

**Present:** John Akokpari, Edwin Blake, Sarah Blyth, Robert Cameron, Jumani Clarke, Bette Davidowitz, Melissa Densmore, Greg Distiller, Landi du Toit, Nico Fischer, Hanske Flieringa, Fadia Gamielien, Shane Godfrey, Terri Grant, Thulane Gxubane, Charles Hellaby, Andrew Hibberd, Simon Hull, Catherine Hutchings, Salma Ismail, Roisin Kelly, Mariola Kirova, Dirk Lang, Tim Low, Mercy Brown-Luthango, Mark Massyn, Patrick Marais, Mandisa Mbali, Shannon Morreira, Kelley Moulton, Tom Moultrie, Shaheen Mowla, Maanda Mulaudzi, Natasha Muna, Siyabonga Ngubane, Gideon Nomdo, Tando Ntunja, Sophie Oldfield, Cathleen Powell, Robert Prince, Neill Robertson, Karin Schmid, Riashna Sithaldeen, Julian Smit, Hussein Suleman, Christine Swart, Lucia Thesen, Kevin Thomas, Stuart Torr, Marianne Vanderschuren, Mathilda van der Merwe, Thomas van Heerden, Marion Walton, Catherine Ward, Herman Wasserman, Jennifer Whittal and Gina Ziervogel

**Apologies:** Colleen Adnams, Waheeda Amien, Sheila Clow, Maria Keet, Henri Lauri, Pamela Lloyd, Theresa Lorenzo, David Marais, Heather Marco, Frank Matose, Fiona Ross, Harro von Blottnitz and Chris von Klemperer

### **In Attendance**

Shirifa Hellaby (AU Administrator)

### **1. Welcome and Apologies**

Maanda Mulaudzi (President of the AU) extended a welcome to everyone present.

### **2. Confirmation of the 2016 AGM Minutes**

As there were no comments on the minutes, members can send amendments of it via email.

### **3. President's Report**

Maanda informed the meeting of the following:

That he would mainly highlight the activities that the Academics Union Executive (AU Executive) were involved in during the year. Shane Godfrey, a member of the Bargaining team will provide feedback on salary negotiations and this will be followed by the treasury report.

Ordinarily we are supposed to elect the members to serve on the incoming AU Executive but the Union did not receive any names from members to serve.

Encourage those members who are interested to join the AU Executive to speak to him or the Union Organiser at the end of this meeting.

### **In Summary:**

Maanda informed the meeting that the AU's commitment to advance the interest and concerns of its members remains unchanged. Indicated that the change one can notice is the complexity of the environment we are operating in, whether it is locally, within UCT, nationally and globally. The local environment, namely UCT, is one which in some ways is almost a mirror image of the national picture where we are undergoing a dangerous transition, to borrow the phrase from a colleague, as we were talking about this before the meeting.

We have a Vice-Chancellor (VC) who is on his last months of tenure and we have four Deputy Vice-Chancellors (DVCs), one whose term comes to an end this year. Two DVCs are acting while two are fairly new in their jobs, and that brings with it some risks and perhaps opportunities.

But it is not only at the level of the Executives. There are also the Deans—we have acting Deans in several Faculties. One Faculty did not appoint a Dean and the next step might be an interim-Dean. We might also have an interim-VC.

There is a real sense in which there is this transition at all levels of the University management structure and it is that which represents a moment of complexity and uncertainty. Further, there is another greater doubt whether this semester will end or not. This is not a situation that UCT can resolve as it is not unique to UCT.

It is in that context that one should understand our role and which therefore calls upon us to constantly define our principles, in response to these challenges facing us.

As in previous years, the Union is committed to advance the interests and concerns of its members by participating in the various University structures and will only make reference to a few of these.

a.) Participation in University structures

(i.) Institutional Forum (IF):

According to the Higher Education Act, the Institutional Forum (IF) is a statutory body intended to provide a platform for the participation of various constituencies in the administration of the University. In previous reports that we have presented, we have characterised the IF as a flawed body. The challenge is to see how it can be strengthened but it does not seem to have the leadership to do this.

One of the challenges of the IF is the different misunderstandings of its role and functions. This means that some constituencies end up having a rather inflated sense of what the IF is supposed to be. The IF is considered to be a mainly advisory body and within the past year, some clarity has been gained on this. However, due to its regular changing composition with new members coming into the IF, there is often a temptation to strike whatever has been achieved up to a certain point. So far this year, the IF maintained the pattern of previous years where it is unable to take decisions because a quorate could not be formed, as some members could not attend the sessions and sometimes with very valid reasons. For instance, they might be teaching and students might be in class. To deal with the attendance issue, an Executive body was formed which will make pronouncements and refer these to the fuller body for a final decision.

