorising the ACC chair, ACC HJT, or DP(F&S) to personally authorise the purchase of the 'green' Skidoos themselves – over-riding the club captain and treasurer. Thus honour is restored without affecting the integrity of the Finance Regulations.

### ***The quash***

146. The Council passes a policy affiliating the Union to the newly formed Democratic Social Party – a U.K. wide political party.
147. The Court receives advice from people in the Union, in an open hearing, about the legality of it. The view is that such political affiliation is unlawful.
148. The Court quashes the whole policy. An appeal is immediately made to the Rector, who dismisses it. Council rejects another proposal to re-pass the policy.

### ***The naughty newspaper***

149. The Underwater Sciences Faculty newspaper “Sub-Aqua” printed articles accusing the head of the Deep Sea Department of dishonesty and misconduct. There was no evidence. The subject of the article complained.
150. It goes to the Mediation Group; the editor doesn’t turn up, e-mailing the group saying they are a farce. The Mediation Group, being nice people, tries to persuade the editor that he should come along – he doesn’t. In the meantime the ICU President and a couple of friends go round and pick all the copies they can find and bin them, worried about the Union being sued for defamation. The Executive Committee suspends the newspaper from printing further copies.
151. The Mediation Group refers it to the Court. Most of the Court are in the Deep Sea Department this year and know the relevant head of department and editor well, so some hapless Life Member ends up having to sit alone as the Court.
152. The editor turns up to this hearing and accuses the President of acting disgracefully in binning his magazine, citing editorial independence, Article 10 of the European Convention and so on. He says he has secret and sensitive evidence of misconduct but won’t reveal it.
153. The Court decides it has a little sympathy with the editor’s view of the President’s actions, saying they could have been put in storage instead. No order will be made to re-print anything, because the Executive Committee has suspended it anyway, and the Court can’t make an unlawful order – there is a risk the material is defamatory and therefore unlawful.
154. The Court offers to go into closed session to consider the sensitive material, which the editor declines because it’s so sensitive that no-one except him can see it. The Court forms the view the editor doesn’t have any such material and printed an inaccurate article which breaches the PCC. The Court makes a conditional order that, if the Executive

Committee un-suspend his paper, he must print an apology and a summary of the hearing result.

155. The editor persuades the Executive Committee to let him print another edition, and promptly ignores the Court's order to print the correction, and makes further unsubstantiated allegations.
156. The Court re-convenes to consider whether he complied with the order, decides he didn't and refers a motion of no confidence to the ICU Council. Council receives it and dismisses him.

### ***Anyone for ping-pong?***

157. The Council passes a policy expressing the Union's dismay at the Government's decision to impose £25,000 per year fees on all students. The policy also disagrees with the Government's policy on the privatisation of health care facilities for the elderly. There is a complaint about the procedural motions used to put it through, to the effect that the Council Chair restricted debate on it. The policy funds a part time member of staff to campaign about provision of services for the elderly.
158. The Court disregards the complaint about the procedural motions, saying that unless the meeting was a travesty, it was not going to pick Council's procedures apart. It issues a declaration to the effect that the policy was procedurally correctly passed. The part of the policy committing the Union to a position on elderly health care is suspended temporarily and remitted back to the next Council meeting; the part funding someone to campaign is deemed unlawful and quashed; the remaining part expressing dismay at fees remains unaffected.
159. Those disagreeing with the ruling forget entirely about the appeal to the Rector, appeal too late and are told they are out of time.
160. Council passes a policy saying it utterly disagrees with the Court and re-imposes the campaign funding. It loses interest in the remaining policies. The policy, which was quashed, now comes back onto the policy book as it was before.
161. The Court, mindful of its earlier decision, quashes it again.
162. Each body is sovereign in its respective sphere: Council for policy-making and Court for interpretation – therefore this can continue *ad nauseam*.
163. If this occurs, it may settle in various ways: the Rector could be appealed to, and his ruling may persuade the Council to stop re-passing it; people stop complaining to the Court, so it no longer has jurisdiction to have a hearing and therefore do anything; a new academic year heralds a different Council (and Court) who aren't interested in ping-ponging; Council takes a different view and stops re-

passing it; the Council sack half the Court. None of it is very pretty, but it is unlikely that ping-ponging would last that long.

### ***The disciplinary***

164. Jack Ripper, a student with miscreant tendencies, was seen punching Nathan Dribblethwaite, a slightly-built and shy fellow student, in a heated Pugilist Society debate about its constitution. Unsurprisingly, a disciplinary was summoned, under a revised Policy which included the Court in a formal reviewing (but not appealing) process.
165. Jack never replies to any e-mail informing him of the charges, asking for comments, or informing him of the hearing. The President knows someone on Jack's course who tells him, and the President was told in return that Jack knew but was not interested. Jack had incidentally opted out of the Union (just after possibly getting the disciplinary notice).
166. The Disciplinary hearing goes ahead in Jack's absence, hears from Nathan, believes him and find Jack guilty of assault and bans him from all Union premises for two years and expels him from the Pugilist Society (of which he was the Secretary).
167. Jack Ripper appeals to the Court. The Court convenes and tells him that it is not an appellate body (that's Appeals Committee's job) but merely reviews the procedure, only looking at the facts found if they are wholly unreasonable. Jack accepts this, courteously suggesting firstly he had no notice as he doesn't read his e-mails, secondly he was effectively removed from his post as Secretary in breach of the system laid down in the Clubs & Societies policy, Disciplinary Regulation and so on, and thirdly now that he is an opted-out student the Union has no jurisdiction over him.
168. The Court swiftly dismisses every aspect of the application. It holds that he should have read his e-mail address and President had made a satisfactory attempt to contact him, also disbelieving him in part as the mutual acquaintance had told him as well; therefore Jack had notice of the hearing. Opting out of the Union specifically did not remove him from the jurisdiction of the Policy as it applied to all registered students. Incidentally, opting out did have the effect of removing him as Secretary of the Pugilist Society, so the Court determined that the further task of delicate interpretation of other policies and regulation on this point was not needed.

## **CHAPTER EIGHT**

### **IMPLEMENTING THE REVIEW'S RECOMMENDATIONS**

#### **Introduction**

1. The past seven chapters have described a plethora of wide ranging recommendations to improve the effectiveness of the ICU governance system. Some of these proposals require nothing more than a change in culture and operational procedures whilst others require explicit endorsement from the Imperial College Council. All of them, however, require the full support of the student body and, in particular, the ICU Council.
2. It is therefore recommended that these proposals are widely discussed both formally and informally throughout the first two months of the autumn term.
3. If a consensus can be reached, it is envisaged that the majority of changes could be implemented during this coming academic year. In particular, most of the constitutional changes could be approved by the ICU Council before the next Imperial College Council meeting on November 24<sup>th</sup>. This will be the first phase of constitutional change.
4. Some Union policies, particularly those pertinent to discipline, transport and clubs & societies will need to be amended to accommodate the new structure of the Union, in particular the Court. It is proposed that these policies would be amended shortly after the passing of the constitutional changes.
5. The controversial proposals, which are listed below, will be proposed to the Council as separate items throughout the next academic year to allow for full debate and consideration. This will form the second phase of constitutional change.
6. A summary of the proposed timetable for consultation and implementation of the recommendations put forward by this governance review is given in table 8.1. A list of the proposals that it is proposed should be considered in Phase I and Phase II is given in table 8.2
7. All constitution and regulation changes are detailed in Appendix B. Some policy changes have been prepared (e.g. the disciplinary policy) whilst others are presently still being redeveloped.



<b>Date</b>	<b>Event</b>	<b>Action</b>
24 <sup>th</sup> September	Officer Training	Officer consultation workshop
Throughout October	Various	Informal consultation
4 <sup>th</sup> October	1 <sup>st</sup> Student Activities Committee meeting	Formal consultation
9 <sup>th</sup> October	1 <sup>st</sup> Council meeting	First formal debate
23 <sup>rd</sup> October	2 <sup>nd</sup> Council meeting	Second formal debate First reading (Phase I)
13 <sup>th</sup> November	3 <sup>rd</sup> Council meeting	Third formal debate Second reading (Phase I)
24 <sup>th</sup> November	1 <sup>st</sup> College Council meeting	Approve ICU Council's amendments
7 <sup>th</sup> December	4 <sup>th</sup> Council meeting	Pass amended policies (Phase II)
22 <sup>nd</sup> January	5 <sup>th</sup> Council meeting	First reading (Phase II)
19 <sup>th</sup> February	6 <sup>th</sup> Council meeting	Second reading (Phase II)
13 <sup>th</sup> March	2 <sup>nd</sup> College Council meeting	Approve ICU Council's amendments
23 <sup>rd</sup> March	7 <sup>th</sup> Council meeting	Discussion and decision on legal status suggested
13 <sup>th</sup> July	3 <sup>rd</sup> College Council	Approve ICU's legal status (if required)

**Table 8.1: Summary of implementation timetable**

<b>Phase I</b>	<b>Phase II</b>	<b>Policies</b>	<b>Medium term</b>
All Executive sub-committee changes All Court related changes Miscellaneous	Council membership Council gender equality action policy General member voting at Council meetings	Clubs & Societies Disciplinary Transport Health & Safety	Legal status decision: If political environment suggests that the ICU should become an independent company then approval would need to be sought

proposals	Two year sabbatical elections  Chatham House procedural motion		through a referendum.  If political environment suggests that the ICU should become a formal department of the College then approval would need to be sought from the Union Council.  If political environment suggests that the ICU should remain as an unincorporated association then there is no need for any further action.
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**Table 8.2: Summary of implementation phases**

8. Finally, if these changes will only be successful if they are supported by the vast majority of the students who are affected by and interested in these changes. If our students do not buy in to these proposals, then they will fail. Consultation and consensus is critical to the success of this project, which is why the next two months promise to be an exciting and fascinating time for this project.

## APPENDIX A

### THE PRESENT LEGAL STATUS OF THE ICU

#### The ICU's Status as an unincorporated association of Imperial College

1. The legal status of the ICU is not as clear as it could be, although by gathering together excerpts from the following College documents it is possible to demonstrate that:

- a. The ICU must be established by Imperial College and, for all purposes, may be treated as part of the College.

*"In so far as it shall further the educational purposes of the College, there shall be a Students' Union of the College (hereinafter referred to as "the Imperial College Union") for the benefit of the students of the College and in their interests as students."*

*Imperial College Charter (Paragraph 14)*

*"There shall be a Union of Students of the College entitled "the Imperial College Union" which shall for all purposes be treated solely as an integral part of the College."*

*Imperial College Statutes (Paragraph 11.1)*

- b. The ICU is an unincorporated association and has no formal legal identity.

*"The College is a chartered corporation, i.e. it has the powers of a person of full legal capacity and is subject to common law and statute.... The ICU is an unincorporated association and in law could be treated as part of the College; because it cannot be sued as a body, any action against it could be brought against the College and hence the Members of the Council (including the President of ICU)."*

*Memorandum of Understanding (Paragraphs 9 and 10)*

- c. The ICU must be governed by its parent institution.

*"The governing body of every establishment... shall take steps as are reasonably practicable to secure that any students' union for students at the establishment operates in a fair and democratic manner and is accountable for its finances".*

*Education Act (1994) Paragraph 22 (1)*

2. Consequently the ICU is ultimately governed by the Imperial College Council and must seek the Council's approval for any changes to its constitution and regulations.
3. In spite of the ICU's official status as an integral part of the College, it enjoys relative autonomy in its day-to-day activities. The ICU trades under a separate brand and different VAT registration number, operates under its own financial procedures and accounts, appoints and manages its own staff, publishes under its own name and is largely led by volunteer and sabbatical officers with little formal intervention by the College. This is not to say that there is no informal interaction between College and the Union and the Union is grateful for the support it regularly receives from staff in the Human Resources, ICT and Estates departments.
4. Point 1 (a) could be interpreted as meaning that the ICU is a part of Imperial College. However, legal analysis by Pinsent Masons argues that phrases such as the excerpt from the Imperial College charter "*there shall be a Students' Union of the College*" are "*neutral as to whether or not the students' union is part of the university or not.*" (Paragraphs 3.1-3.3 in Appendix B). Furthermore, the excerpt from the statutes that states that the ICU "*shall for all purposes be treated solely as an integral part of the College*" adds to the ambiguity of the Union's position; if the Union really is entirely part of Imperial College why does this phrase simply not read "*The ICU is an integral part of the College*"?

### **The ICU's status as a charity**

5. The Charities Act (1993) stipulates that student unions are at present exempt charities.

*"The following institutions, so far as they are charities, are exempt charities within the meaning of this Act, that is to say... (c) any university, university college, or institution connected with a university or university college, which Her Majesty declares by Order in Council to be an exempt charity for the purposes of this Act;"*

*Charities Act (1993) Schedule 2<sup>(1)</sup>*

6. Exempt charities are technically regulated by the Charity Commission but are not obliged to register with it. Consequently, exempt charities are exempt from some of the regulations imposed by the Charities Act (1993) and from most of the powers of the Charity Commission. According to Guidance issued by the Charity Commission, the vast majority of student unions in the UK are exempt charities.

*"Most students' unions are charities. This is because they exist to further the educational purposes of the universities or colleges to which they are attached. You should assume that the students' union at your university or*

*college is a charity unless you have been told otherwise by the governing body or by the Charity Commission.”*

*Charity Commission Operation Guidance (OG 48 3C) <sup>(2)</sup>*

7. A key feature of all charities, regardless of their exemption status, is that they are governed by trustees. The Charities Act and Guidance from the Charity Commission both suggest that in the ICU’s case the trustee board is the ICU Executive Committee.

*“In this Act, except in so far as the context otherwise requires...”charity trustees” means the persons having the general control and management of the administration of a charity;”*

*Charities Act (1993) Paragraph 97 (1) <sup>(3)</sup>*

*“The officers of a students’ union are in the position of charity trustees. This also applies to anyone else who is responsible for the general control and management of the union; for example, the members of a management committee. The rest of this booklet uses the word “officers” to describe those who in fact have control and management of the union, whatever they are called.”*

*Charity Commission Operation Guidance (OG 48 3C) <sup>(4)</sup>*

8. Trustees of charities are ultimately responsible for the administration for their organisation and are personally accountable if things go wrong. Furthermore, trustees of unincorporated associations may be sued if any part of the organisation breaches a legal contract. Given that the ICU has no legal personality, it could be argued that the trustees of the ICU are at risk of personal liability. Steps can be taken to protect trustees from personal liability by, for example, purchasing an indemnity insurance policy or forming a not-for-profit company limited by guarantee. Additionally, if the ICU were to be considered formally part of the College then it could be argued that it is not an independent charity and therefore has no trustees.

### **Website references**

36. [http://www.opsi.gov.uk/ACTS/acts1993/Ukpga\\_19930010\\_en\\_13.htm#msdiv2](http://www.opsi.gov.uk/ACTS/acts1993/Ukpga_19930010_en_13.htm#msdiv2)

37. <http://www.charity-commission.gov.uk/supportingcharities/oqs/g048c003.aspwhat>

38. [http://www.opsi.gov.uk/ACTS/acts1993/Ukpga\\_19930010\\_en\\_11.htm#mmdiv93](http://www.opsi.gov.uk/ACTS/acts1993/Ukpga_19930010_en_11.htm#mmdiv93)

39. <http://www.charity-commission.gov.uk/supportingcharities/oqs/g048c003.aspwhat>

## **APPENDIX B**

### **PROPOSED CHANGES TO THE UNION CONSTITUTION, REGULATIONS AND OTHER POLICIES OR RULES**

#### **Introduction**

The various amendments are listed thematically, in order of the various chapters whose ideas they implement.

As before, boxed amendments indicate controversial proposals that may be proposed separately from this review.

#### **Miscellaneous amendments**

*These deal with various issues that came up during the course of Group Six or others' discussions which would require a change of the constitution, but does not easily fit into one or other of the chapters.*

#### ***ICU constitution and regulations***

##### *Amending titles*

All mentions of "Permanent Secretary" replaced with "Union General Manager".

All mentions of "Student Activities Committee" replaced with "Clubs and Societies Board".

All mentions of "Overseas Students Committee" replaced with "Overseas Societies Committee".

#### ***ICU constitution***

*Adding democracy, equality & diversity as principles within which the Union pursues its aims and objects.*

##### **2. Aims and Objects**

2. In pursuing its aims and objects the Union shall govern itself democratically and with regard to the principles of equality and diversity.

*Life Members and College nominees have been put on various committees. If they are to do so properly they would need to be able to vote, attend and participate in every way as a member of the relevant committee. The simplest way of doing this is to make them a 'mini-full member' for that particular job.*

### 3. Membership

- 3.2.3 A person who is not a Full Member may only participate in the government of the Union if they are a Life Member or member of the Imperial College staff, and fulfil the following conditions:
- a. They are appointed as a returning officer, scrutineer or member of an elections committee,
  - b. They are members of the Executive Committee, Court, disciplinary or disciplinary appellate committee,
  - c. No committee shall contain more than one member of the Imperial College staff, or be chaired by one, and
  - d. The right to participate in the government of the Union shall extend to possessing the rights and duties of Full Members, but only so far as it involves exercising the rights and duties of office.

*Clarification that opting out of Union membership restricts students from governing clubs and societies; procedure for person opting out of membership of the Union to re-join.*

### 2. Opting out

2. The Union shall liaise with Imperial College to ensure that any student exercising their right shall not be unfairly disadvantaged with regard to the provision of services by reason of having done so. A student opting out of membership of the Union is deemed to have opted out of membership of their Faculty Union, and may not participate in the government of either Union, club, society or other part thereof.
3. A person who has opted out of membership of the Union may re-join with the permission of the Council.

*Sets out the stricter conditions for holding repeated sabbatical office.*

### 5. Officers of the Union

3. No person shall hold sabbatical office in the Union for more than two full academic years. The holding of sabbatical office for a second year shall be subject to the following conditions:
  1. No person who held sabbatical office during an undergraduate course may hold sabbatical office again until their entire course is completed to the satisfaction of Imperial College,
  2. No person, having been President, may become a Deputy President,
  3. No person may be President for two consecutive years.

*Renames SAC as Clubs and Societies Board, institutes Representation & Welfare Board, removes TSR.. Also incorporates the lapsed 'Sabbaticals on committees' policy properly in the constitution. This preserves the status quo, except that sabbatical officers do not sit on committees which are supposed to be independent of them.*



## 9. Committees

1. There shall be the following standing committees of the Union:
  - (i) The Executive Committee,
  - (ii) The Clubs and Societies Board,
  - (iii) The Representation and Welfare Board,
  - (iv) Club and Society Committees,
  - (v) President's Committees,
  - (vi) Faculty Unions, and the
  - (vii) Graduate Students' Association.
  
5. The Sabbatical Officers shall be ex-officio:
  - i. Non-voting members of clubs and societies and their committees,
  - ii. Non-voting members of the Faculty Unions and their committees, and
  - iii. Voting members of all other Union committees, except the Court, disciplinary, disciplinary appellate and elections committees.

*This transfers the reporting mechanisms of the TSR committees to the Executive Committee..*

The Executive Committee shall meet at least twice a term to receive reports on the performance of the Union's trading outlets, services and retail facilities.

*This removes references to the titles of Faculty Unions, so as to allow them to more quickly reflect changes in the College faculty structure.*

## 12. The Faculty Unions

1. The Faculty Unions are the students' unions for the respective Faculties of Imperial College.
2. The Faculty Unions' constitutions shall not contradict this Constitution, its Regulations and Policy. Amendments to their constitutions require the approval of the Executive Committee, which shall either accept the amendments or refer them to the Council for approval.

*Updating the policy lapse clause to include the Executive Committee and other standing committees as being bound by it.*

## 15. Policy

6. Union policy, operational policy and policy approved by any standing committee with the authority to do so shall be valid for the remainder of the academic year in which it was adopted and the next three academic years. The President or relevant committee chair should re-present the policy with

amendments as appropriate before it lapses, and the Council or committee may vote on whether to continue the policy for the next three academic years.

*Expanding the Council's disciplinary ambit to include appointed office-holders, apart from paid staff, and explicitly members of the Court; reflecting the removal of the Reciprocal Member category*

#### **17. Discipline**

1. Misconduct or negligence by Officers of the Union, others holding elected or unpaid appointed office in any part of the Union and members of the Court may be dealt with by the Council or its committees under Regulations; this may include censure or dismissal.
3. Misconduct by Associate or Life Members shall be dealt with under Union policy, which may include their expulsion from the Union.