The IF also settled on the issue of co-chairs where currently three co-chairs exist, which represent the three constituencies and this is a way to ensure that all the voices are heard. The one great danger of the IF is to become a rubber stamp, especially by the VC and this was illustrated in one or two cases.

One case, is the position of the Chief Operating Officer (COO), who is meant to be appointed. IF was presented with documents and requested to approve this appointment without setting up a meeting and without providing a proper job description.

The representation of Management on the IF is constant so it will simply become a rubber stamp in that sense. Another matter is the appointment of the Selection Committee for the VC and while current policy indicates that staff bodies cannot be represented on these Committees, the IF could not discuss this due to pressure of time.

What resulted in the call for nominations for non-professoriate staff to serve on the Selection Committee is that the staff member who received the highest votes, was overlooked as the Chair of Council selected the member who received the second highest votes. The Union therefore requested the rationale used in selecting a representative to represent the non- professoriate staff.

**(ii.) Institutional Reconciliation and Transformation Commission (IRTC)**

Maanda informed the meeting that he is aware that some members questioned the legality of the Institutional Reconciliation and Transformation Commission (IRTC), which is a product of the agreement between students and Management where the students serving on the IRTC represent the Shackville TRC.

The Union did not anticipate serving on the Steering Committee and thus far two major issues have been of concern, namely the definition of the terms of reference, which was a challenging enterprise, as this took a weekend workshop that was held to reach some agreement. As of this week, voting to select candidates for the commission was concluded. However, the voting had to be extended due to technical difficulties as some constituencies were unable to vote.

In relative terms, there have been some progress, but there is still a long way for matters to be concluded and the Union will continue to be involved in the IRTC.

**(iii.) Other University Committees**

As with most University Committees, the AU Executive would like to encourage its members to participate in these forums.

The Union continues to be part of several University Committees, ranging from the Academic Freedom Committee to the Naming of Buildings Committee (NOBC). The Union currently does not have a representative on the last-mentioned Committee and it is the intention of the AU Executive to contact members to enquire if anyone would be interested in serving on the NOBC, which is a body that decides on the names of buildings, rooms and spaces within the University.

On behalf of the Union, Maanda expressed his thanks and appreciation for members who give of their time in serving on these Committees.

The Union also wishes to encourage members to provide suggestions to assist in improving the way nominations are made for serving on University Committees.

**(iv.) Relationship with University Management:**

In terms of the Union's relationship with the University Management, Maanda indicated there has been no change from the previous year. The Union continues to hold meetings with Management where it participates in the Consultative Forum for Academic Staff Matters (CFASM) and the HR-AU Collaboration meetings. Maanda informed the meeting that these forums provide the Union important channels to engage with Management but it is often the case that these forums are used as shells where issues referred here, have over the years, never been resolved.

While the Union has continued to maintain cordial and collegial relations with Management, reciprocity from the last-mentioned is a rare phenomenon. The desire of the Union to remain collegial and cordial, has been taken as a weakness that has to be abused. The current DVC, responsible for HR, for example, upon assuming

his position, indicated a desire to re-cement relationships. But this cannot occur mainly as he is serving in a temporary capacity because his appointment as DVC comes to an end this year.

A concern the Union has come to be aware of during the second half of this year, is one in which core-functions of the University, namely that of HR have been outsourced to Bowman Gillfillan, a law firm. For the first time, the Union was also forced to negotiate its salaries with a partner of this law firm.

The issue of consultation on the part of Management is also problematic where during the previous year, the calendar was unilaterally changed and the Union had to beg to be consulted. This year again, many members received emails from their Deans requesting contingency plans in case of protest action. Again, the Union had to communicate with the Executive, requesting the need to be consulted. It appears that there is nothing accidental about this. This is the extension of the outsourcing of all the functions of the University to this law firm.

Maanda informed the meeting that the University is currently adopting a very legalistic approach in its interpretation of consultation, whereby they indicate that they do not have a plan and is therefore not obliged to consult with the Union. Further, they would only consult with the Union once they have decided upon a plan. However, the law compels the University to consult with the Union in an effective way.