*The College has indicated that it is happy for the Union to be responsible for some of its own governing documents, as the College Council does receive a substantial number of relatively minor changes frequently. This requires that the constitution and certain reserved regulations be subject to the approval of the College Council, the rest being determined by the Union Council.*

#### **20. Amendment**

1. This Constitution may be amended by resolution of the Council, passed by a two-thirds majority at two successive meetings, not less than fifteen and not more than forty College days apart, with the approval of the Imperial College Council.
2. The Regulations may be amended by resolution of the Council, passed by two successive meetings, not less than fifteen and not more than forty College days apart, with the second resolution passed by a two-thirds majority.
3. The Election and Referenda Regulations, Disciplinary Procedure, Court, Finance Regulations and Memorandum of Understanding, and any part of a Regulation affecting the membership of or voting rights upon the Council or Executive Committee, or composition, titles or job descriptions of the Sabbatical Officers require for amendment the approval of the Imperial College Council.

### **Changes to the Council and Executive Committee**

#### ***Regulation One***

#### ***Membership reflecting suggested amendments***

##### **A. THE COUNCIL**

##### **The Chair of Council**

- i) Council Chair,

##### **Sabbatical Officers**

- ii) President,
- iii) Deputy President (Finance and Services),

- iv) Deputy President (Clubs and Societies),
- v) Deputy President (Education and Welfare),
- vi) Deputy President (Graduate Students),

#### **Faculty Union Presidents**

- vii) President of the City and Guilds College Union,
- viii) President of the Imperial College School of Medicine Students Union,
- ix) President of the Royal College of Science Union,

#### **Executive Committee members**

- x) Two Club and Society Committee members elected by the Council onto the Executive Committee,
- xi) Two members of the Representation and Welfare Board elected by the Council onto the Executive Committee,

#### **Campus representatives**

- xii) A representative appointed by the Silwood Park Committee, and
- xiii) A representative appointed by the Wye Union Society,

#### **Union Councillors**

Thirty Union Councillors elected by Faculty ballots:

- xiv) Eight Faculty of Engineering undergraduates,
- xv) Four Faculty of Engineering postgraduates,
- xvi) Eight Faculty of Natural Sciences undergraduates,
- xvii) Two Faculty of Natural Sciences postgraduates,
- xviii) Six Faculty of Medicine undergraduates,
- xix) Two Faculty of Medicine postgraduates, and
- xx) Two Union Councillors elected by non-Faculty students

The President shall consider the allocation of Union Councillors annually to ensure that they remain representative of the proportions of students in each constituency.

#### **Permanent Observers**

- xxi) The Court Chair and Deputy Court Chair, *ex-officio*
- xxii) The Union General Manager, and
- xxiii) The Union Honorary Senior Treasurer, *ex-officio*

## **Regulation Four**

*This incorporates the proposed system for permitting Full Members of the Union who attend Council to vote, or contribute towards a vote, on matters of policy or amendments thereto.*

85. Full Members of the Union who are not members of the Council are entitled to vote on a Union policy, or any amendment thereto. They are not permitted to vote on any report, amendment to the Constitution or Regulations, any election by the Council, any procedural motion, secret ballot (notwithstanding that it may be in respect of a policy), any motion requiring a two-thirds majority or any exercise of the Council's jurisdiction under the other Regulations.
86. The Council Chair or nominee shall administer any system for determining who are Full Members. Those who arrive after the meeting has begun may only participate in a vote with the permission of the Council Chair. If the Council Chair decides against granting a vote, the members of the Council may vote to overturn the decision.
87. In any vote, if 10 or fewer such Full Members attend and vote, they will each be entitled to one vote.
88. If more than 10 such Full Members attend and vote, their total number of votes shall be restricted to 10, the votes being distributed in proportion to the individual voting decisions of the Full Members. In determining the final contribution of votes, any fraction of a vote is rounded down.
89. If a Full member abstains from voting, their presence does not count towards the total number of Full Members voting under the preceding sections.
90. If the difference between the votes by members of the Council for and against a policy or amendment is more than 10, or such lesser number of others present and entitled to vote, then the Council Chair may choose not to count the votes of the Full Members.
91. Proxy votes do not apply to Full Members' votes.

## **Regulation Three**

*Incorporating the CSB and R&WB members as elected by the Council, not appointed from those committees. Clarifying the committee's powers and receipt of reports.*

2. The Executive Committee shall consist of:
  1. the Sabbatical Officers,
  2. the Presidents of the Faculty Unions,
  3. two Club and Society Committee Chairs, elected by the Council as ordinary members,
  4. two members of the Representation and Welfare Board, elected by the Council as ordinary members, and
  5. one member of the Imperial College staff, nominated by the Executive Committee and approved by the Council.
3. The Executive Committee shall be chaired by the President or a nominee.

4. The Honorary Senior Treasurer and Union General Manager shall attend as permanent observers.
5. Staff members determined by the President, as advised by the Union General Manager, shall present reports detailing activities within their areas of responsibility.
6. The Executive Committee may require any person within the Union except members of the Court or the Council Chair to attend, answer questions and produce relevant documents. The Executive Committee may authorise the searching of any premises within the Union.

## **Student Activities Governance**

### ***ICU Regulations***

#### *Clubs and Societies Board: Amending title*

All mentions of "Student Activities Committee" replaced with "Clubs and Societies Board".

22. The Clubs and Societies Board oversees the clubs, societies, Rag, Community Action Group and the central activities of Faculty Unions and Club and Society Committees. It does not oversee commercial, welfare or academic matters.
23. *as before*
24. The Clubs and Societies Board may determine policy governing the management, governance and finance of the areas of the Union within its jurisdiction, subject to Union policy and operational policy.
25. The Clubs and Societies Board shall consider best practice on the running... *as before*
26. *as before*

*Representation and Welfare Board: a new committee, parallel to the CSB. Equality Officers are mentioned in passing as the details of the positions have not yet been decided.*

## **THE REPRESENTATION AND WELFARE BOARD**

### **Powers and responsibilities**

1. The Representation and Welfare Board shall co-ordinate, manage and act as a forum for issues relating to student welfare, academic affairs, accommodation, representation, campaigns, diversity and equality.
2. The Representation and Welfare Board shall allocate funding for the better provision of such services and campaigns as it deems fit, subject to Union or operational policy, in particular the Union's policy on the fair allocation of resources.
3. The Representation and Welfare Board shall determine policy within its operation, subject to Union policy and operational policy. It may only approve any policy stating the views of the Full Membership or committing the Union to a political position with the approval of the Council.
4. The Representation and Welfare Board shall report its business for approval by the Executive Committee and the Council.

## Membership

5. The Representation and Welfare Board shall consist of:
  1. The Sabbatical Officers,
  2. Presidents of the Faculty Unions,
  3. Equal Opportunities Officer,
  4. Welfare Campaigns Officer,
  5. A representative appointed by the Overseas Societies Committee,
  6. The Faculty Welfare Officers,
  7. The Faculty Education Representatives,
  8. The Faculty Research Representatives,
  9. [Campaigns Officers]
  10. A representative appointed by the Halls Committee.
6. The Representation and Welfare Board shall be chaired by the Deputy President (Education & Welfare), and may co-opt other non-voting members.
7. Staff members determined by the President, as advised by the Deputy President (Education & Welfare) and the Union General Manager may attend and present reports.

## Meetings

8. The Representation and Welfare Board shall meet at least once per month during term time.
9. An emergency meeting of the Representation and Welfare Board may be called by
  1. A Sabbatical Officer,
  2. Five members of the committee,
  3. The committee itself, the Executive Committee or the Council, or
  4. Thirty Full Members of the Union.

## Halls Committee

10. The Halls Committee shall be a standing sub-committee of the Representation and Welfare Board, and may consider and co-ordinate any issue relating to the provision of accommodation and related services to Imperial College students within the College.
11. It shall consist of:
  1. The Sabbatical Officers,
  2. One representative for each College Hall of Residence, and
  3. A representative appointed by the Overseas Students' Committee.

12. The College Residence Manager or his or her nominee shall be a permanent observer.
13. It shall be chaired by the Deputy President (Education & Welfare) and have a quorum of seven voting members.
14. It shall meet upon the request of the Representation and Welfare Board, a Sabbatical Officer or six members.

*Re-instituting the Health and Safety Committee as a President's Committee*

**Health and Safety Committee**

1. The Health and Safety Committee shall consider and monitor Health and Safety issues in the Union and shall advise on the adequacy and suitability of current Health and Safety policies and practices.
2. It shall consist of:
  1. The Sabbatical Officers,
  2. A representative appointed by each Faculty Union,
  3. A representative appointed by each Club and Society Committee, including Wye Union Society and Silwood Park.
3. The Union General Manager, any staff member appointed as Departmental Safety Officer and other posts determined by the President, particularly including those responsible for commercial services, shall be permanent observers.
4. It shall be chaired by the President and shall have a quorum of six voting members.
5. It shall meet at least once per term. An emergency meeting may be called by a Sabbatical Officer, or three members or permanent observers.

*Remove CAG Committee from regulation three.*

**Accountability of Officers**

***ICU Regulations***

*Jurisdiction of the Disciplinary Regulation: in keeping with the constitutional change, expanding the ambit of the regulation to cover appointed people and the Court*

1. This Regulation deals with the failure of the Officers of the Union, any other elected student officers or representatives in any constituent part of the Union, any member of the Court, any unpaid appointed person, or the Felix Editor (collectively referred to as "officer or representative") to exercise the duties and responsibilities of office, as per section 17.1.1 of the constitution.

*Responsible authority: disciplinary authority for the Court vested in the Court Chair (not the President), Court Chair responsible for Council Chair, and vice-versa. Council Chair remains responsible for the President*

4. The authority and responsibility for issuing disciplinary warnings to any officer or representative shall be the President or his or her nominee; though the Council Chair



shall deal with cases involving the President, Felix Editor and Court Chair, and the Court Chair with other members of the Court and the Council Chair.

6. The President, Council Chair or Court Chair issuing the warning must inform the individual being warned of his or her rights of appeal.

*Avenues for censure and no confidence motions: The current rule is:*

- 5.11 Motions of censure or no confidence shall be proposed by a Full Member of the Union and shall be seconded by twenty Full Members of the Union. The petition shall include the signatures and printed names, departments and years of the petitioners.

*Draft new rule:*

11. Motions of censure or no confidence shall be proposed to the Council by one of the following people and methods:
  1. By a Full Member of the Union, seconded by twenty Full Members of the Union. The petition shall include the signatures and printed names, departments and years of the petitioners.
  2. By a nominee of the Council Chair, if the Council has twice rejected a report submitted by any person required to do so under regulations 4.78 to 4.82. If no-one wishes to be the proposer, the Council Chair shall be the nominal proposer, but remain under the same restrictions with respect to participation in the debate.
  3. By the President, in relation to any person except the Council Chair, the Felix Editor or a member of the Court.
  4. By a nominee of the Court under its regulations. The Council Chair may be the default proposer as before. The Executive Committee may do so when acting under regulation 7.3.
12. All motions of censure or no confidence, *except those arising from a rejected re-presentation of a report*, must clearly state in writing the grounds of the complaints, including details of any part of the constitution, Regulations or Policies alleged to have been breached and shall be presented with its supporting petition to the President, Council Chair or Court Chair (whichever would be the appropriate authority in Part B), at least seven College Days before Council.

*Advance notice: extending the advance notice provisions to re-presented reports. The re-presented reports section in regulation 4 deals with informing the person they must re-present it.*

15. Upon receipt of the motion of censure or no confidence, unless automatically generated by a twice rejected report, the President, Council Chair or Court Chair will take all reasonable steps to inform the officer or representative of the grounds of the complaint, the procedures laid out in this document and the date of the meeting.

*Procedure: This is a tiny point of drafting but deals with a rule where clarity is paramount: the word "passed" is changed to "approved" in 17.6*

- "17.6 The motion must be *approved* by a two-thirds majority of those present and voting, and more than half those present and eligible to vote,"

*Secret ballot for censure and dismissal: since it is an exception from the normal procedure, it should be put in regulation 5 (disciplinary procedure), which already sets out various exceptions to the normal procedure for such motions.*

- “17.6 The vote shall be held by secret ballot, notwithstanding regulations 4.23 to 4.25.”
- Move 17.6 – 17.9 down appropriately.

*Court proposed motions to other bodies: The procedure for the Court proposing motions to Council is now set out – this applies it (within the Disciplinary Regulation, rather than just in the Court one)*

22. If a proposal for a censure or no confidence is made by the Court it shall be treated for all purposes as having been validly proposed to any committee entitled to hear it. A proposer may or may not be appointed. Any rules of the committee to whom it is proposed regarding advance notice of such motions must be complied with. The Court may then make further directions requiring the appropriate committee to hear it at the next available meeting. No emergency meeting to hear such a motion may be called after the end of the Summer Term.

*Further disqualification from office: Clarifies the position that a person who is dismissed from office may not be elected to or hold that office again, though the Council can remove the disqualification.*

24. A person dismissed from office by the Council or any other committee may not be elected to or hold that office again. In the case of a Sabbatical Officer a person may not hold any Sabbatical Officer post again. The Council may remove this disqualification.

*Rejected reports: The rejected reports provisions provides a penalty for any person who is required to give a report to Council, or general meeting, whose report is rejected – if it rejected at the next meeting, then a censure or no confidence motion is automatically instigated.*

*In regulation 4, replace*

- “73. The meeting may not amend a report, but may invite the person presenting it to do so. A report tabled to be accepted shall be either approved or referred back for consideration.
74. Approved reports do not form a resolution of the meeting in themselves. An item of the report shall be approved separately as a motion to the meeting to form such a resolution.”

*With*

- “73. The meeting may not amend a report, but may invite the person presenting it to do so. Approved reports do not form a resolution of the meeting in themselves. An item of the report shall be approved separately as a motion to the meeting to form such a resolution.
74. A report by an officer or representative which he or she is required to table to Council or General meeting by the Constitution, Regulations, Union policy or their resolution shall be either approved or rejected by that meeting. A meeting may only reject a report (or lack thereof) submitted under a policy or resolution if it was in force before and at the start of the meeting.

75. If a General Meeting is called to hold a Sabbatical Officer or Felix Editor to account, that person must submit a report to it, which may be accepted or rejected by the meeting.
76. If such a report is not submitted to the Council or General Meeting, or it is submitted late, a good reason may be demanded for the nil or late report to not be rejected.
77. If a report is not discussed or voted upon at a Council meeting for any reason except deciding specifically not to discuss it, it may be added to the agenda of the subsequent meeting at the discretion of the Council Chair.
78. If a report is rejected after a vote, the person responsible for it will be required to re-present it with such amendments as that person shall choose to make at the next meeting of the Council, so long as the following conditions are satisfied:
  1. The chair informs the person that he or she must re-present the report and the consequences of it again being rejected,
  2. The next meeting must be between one and seven weeks later,
  3. The 1<sup>st</sup> August must not intervene before the next meeting,
  4. An intervening Emergency meeting or meeting within one week does not count as the "next meeting", unless, in the case of an Emergency meeting, it is called specifically to hear the re-presented report, and
  5. The report was not by a member of the Court and in that capacity.
79. If, in respect of 78.1, the person was not in attendance when the report was rejected, or the requirement to re-present the report was not mentioned, the chair or a nominee must use his or her best endeavours to inform the person before the start of the next meeting.
79. A requirement to re-present one report does not affect any separate requirement to make any other report to the Council.
80. If the conditions in 78.1 – 78.5 are not satisfied, or the next meeting of the Council approves or does not vote upon the re-presented report, the requirement to do so lapses.
81. The re-presented report may be discussed and voted upon in the same manner as a normal report. If it is rejected a motion of censure in relation to the author of the report will be immediately added to the agenda directly after the rejected report.
82. If the person whose re-presented report is rejected has previously been censured in the same academic year in the post for which he or she was the author of the report, the motion shall instead be of no confidence."

## **Union Court**

### ***ICU Constitution***

#### **6. The Council**

1. The Council shall be the sovereign and governing body of the Union, and shall exercise all the powers of the Union, except those relating to interpretation and resolution of disputes in individual elections.

*The referenda section includes provision for resolving disputes about the constitutionality of a petition. The court would assume the role otherwise taken by a College representative.*

## **8. Referenda**

4. A petition for a referendum under 8.2.1 shall include names, years, departments and signatures of the petitioners and shall be received by the President. The constitutionality of the petition must be resolved by the Court prior to the referendum further proceeding.

*Court section placed after “Executive Committee” and before other committees’ descriptions. As the TSR committees are being abolished, it would replace the current section 11.*

## **11. The Court**

1. The Court shall exercise sovereign power over the interpretation of this Constitution, its Regulations and any policy, rule, act or omission made under it; the Court shall also exercise sovereign power over the resolution of any dispute in individual elections.
2. The Court shall perform such other judicial, investigative or disciplinary roles as may be allocated to it by the Regulations, any policy or rule.
3. The Court shall not manage or exercise policy-making powers over any other part of the Union. The Court shall direct its own procedure, subject to the Constitution and Regulations.
4. Decisions of the Court bind the whole Union, or such constituent part of it as may be set out by it. An interpretation of a rule has the same status as the rule itself.
5. Members of the Court shall adhere to a code of conduct approved by the Court and the Council.
6. No member of the Court may simultaneously be:
  - i. a Union Officer or Felix Editor,
  - ii. a member of the Council, Executive Committee, Clubs and Societies Board or Representation and Welfare Board,
  - iii. a member of the permanent Union staff, or
  - iv. an Honorary Senior Treasurer.
7. The Court may include up to three Life Members and one member of the Imperial College academic or academic-related staff under terms set in Regulations. No such Life Member shall have their life membership suspended or removed unless they are first dismissed from the Court by the Council, or their term expires.
8. Regulations may provide for an appeal within the Court and from the Court to the Rector of Imperial College, under such circumstances as set out in the Regulations.

*Note: 14. Elections – Prohibits life members from standing in elections – this wouldn’t stop the Life members of the Court or Executive Committee from*

*being nominated and appointed; but one couldn't change the system to an election (without changing the constitution).*

*The Personnel provision is part of the system of ensuring that the Court is able to interpret the staff-student protocol when it is meeting (the President doing it as before at all other times).*

#### **16. Personnel**

1. The Council shall establish by Regulation a Staff-Student Protocol setting out the divisions of responsibilities between the staff and elected officers, to promote the democratic structure of the Union and its integrity as an employer. It shall be responsibility of the President to clarify and enforce this protocol, unless the Court is meeting, in which case it is the responsibility of its chair to do so.

#### **19. Interpretation**

2. The Court interprets this Constitution, its Regulations and any policy, rule, act or omission made under it.
3. If an issue requiring an interpretation arises when the Court is not meeting, the chair of a meeting, or if present, the President may give a preliminary ruling. Constituent parts of the Union may designate a person to give preliminary rulings in respect of their own rules. Preliminary rulings do not bind the Court.
4. An interpretation made by the Court forms a binding precedent upon it. The Court may depart from its own precedents only when the interests of justice require it.

### ***Regulation Two***

*Replacing the "Appeals Panel" system in the election regulations with the Court.*

#### **Appeals Panel**

86. In the event of an objection not being resolved by action of the returning officer or elections committee, the matter may be referred to the Court.
87. If the election is held by a Faculty Union, committee, club or society, the Court may delay involvement until any internal appeals process is exhausted.
88. The Court may replace the decision of the returning officer, elections committee, or internal appeal process with any other decision.

#### **Setting aside election results**

89. The Court may, if satisfied there were serious irregularities or that confidence in the propriety of an election was gravely diminished, set aside the result of a completed election, and order that any or all parts of it be repeated, including nominations or the count.
90. An application to the Court to set aside such an election must be made within three weeks of the election results being declared, or the end of the Summer Term following it, whichever is sooner. No application may relate to an issue that was materially resolved by the Court in an earlier hearing.