## **Conclusion**

Maanda informed the meeting that three members on the AU Executive are stepping down, namely Bette Davidowitz, who is retiring at the end of this year; Johannes Langba-John, who resigned from the University and lastly, Catherine Hutchings. Catherine has been a long-time serving member on the AU Executive Committee, and has held multiple positions of which one is an important role, namely coordinating Grievances.

Maanda informed the meeting that grievances take up a great deal of the Union's time, something Catherine Hutchings can attest to.

Maanda also thanked the current members of the AU Executive for their time and commitment, namely: Fadia Gamielien, Nico Fischer, Andrew Lilley, Tim Low, Mark Massyn, Kelley Moul, Shaheen Mowla, Hussein Suleman and Christine Swart.

On behalf of the Union, Maanda also thanked the members serving on the Bargaining team, which is led by Ulrike Rivett. Maanda pointed out that although Ulrike is not a member of the AU Executive she and Shane Godfrey are Union members who serve on the Bargaining team and thanks them for their invaluable contributions. Maanda also informed the meeting that the Bargaining team have been informed on a number of instances that they do not understand the intricacies of finance in order to negotiate the salaries. He therefore appeals to those members who have expertise in finance to assist the team in future.

Maanda conveyed his thanks to Shirifa Hellaby, the Union organiser for her work and also thanked all the members for their continued support and reminds them that the Union requires their continued engagement.

## **4. An update of the Salary Negotiations**

Shane Godfrey informed the meeting that he is standing in for Ulrike Rivett who is the head of the Bargaining team and indicated the following:

- Salaries have not been concluded

- It has been an extremely difficult, convoluted and time consuming process
- The Bargaining team has negotiated in good faith throughout the process and a part of the reason it has been so convoluted is that they sought to explore every way to settle the dispute by reaching agreement and by avoiding industrial action.

Shane highlighted the sequence of events, which are:

- Negotiations started in August 2016, which was already later than normal.
- Prior to the negotiations, the projections which the team were presented with by the University Finance Department had used 6% going through 2021 for salary increases.
- When the Bargaining team started the negotiations, they were not surprised by the offer of 6%, but what was unexpected, is that it was given to the AU as a non-negotiable offer.
- The Bargaining team rejected the 6% and a discussion resulted on the non-negotiating stance evinced by Management.
- The 6% offer would leave staff significantly off the 75<sup>th</sup> percentile, which is allowed by the Pay Policy on the grounds of financial instability. This means they are within their rights to offer the 6% but if the Bargaining team had accepted this, many of the ranks would be below the 60<sup>th</sup> percentile.
- When the Bargaining team raised this, they indicated if they accepted the 6% offer, there would be a very little chance of getting back to the Pay Policy and would have to renegotiate the last-mentioned.
- Management rejected to renegotiate the Pay Policy.
- Management offered little with regard to the non-salary demands and the Bargaining team had envisaged at the time there would be some form of balance between the salary and non-salary demands to try factor in some sort of agreement.
- Negotiations ensued in deadlock, which is not surprising as Management's method of negotiations at that time was to look at the Union's demands then reject it and very little discussion occurred to reach an agreement or solution.
- Despite objections from the AU, the 6% increase Management offered was then unilaterally implemented in February and backdated to January.
- The Bargaining team declared a dispute and approached the CCMA for a conciliation process. At this meeting, there was no movement on the salary demands, and the team agreed to go into a facilitated meeting to use an external facilitator to facilitate the process to reach an agreement.
- At that point, Prof Corder took over from DVC Prof Francis Petersen who had resigned. Under Prof Corder there was a significantly different approach.
- At this facilitated meeting, Management offered 7%, which was rejected by the AU, who stuck to its 11% increase, which would move all ranks onto the 75<sup>th</sup> percentile. Further, 11% is in line with the Pay Policy to remain at the 75<sup>th</sup> percentile.
- At this meeting, there was a little movement around the non-salary demands, but there was no resolution on the dispute so they returned to the CCMA to resume the conciliation process.
- There was deadlock on the salary demand.
- At this meeting the Bargaining team agreed to explore interest arbitration, where the hope is that they could present their case to an arbitrator, who could make a decision on the salary increase.
- The agreement to explore interest arbitration saw the end of the CCMA conciliation process.
- The AU was issued with a certificate of non-resolution on the dispute by the CCMA and that allows the Union to go into the process of protected industrial action.
- A meeting occurred to deal with the non-salary demands and progress was made with Prof Corder on these.
- Although the non-salary demands were not concluded, the Bargaining team felt there was a genuine interest to settle these issues through dedicated processes.