## **Regulation [Seven] – Union Court**

### **A. Jurisdiction**

1. The Court has jurisdiction over and in the following areas within the Union:
  - (i) Interpretations,
  - (ii) Disputes in individual elections,
  - (iii) Union publications, in a role equivalent to that of the Press Complaints Commission,
  - (iv) Inquiries, and
  - (v) Other such judicial, investigative or disciplinary functions as may be allocated by any policy or rule.
2. The Court shall not manage or exercise policy-making powers over any other part of the Union. The Court shall direct its own procedure, subject to the Constitution and Regulations.
3. The Executive Committee has jurisdiction to act in a role equivalent to that of the Press Complaints Commission in response to any complaint made by the Court or any member of it in a personal capacity. When doing so it may, in addition to its normal jurisdiction, make an order under paragraphs 68 (x) and (xi) and 80(iv).

### **B. Membership**

4. The Court shall consist of members appointed in the following manner:
  - (i) One member of each Faculty Union elected by the Council, each person being a Full Member of the Union;
  - (ii) Three Full Members of the Union nominated by the Executive Committee and approved by the Council;
  - (iii) Three Life Members of the Union nominated by the Executive Committee and approved by the Council;
  - (iv) One member of the academic or academic-related staff of Imperial College, of a rank equivalent to that of Senior Lecturer or above, nominated by the Council and approved by the Rector.
5. Those who are not members of any Faculty Union will be treated for the purposes of this election as members of the Faculty Union which otherwise has the smallest number of Full Members.
6. The term of office for the Full Members of the Union runs for one year from the 1st August following election. The term of office for Life Members runs for three years from the 1st August following election, each such member appointed in consecutive years. A term of office may be renewed.
7. Renewal of terms for those originally nominated by the Executive Committee shall be subject to the approval of the Council, but not the re-nomination of the Executive Committee. A Full Member whose status as a registered student ceases must be nominated and approved as one of the Life Members to continue membership of the Court.

8. Life Members, or those Full Members who may be appointed as a Life Member upon expiry of their student registration at the College, may not attend the Council during the discussion or vote upon approval of their nomination or renewal of membership, but may submit written comments to the Council.
9. Life Members appointed to the Court upon its inauguration shall serve for the remainder of the academic year in addition to their term. They shall be divided by lot at the Council, one serving a one year term, the second a two year term and the third a three year term. If fewer than three are initially appointed then the first appointed shall serve three years, the second two years and the third one year. If two are appointed at the same meeting their terms will be determined by lot.
10. Any vacancy is filled by the same process as the annual nominations and elections. If the vacancy arises by the time of or after the Council meets to elect or approve nominations for the next year, the Council may choose to extend the term of service of a newly elected or approved member, so that he or she starts immediately. If several people within one category are newly approved by the Council, the Council may choose to decide by lot whose term of service will start immediately, from those who wish to do so and not ineligible by virtue of currently holding another disqualifying post.
11. Each member is of equal status to every other member. No member is the representative of any group within the Union or the College.

### **C. Administration**

12. The Court shall appoint a Chair and Deputy Chair from amongst its members. If the Chair is a Life Member of the Union, the Deputy Chair must be a Full Member of the Union, and vice-versa. No staff member of the College may become Chair or Deputy Chair.
13. The Court shall adopt, with the approval of the Council, a code of conduct which its members shall adhere to. The code of conduct shall set out the ethical principles and rules upon and within which its members must operate. The code shall include the circumstances in which members are disqualified from hearing a case. The code may impose restrictions on the rights of members of the Court within the rest of the Union.
14. The Court may adopt standing orders within which it shall operate.
15. Standing orders governing the following matters also require the approval of the Council:
  - (i) Appeals within the Court or to the College,
  - (ii) Delegating the Court's authority, except to the Mediation Board,
  - (iii) Regulating the directions for searches, the compulsion of evidence and production of documents or items, or
  - (iv) Imposing any time limit upon applications or appeals, except a time guillotine within a hearing.
16. The Court may meet 'in committee' to deal with its own administrative business, and must meet as such if appointing its Chair and Deputy Chair, adopting or amending the code of conduct or standing orders. An amendment to the code of conduct or standing orders requires the approval of a two thirds majority of those present and voting. If conducting a hearing it shall meet 'in session'.
17. When meeting in committee the Court shall follow the procedures in Regulation 4 by default, but may adopt different procedures in its standing orders. When meeting 'in



session' it shall not follow Regulation 4, except to the extent that its standing orders require it to.

18. The Court may appoint a Secretary, who shall not be a member of the Court, and may with the permission of the President be a member of the permanent staff of the Union.

#### **D. Commencement of a hearing**

19. The authority of the Court under regulation 6.1 may only be exercised when in session.

20. A hearing may be requested by the following people in the following circumstances:

- (i) An interpretation, review or declaration may be requested by any member of the Union or constituent part of the Union;
- (ii) A request for an adjudication in a role equivalent to that of the Press Complaints Commission may be made by any person or organisation mentioned or referred to in a Union publication, or by the Mediation Board;
- (iii) An appeal in an election dispute may be made by any candidate or elector in it;
- (iv) An inquiry may be requested by the Council, Executive Committee, 50 Full Members of the Union or any constituent part of the Union;
- (v) A review of any proposed constitutional amendment, regulation, policy or act may be requested by any member of the Union or constituent part of the Union;
- (vi) A hearing in another jurisdiction created by any policy or rule shall be summoned in whatever way that policy or rule determines.

21. Inquiries requested by a constituent part of the Union may only cover that part of the Union. A more senior constituent part, or several parts, may request the inquiry be widened to cover them.

22. An inquiry may only proceed with the agreement of the Court, unless requested by the Council or 50 Full Members of the Union. In deciding if to agree to conduct an inquiry, the Court may consider whether the subject of the inquiry justifies the time and resources to be spent on it.

23. A request for an interpretation, review or declaration must in the opinion of the Court be

- (i) Relevant to the person making the request, or
- (ii) Important to the Union, or any part of it, and in either case
- (iii) Not be a purely hypothetical or academic issue.

The President, Executive Committee or Council may require the Court to hear such a request irrespective of these criteria.

24. An interpretation, review or declaration may also be made by the Court if acting in another of its jurisdictions. If the Court determines that another jurisdiction (except inquiries) is appropriate it may exercise it instead of or in addition to the one for which it was summoned.

25. No member of the Court may participate in a request for any kind of hearing, unless he or she is a candidate in an election, and the request relates to that election, or a

member of the Court or Court itself requests the Executive Committee to act as the equivalent of the Press Complaints Commission.

26. The Court shall make any decision relating to the commencement of a hearing in committee, unless standing orders determine otherwise.

#### **E. Appointment of panels**

27. When the Court is in session it shall be composed of a panel drawn from the membership of the Court.
28. The panel shall consist of an uneven number of members and a chair appointed jointly by the Chair and Deputy Chair. A new panel shall be drawn up for each new hearing.
29. The minimum size of a panel is normally three members. The Court and the Council may jointly approve individual members of the Court to be entitled to sit alone for hearings.
30. If members of a panel are not present at the start of a scheduled hearing the remaining panel may proceed without them, even if they now comprise an even number of members (including two members). No member may sit alone unless on the agreed panel of those who can. If the panel chair is missing they must choose a chair from amongst them.
31. A panel, unless it is one person sitting alone, must contain at least one Full Member of the Union.
32. If either the Chair or Deputy Chair is out of contact with the other members of the Court when a panel is to be drawn up the remaining one shall appoint the panel.
33. If the Chair and Deputy Chair disagree over any aspect of the panel the Court shall meet in committee to draw it up and appoint its chair.
34. The appointment of a panel, once made, cannot be rescinded by any person or body outside the panel.
35. Multiple applications to the court to hear a matter may be consolidated into one hearing. The court may direct in a hearing that an issue should be severed and dealt with in a separate hearing.

#### **F. Directions**

36. The Court, in session, composed of the appointed panel, may make directions for the management of a hearing, subject to the standing orders.
37. Directions may be made administratively by the Court, but may be reviewed in the hearing itself. No unlawful or unconstitutional direction may be made.
38. Such directions may govern the agenda, time limits, advance notice, adjournments, submissions or evidence received, agreement of facts, narrowing any contested issue, excluding irrelevant issues, consolidation of hearings, severance, or any other matter.
39. The Court may make specified compulsory directions:
  - (i) Any person holding an elected or appointed post in the Union including staff may be required by direction to attend a Court hearing and answer questions. No person shall be required to incriminate himself or herself.

- (ii) The Court may require by direction the production of any document or item, or copies thereof, created or held by the Union or any person holding elected or appointed office including staff within it in their capacity as such.
  - (iii) The Court may make a direction for the searching of any premises administered by the Union under the Memorandum of Understanding. Such a direction may only apply to the offices of permanent staff with the consent of the President or Union General Manager. A search direction may be made without notice to the person or constituent part of the Union to which it applies.
40. The Court may only make one of the specified compulsory directions if there is no other way in which the information can be obtained, and their contents are likely to affect a final determination.
  41. The specified compulsory directions shall be made subject to such rules and guidance as set out in standing orders, and may only be made after such standing orders are established.
  42. A person subject to a specified compulsory direction may request a hearing and make comments or submissions about whether the direction should remain or be amended. The President may attend any such hearing involving staff.
  43. The fact that material is confidential or sensitive does not exclude it from the Court's jurisdiction, unless it is wholly a staff matter as defined in Part K.
  44. A breach of a specified compulsory direction may result in the Court after a hearing making orders under Part J. A breach of any type of direction may result in issues or evidence being excluded, further directions made, or a hearing being discontinued.
  45. The Court may direct that a hearing or part of a hearing is in closed session only if
    - (i) Staff matters are being discussed,
    - (ii) A member of the Union staff is giving evidence in his capacity as a member of staff, unless he or she consents to being heard in public,
    - (iii) A decision or act under the Disciplinary Policy is being reviewed, and a defendant student or body does not wish it to be in public,
    - (iv) The Court is of the view that the quality of a person's evidence would be improved by it being given in private, due to its sensitivity or their vulnerability, or
    - (v) In cases of grave disorder.

## **G. Hearings**

46. The Court, in session, shall run the hearing and come to a determination.
47. The hearing must be in public unless the Court directs it or part of it to be held in closed session.
48. Reasonable steps must be taken to inform any person or body who may be directly affected by any potential order of the hearing and its purpose.
49. Any Full Member of the Union may normally make submissions, arguments or comments to the Court. Any other person may normally do so if they are affected by

any potential determination, are a student complaining he or she is discriminated against as a result of opting out of membership of the Union, or with the Court's leave.

50. Any evidence may be permitted which is relevant and fair.
51. Any person who wishes to give evidence may do so, but must then answer any further questions or suggestions made by the Court or another with its leave. If a person is not prepared to do so their evidence may be disregarded.
52. No member of the Court who is not on the panel may make any submission, argument or comment to the Court in a hearing, unless he or she is the subject of the hearing. A member may give evidence of any matter which he or she witnessed.
53. If an issue before the Court becomes the subject of legal action, referral to the Imperial College Council, Visitor, Office of the Independent Adjudicator for Higher Education, or another relevant external authority the Court may adjourn the hearing until after its resolution, or discontinue the hearing. Legal action may be treated as commencing upon a criminal charge or summons, or civil claim form being issued.
54. The Court may choose to discontinue a hearing without coming to a determination if an issue becomes pointless or academic.
55. The Council may require an inquiry to be discontinued.

#### **H. Determinations and reports**

56. A determination shall be made at the end of the hearing, unless it was discontinued.
57. The deliberations of the panel in coming to a determination shall be in closed session and remain permanently confidential. No person may seek to influence any member of a panel with respect to a determination after the deliberations begin.
58. A determination binds the Union, or the constituent part or person to whom it was addressed.
59. The determination shall be public and available to any Full Member of the Union, and any other person whom it affects. In sensitive cases, the names of individuals or bodies may be replaced with a pseudonym and irrelevant details omitted. In a case where a person or constituent part of the Union is subject to any form of penalty, they may demand that their name is shown, unless in doing so the privacy or rights of another would be unduly affected.
60. A determination consists of an opinion from each member of the panel and one set of orders (or none) from the panel as a whole. At least one opinion should contain a summary of the decided facts.
61. Each member of the panel must write an opinion, or agree with another's. Each opinion must be reasoned, and reasons given for making any order, or none. If dissenting, reasons for the dissent must be given or the alternative line of reasoning explained, or another's dissent agreed with.
62. No person or constituent part of the Union should be subjected to adverse criticism in an opinion or report unless they have had the opportunity to answer that criticism in a hearing. No member of staff shall be adversely criticised, though their actions may be mentioned in support of an adverse criticism of the President.
63. No person or body may instruct any member of a panel how to rule on a determination.

64. The imposition of any order is subject to the approval of the majority of the panel. No member of the panel may abstain, including the chair. If the panel is equally divided, the panel chair will cast a second and deciding vote.
65. If the Court was requested to conduct an inquiry or review a proposed constitutional amendment, regulation, policy or act it shall, instead of a determination, make a report with its views upon it. Individual members may dissent from any part of the report, and may add their comments to it.
66. In an inquiry, the report may deal with any matter requested in the application for the inquiry and any other matters consequent upon it. In a request to review a proposed rule, the report will confine itself to its constitutional propriety, drafting, simplicity and fairness.
67. A declaration becomes a binding precedent upon the Court, from which it can only depart in the interests of justice. The opinions of those in the majority, and the circumstances in which orders were made, becomes a persuasive precedent which may form a basis for future determinations.

## **I. Orders**

68. In a determination, the Court may make no order, or make one or more of the following orders:
  - (i) A declaration of what the Constitution, its Regulations and any policy or rule means, and its consequences,
  - (ii) Quash a policy, rule, decision, act or omission, or any part thereof, found to be unconstitutional or unlawful,
  - (iii) Suspend a policy, rule, decision, act or omission, or any part thereof, found to be unconstitutional or unlawful, until the next meeting of the committee which approved it,
  - (iv) Remit a decision back to a person or part of the Union with its opinion or ruling,
  - (v) Require a committee which improperly avoided or dismissed a motion to reconsider it, and may set aside any time limit if fair to do so,
  - (vi) Summon an emergency meeting of any committee except the Council,
  - (vii) Mandate an officer, post-holder or committee to act in accordance with the Constitution, its Regulations and any policy, or prohibit them from breaching it,
  - (viii) Replace the decision of a returning officer or elections committee with any other that they would have authorised to make, or to dismiss an appeal
  - (ix) Authorise a more senior budget holder to spend out of a subsidiary budget,
  - (x) A declaration that a publication complaint was upheld, dismissed or that sufficient remedial action was offered,
  - (xi) That a publication against which a complaint is upheld must print or publish the result and reasoning behind it with due prominence, or
  - (xii) Any other order which a Regulation, policy or rule permits.

69. Any order is discretionary. The fact that a breach of a rule has been found does not require the court to make further orders. In addition to or instead of any order, the Court may make recommendations to any person or body.
70. The Court may apply a time limit to any order, or make it subject to conditions.
71. The Court may not make any order:
- (i) Relating to any matter outside the jurisdiction of the Union under the Constitution and Memorandum of Understanding;
  - (ii) Requiring, in the opinion of the Court, the Union or any person to act unlawfully, including any contractual breach or tort,
  - (iii) Directly requiring any person to authorise or not authorise anything under the Finance Regulations;
  - (iv) Amending a decision of a returning officer or elections committee which occurred before the start of that academic year, or
  - (v) In respect of any matter for which a time limit has expired under the Regulations or standing orders.
72. The Court may not make any mandatory or prohibiting order
- (i) in respect of the Council,
  - (ii) in respect of a person's choice of vote,
  - (iii) upon a member of the Union staff; any such order being made upon the President instead, or
  - (iv) in respect of an act which a person with responsibility for Health & Safety in the Union reasonably declares would impose legal liability on them or the Union, and whose declaration is not countermanded by a more senior authority.
73. The Council, or a policy-making body within its jurisdiction, may by policy authorise the Court to make an emergency order or direction in specified circumstances, and to the extent that the policy prescribes.

## **J. Compliance**

74. Any person may request that the Court reconvenes to examine whether a determination or direction was or is being complied with. The Court may also do so of its own motion.
75. The Court may hold a further hearing at its discretion, or at the request of the President, Executive Committee, Council, or body under whose policy the Court was exercising jurisdiction.
76. The Court panel may include additional or, if the original panellists are unable to attend, replacement members appointed in same manner as a normal panel.
77. The Court shall conduct a further hearing in the same manner as a normal hearing, subject to any modifications as made by standing orders.
78. Reasonable steps must be taken to inform any person or body whose compliance with an order is being examined of the hearing and its purpose.

79. The Court shall not revisit any decision on the facts or rules, unless new facts have come to its attention or a relevant rule or law has changed.
80. The Court may make a further determination, which may include no order, or in any case where it decides that an previous order was not complied with, the following:
  - (i) Amend or rescind any current order,
  - (ii) Impose any new order,
  - (iii) Impose a mandatory or prohibiting order upon a more senior person or body in the Union,
  - (iv) Propose a motion of censure or no confidence to the Council or any other committee entitled to pass it, or
  - (v) Make a penal order.
81. Any order made under the above sub-paragraphs 1 – 3 must have been one which the Court would have originally had the jurisdiction to impose, unless made under a policy or rule which provides for further types of orders upon a breach.
82. If a proposal for a censure or no confidence is made it shall be treated for all purposes as having been validly proposed to any committee entitled to hear it. A proposer may or may not be appointed. Any rules of the committee to whom it is proposed regarding advance notice of such motions must be complied with. The Court may then make further directions requiring the appropriate committee to hear it at the next available meeting. No emergency meeting to hear such a motion may be called after the end of the Summer Term.
83. A penal order may be imposed upon any constituent part of the Union apart from the Council, Executive Committee, President's Committees, commercial services, individual members or staff. It may include suspension, freezing of budget (subject to the President or Deputy President (Finance & Services) authorising expenditure for the performance of a legal obligation) and a prohibition on use of room bookings or other Union facilities.
84. A penal order made in relation to a breach of a specified compulsory direction may apply to any constituent part of the Union allowable above for which an individual breaching a direction is the chair, treasurer, secretary or other senior post-holder, if the breach is relevant to that constituent part of the Union.
85. A penal order may be reduced or rescinded by the Executive Committee or the Council.

#### **K. Staff matters**

86. The Court's jurisdiction shall not extend to matters which are wholly staff matters as defined by the Staff Student Protocol.
87. The Court may hear evidence and require evidence, documentation and items from members of staff in closed session which may involve staff matters, but only to the extent that it assists in determining any disputed fact or rule which is not a staff matter.
88. The Court shall interpret the meaning of the Protocol. Any such declaration shall only be made after the President or Union General Manager has had the opportunity to make submissions or comments. The Court Chair or panel chair shall be responsible for clarifying and enforcing this protocol when the Court is sitting or in administrative matters relating to the Court.



89. Any staff matters remain confidential, and any later determination shall omit or anonymise any such reference.

#### **L. Appeals**

90. The Court may with the approval of the Council establish within it a panel of appellate members of proven and substantial ability and integrity to be entitled sit on an internal appeal as chair and the majority. Standing orders shall govern the ambit and procedure for an appeal. No internal appeal shall be heard until a panel and appellate standing orders are established.
91. No person may sit on an appeal against a direction or order made by a panel of which he or she was a member.
92. An appeal may, to the extent set out in standing orders, replace any set of orders or directions with any other.
93. An appeal may be made within two weeks once any internal appeal process is completed by a Sabbatical Officer to the Rector of Imperial College if and only if the Court makes a determination including one or more of the following orders:
- (i) Quashing or suspending any decision of the Council, or the Executive Committee when acting on the Council's behalf under section 10.8 of the Constitution, or
  - (ii) Mandating or prohibiting a Sabbatical Officer, or quashing or suspending their decision.
94. The Rector's appellate jurisdiction shall be subject to the following rules:
- (i) No appeal shall lie against a decision by the Court not to make a relevant order,
  - (ii) The final decision shall not be delegated to any other person employed by the College or registered student,
  - (iii) The Rector shall be provided with the original determination and other relevant documentation of the Court,
  - (iv) The Rector may conduct any hearing he wishes, or decide on the papers and written submissions,
  - (v) The Rector may replace the whole of the determination, or any part, and
  - (vi) A decision must be reasoned.
95. The Rector's decision, or that of the Court after two weeks without an appeal to the Rector, is final.

#### **M. Mediation Board**

96. The Mediation Board shall operate under the supervision of the Court, and may mediate in a complaint about Felix or any other Union publication or media outlet.
97. The Mediation Board shall consist of the Media Group Chair, the editors or managers of each publication governed by the Media Group, and such other publications or media organisations within the Union nominated by the Court. It shall be chaired by a member of the Court, nominated by the Court. It may co-opt other members.

98. The Mediation Board shall form to resolve any complaint made about a publication. When doing so the editor or manager of the organisation subject to a complaint shall temporarily recuse themselves from membership. If a complaint cannot be resolved to the satisfaction of either the complainant, or the editor or manager, the matter may be referred to the Court.
99. The Mediation Board shall resolve complaints according to the Court standing orders. The Court shall consult with the members of the Mediation Board prior to implementing any standing orders relating to it.

## ***Proposed Code of Conduct for the Union Court***

### *Introduction and purpose*

- The Union Court depends for its authority upon the independence, integrity and ability of its members. If members of the Court are to enforce standards upon others, they should personally observe such standards themselves.
- Deference to any ruling or determination of the Court by the students and staff of the Union should be founded upon the confidence they have in its members' independence, integrity and ability rather than having to rely upon the Court's formal status under the Union Constitution.
- Some of these guidelines restrict members from doing that which other members of the Union are entitled or even encouraged to do, such as being involved in policy-making and management of the Union.
- The codes are guidelines and rules of reason – though the Constitution requires members of the Court to adhere to them. They do not cover every eventuality and members of the Court are also expected to use their personal judgement and common sense.

### *Fundamental principles*

A member of the Union Court:

1. Must not engage in any conduct, whether in his or her role as a member or not, which is dishonest, otherwise discreditable, or prejudicial to the fair administration of the Union or College.
2. Must not allow his or her absolute independence, integrity and freedom from external pressures to be compromised.
3. Must not participate in any activity in the Union which may adversely affect the Court's reputation as a fair and capable arbiter of any issue or dispute.
4. Must make himself or herself available for a reasonable proportion of meetings and hearings.

### *Outside hearings*

A member of the Union Court:

5. Is encouraged to take full part in the activities and facilities of the Union, to the extent that it does not breach the fundamental principles above.
6. Should not involve himself or herself in management or politics for the Union as a whole, but may participate in the government of activities at club or society level, or its

equivalent.

7. Must endeavour personally to respect and obey the rules of the Union, and any constituent part thereof.
8. Must not use his or her position as a member of the Court to advance the private interests of others within the Union, or to use it to lend support to his or her own position in any private dispute within the Union.
9. Must not make any public comment about the merits of an issue or dispute yet to be heard, or any public disagreement with the progress or result of a hearing for which he or she was not on the panel.
10. May give informal advice about any uncontroversial matter of Union rules or procedure, but may not give any undertaking or impression that he or she, or other member of the Court would be bound by any such opinion.

### *When in hearings*

A member of the Union Court, when in a hearing:

11. Must be faithful to the law, Constitution and any rules made under it.
12. Must be patient, dignified, courteous and expeditious, and expect others to be the same.
13. Must avoid any formality of language or procedure beyond that needed fairly to conduct the hearing.
14. Must not conduct any discussion about a hearing with people involved in it outside the procedure of the hearing itself.
15. Must not in relation to any other person show bias or prejudice, or discriminate or victimise on the grounds of any personal characteristic, except on such objectively reasonable and justifiable basis required by law or constitutional Union rule.

### *Conflicts of interest*

A member of the Union Court is disqualified from sitting in a hearing if he or she:

16. Has, or may reasonably be perceived as having, a personal interest in the result which is not insignificant, or has a close social connection to another who has.
17. Is a witness to a fact likely to be in dispute, unless it is peripheral or occurred during a hearing or administrative business relating to the Court.
18. Is a candidate, proposer or seconder in an election, or member of the same committee, club or society within which the election was held, in any appeal relating to that election.
19. Was the returning officer or member of an elections committee, in any appeal relating to that election.
20. Is a current member of or active participant in a committee, club or society, in relation to any issue concerning them.
21. Is a member of the Union part time staff, in any issue where staff matters may arise.

## Meeting Procedures

### **Regulation Four**

*Requiring sabbatical officers to present their reports at the beginning of the Council, by default.*

### *Agenda*

11. Reports to the Council by the Sabbatical Officers and the Executive Committee must be placed at the beginning of the agenda for each meeting after the Chair's business. The Council may amend its agenda once it is in session.

*Procedural motions – the main change is the omission of the “+” or “++” signs necessitating the meeting's approval for many of the motions*

76. Procedural motions have differing conditions as follows:

1. Motions with asterisks (\*) have no discussion before being accepted or refused.
2. The chair rules on all motions, except motion d (challenge to the Chair) and those requiring the meeting's approval (+, ++).
3. **Motions with a percentage sign (%) are decided by the Chair alone and cannot be overturned by motion 'd'.**
4. Motions with two pluses (++) require a two-thirds majority.
5. Motions with a hash (#) are irreversible once accepted.
6. Motion i (&) requires only one-third of those members present and voting (that is, it requires two-thirds of the meeting to vote a roll-call vote down).
7. Motions with a tilde (~) may not be used at general meetings.

77. The motions are as follows, in decreasing order of precedence:

- a. Point of order, \* %
- b. Point of information, \*
- c. Point of privilege, \* %
- d. To vote on a ruling of the Chair, +
- e. An objection to consideration of a question **or motion**,
- f. To suspend or revoke a guillotine, #
- g. To recess the meeting, #
- h. To vote on a question in specific parts,\* #
- i. To vote on a question as a public roll-call vote, & ~

- j. To vote on a question as a secret ballot vote, ++ ~
- k. To reconsider something already voted on, \*
- l. To consider something out of its scheduled order, \*
- m. To move to a vote, #
- n. To adjourn the meeting. + #

**o. [To conduct a debate under the Chatham House Rule, +]**

80. A vote on a procedural motion must not itself be held by roll-call or secret ballot.

*Parts of this section would only apply if the Court was not set up and Council continued to rules on election disputes. The second section only applies if some form of electoral disqualification was ruled upon by the Council.*

81. Any final vote or disputed amendment to a motion under the Disciplinary Procedure in Regulation 5, [any resolution of a dispute in an individual election], closure of a Court inquiry or rescinding of an electoral disqualification must be held by secret ballot.

*There would also be an amendment to the Disciplinary Procedure.*

### **Regulation Five**

- “17.6 The vote and any disputed amendments thereto shall be held by secret ballot, notwithstanding regulations 4.23 to 4.25 and 4.77”
- Move 17.6 – 17.9 down appropriately.

*Chatham House Rule – if used.*

### **Regulation Four**

82. When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.

## **Election Procedures**

*Correcting the spelling error.*

### **Regulation Two**

Amend “practises” to “practices” and “practise” to “practice” throughout.

*New measures to allow campaigning on the record.*

### **Regulation Two, Part G (Publicity)**

*Campaigning on the record*

45. Candidates are permitted to refer to other candidates in their publicity only to the extent permitted below:
1. Statements made by candidates
  2. Conduct by candidates previously or currently in office, related to their office,
  3. A disciplinary hearing in relation to a candidate;
46. Any reference must fulfil the following conditions:
1. A reference must be relevant to a candidate's integrity or ability;
  2. No reference may be made which is merely scandalous or intended only to vilify, insult or annoy;
  3. No reference may be made to any personal trait of character, except in so far as it is clearly implicit in other statements or conduct;
  4. No reference may be made to another candidate's political views, except in so far as they relate to students in their interests as students;
  5. No reference may be made to another candidate's religious views.
47. Any reference to a statement or fact must be supported by substantial and independent evidence, for example meeting minutes, publications, reports, written publicity or hustings comments. The burden of proof is upon the person seeking to assert the facts or statements, to the extent that the returning officer or elections committee must be sure that they are true.
48. Reference may only be made to a disciplinary hearing and charges made in it if the candidate was found guilty of misconduct, censured or dismissed and no appeal is outstanding. The returning officer must deem it in the student interest for it to be revealed, and may make any restriction on revelation of detail about it.
49. If a candidate referred to in any publicity disputes the truth of such a statement, and provides evidence or an explanation which results in the burden of proof no longer being met, or demonstrates that the other regulatory restrictions applied, the publicity may then be disallowed. A returning officer may choose to hear both candidates' arguments in any fair way he or she wishes.
50. Publicity which is disallowed must be removed within 24 hours. If it involved any comment in a publication, it must be retracted or correcting comment put in within 24 hours, or in the next publication.
51. No new publicity referring to other candidates may be authorised within 48 hours of ballot boxes opening. This advance time may be extended by the returning officer or policy.

*Candidate is formally responsible for actions on his or her behalf.*

**Regulation 2, Part K (Objections and Unfair Practices)**

78. A candidate is wholly responsible for any act or omission made by another on his or her behalf.

*Disqualification from elected office for electoral misconduct.*

## **Regulation 2, Part K (Objections and Unfair Practices)**

### *Disqualification*

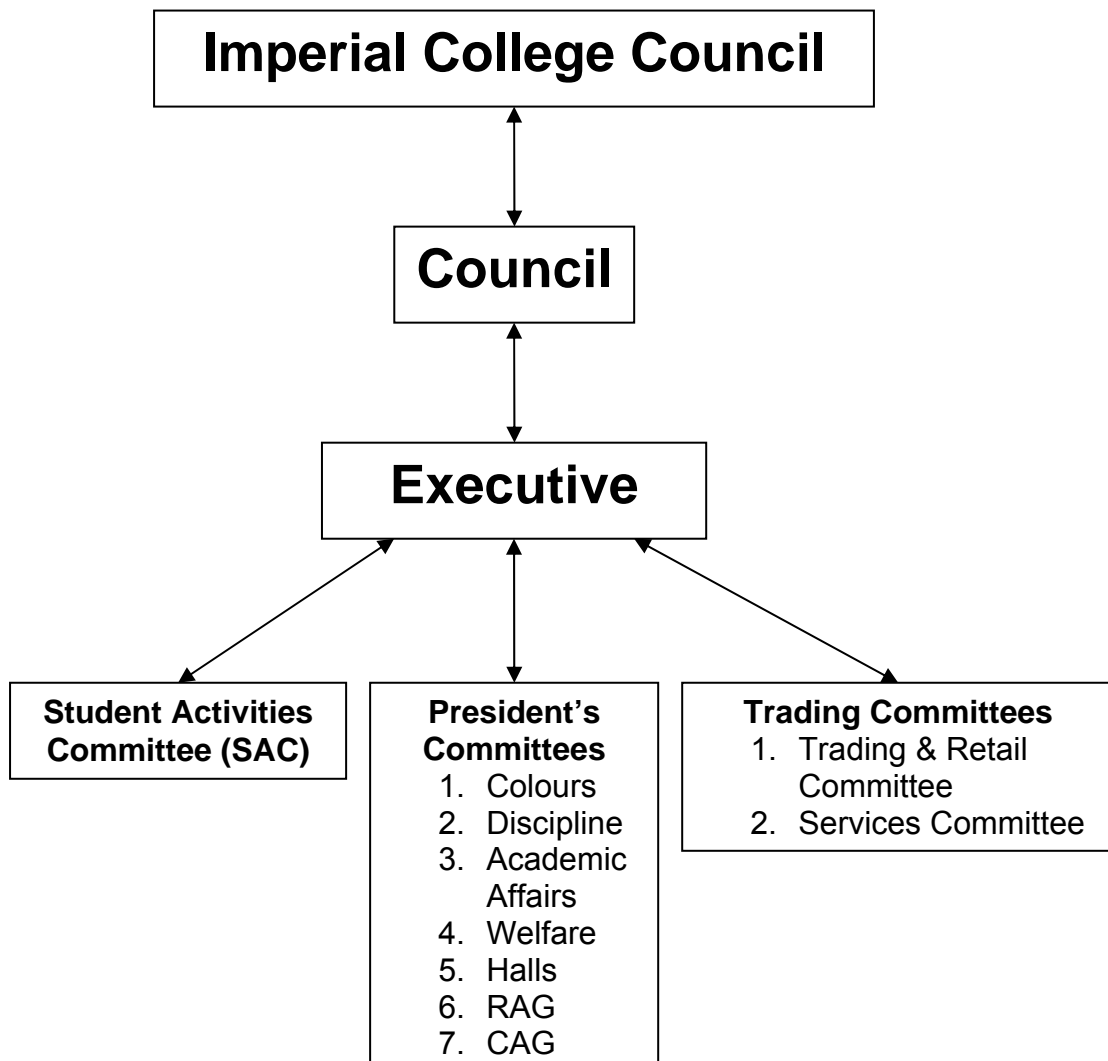
86. A candidate who is disqualified from an election is automatically further disqualified from being elected to or holding any elected office in the Union indefinitely. Such a candidate is also disqualified from acting as a returning officer or member of an elections committee.
87. A person who acts as an agent for a candidate who is disqualified from the election as a result, or partly as a result of the person's misconduct may be similarly disqualified.
88. Any order to disqualify a candidate's agent may only be made by the Court, and the returning officer or elections committee may refer any case to it for this purpose.
89. No disqualification will act to remove a person from a post he or she already holds, unless that of returning officer or member of an elections committee. The Council may remove an indefinite disqualification.



## APPENDIX C

### GOVERNANCE STRUCTURE DIAGRAM: STATUS QUO

#### Present Unincorporated Association Structure



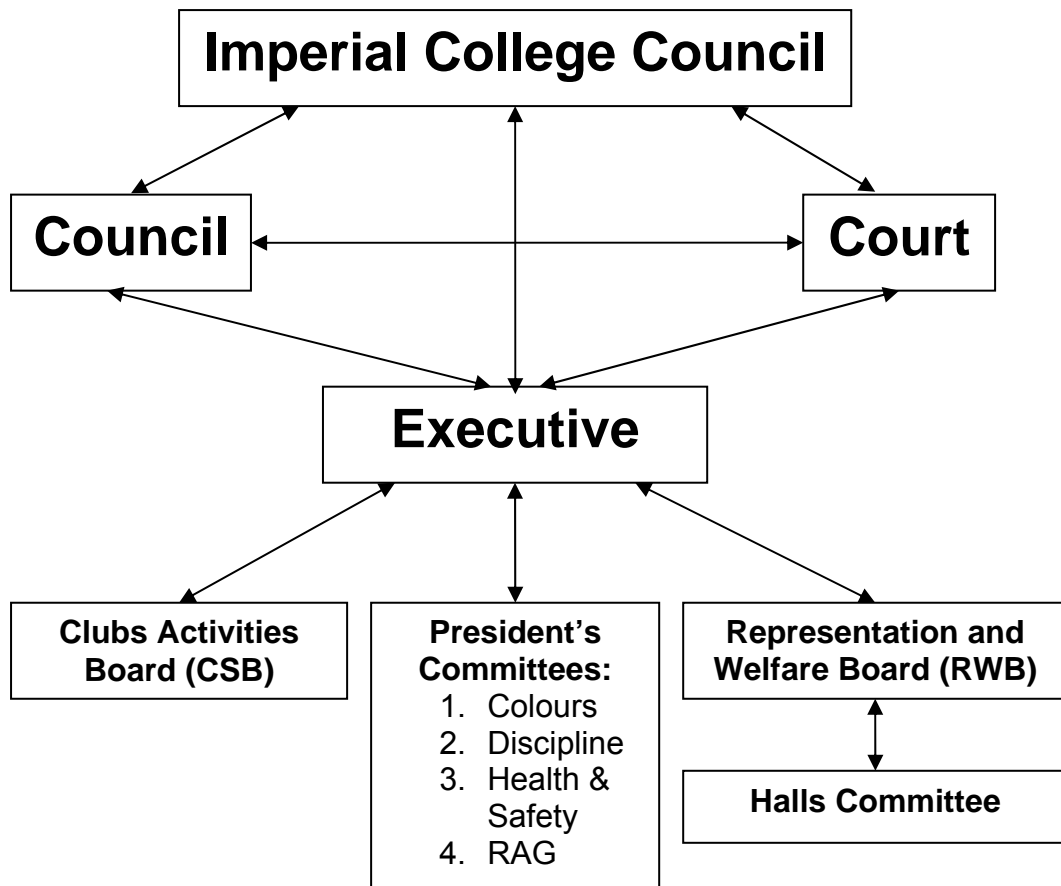
#### Notes

1. At present the majority of Officers who sit on the Union Council are essentially managers and a minority of students sit as elected representatives.
2. The same pattern of membership is repeated in the Executive and Student Activities Committee, although this is to be expected given that these committees are, in essence, operational committees.

## APPENDIX D

### GOVERNANCE STRUCTURE DIAGRAM: MODEL 1

#### Proposed Unincorporated Association or College Division Structure



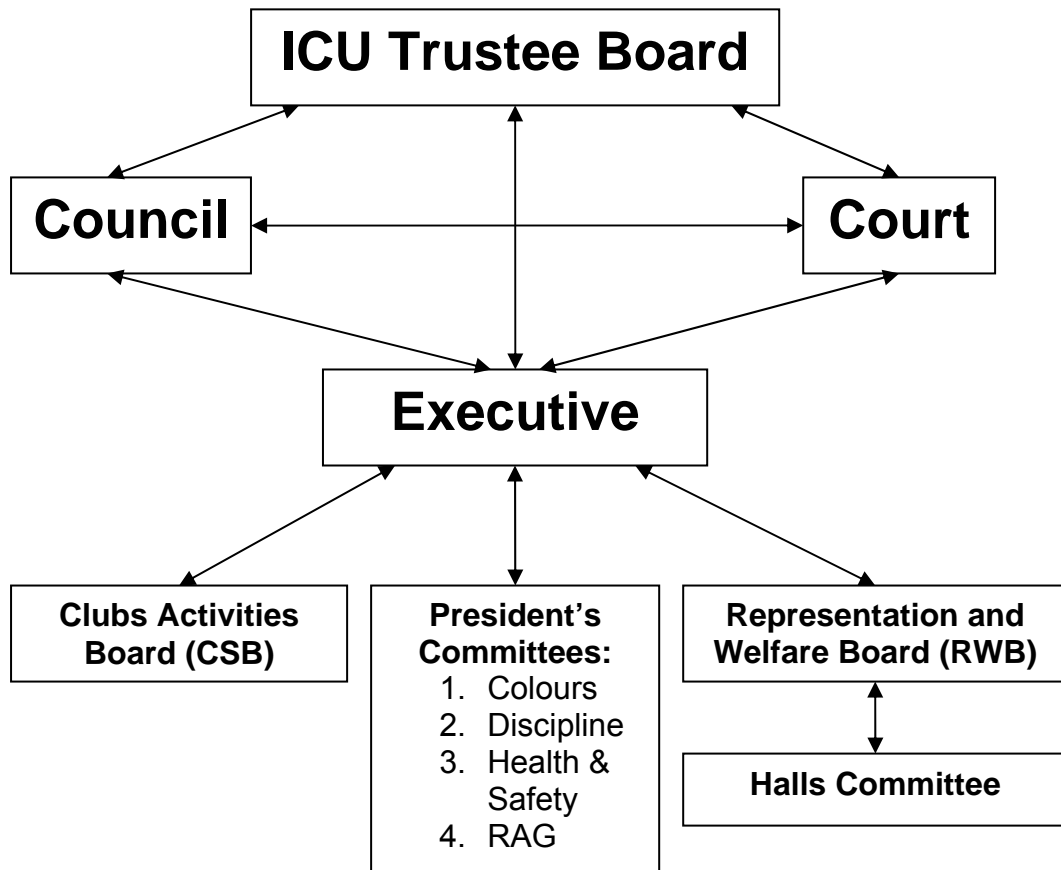
#### Notes

1. There would be substantial changes to the Council's membership. Club, representation and welfare operational policy would be devolved to the Clubs Activities Board and the Representation and Welfare Board. The Council would essentially become an assembly of representatives, as opposed to a gathering of managers.
2. The Court would include a minority of lay members and would be sovereign only on election and constitutional interpretation issues.

## APPENDIX E

### GOVERNANCE STRUCTURE DIAGRAM: MODEL 2

#### Proposed Incorporated Charitable Company Structure



#### Notes

1. This model is very similar to the College Division / Unincorporated Association model. The only major difference is the introduction of a sovereign Trustee Board, which would have a lay member majority.
2. The Council, Executive and Executive sub committees would be structured in an identical way to Model 1.
3. The Court would meet as an independent body to consider election disputes, media complaints and advise the Council and Trustee Board.