- u. At a separate meeting, the Bargaining team and Management reached agreement on the key principles for interest arbitration on how it would be conducted, as well as appointing Mr. Paul Pretorius, the arbitrator. Mr. Pretorius is a senior advocate based in Johannesburg and has vast experience with arbitrations.
- v. The arbitration process would only deal with the salary issue but the award made by the arbitrator would not take effect until there was agreement on the non-salary issues. The Bargaining team made it clear that the salary and non-salary demands were a package.
- w. Once the arbitrator made a decision on the increase, the Bargaining team would then negotiate on the non-salary issues and resolve the process.
- x. At this point, Management brought in a lawyer from Bowman Gilfillan, which they are now increasingly doing.
- y. The AU then had to engage lawyers, namely Bradley Conradie and Craig Bosch. The last-mentioned is an advocate.
- z. The Bargaining team experienced a number of delays due to communication problems between the principles and in some extent between the lawyers.
- aa. The Bargaining team were provided with the draft terms of reference (ToR) for the interest arbitration and these were points of principle which had been agreed on a meeting; amendments were made and the date set for an arbitration.
- bb. There was a disagreement on the ToR and it was literally down on a particular word that Management used which the Bargaining team indicated did not correctly describe the nature of the dispute.
- cc. Due to the back and forth communication between all parties, there were further delays in agreeing to the ToR for the interest arbitration.
- dd. A few days before interest arbitration was set to take place, the UCT lawyer indicated that no agreement would be reached on arbitration and requested that interest arbitration should be converted to mediation. Mr. Paul Pretorius who had been appointed as the arbitrator would then take on the role of mediator in the dispute.
- ee. As time was pressing and they had no alternative options, the Bargaining team very reluctantly agreed to this request to go into mediation.
- ff. Mediation was held and as per the agreement, it is confidential so no details can be provided suffice to say that agreement was reached on the mediation.
- gg. A follow up meeting with Management was arranged and again this was covered by the terms of confidentiality. At this meeting, Management indicated their reservations in taking the interest arbitration route.
- hh. The Bargaining team then redrafted the ToR, keeping it as neutral as possible and sent this to Management.
- ii. The result is that Management objected to the redrafted ToR for the arbitration and the Bargaining team is not clear on exactly what the aforementioned objected to.
- jj. Management proposed another meeting and the Bargaining team indicated that before they agree to this they require clarity on the specific clauses the aforementioned were objecting to.
- kk. Prof Corder is currently on leave so Management's lawyer is in charge of this process. The Bargaining team indicated they would not deal with Management's lawyer and referred this matter to the AU lawyers, requesting them to reach agreement on the ToR for arbitration and gave UCT a deadline.
- ll. The Bargaining team indicated if agreement is not reached by the deadline, interest arbitration will be withdrawn, which leaves the AU in a deadlock with the only option to initiate industrial action.
- mm. To sum up: the AU is still in deadlock with salary issues; settlement of the non-salary demands are contingent on the settlement of the salary issue; there has been movement in respect of negotiations but we still far apart on the offer Management made and the Bargaining team's demand; interest arbitration is still an option.

- nn. Negotiations should have commenced for 2018 pay increase so we are behind with this.
- oo. There is still a dispute on the annual leave situation, which has been on the 'back burner' and there is a Pay Policy *de-facto* Management has not complied with, which they indicated they are now prepared to re-negotiate and the question is when this would take place.
- pp. Re-negotiating the Pay Policy means to renegotiate the 75<sup>th</sup> percentile and this can only mean a demand from Management that is negotiated downwards. This will place increasing pressure on current negotiations.

Members in the meeting acknowledged Shane's report with applause.

**Members posed the following questions or concerns:**

- a. I wish to thank the Bargaining team for all their hard work and want to enquire why arbitration is off the table. Is it because Management said they are not interested in arbitration?
- b. What deadline did you set for Management?
- c. When you talk about industrial action, I was wondering whether a refusal to have anything to do with the contingency plans that are now coming up, count as form of work to rule? Might this not be a form of industrial action?
- d. So is this a form of a symbolic strike?
- e. Two things—an approach from Management to say that it is not good enough that we would not buy into it, can also be used against them. We can do the same about the change in the Pay Policy and say if this is the way you want to communicate with the Academics Union, then the Union can say that we don't accept the changes and see what their response is. We have new Unions at UCT and within six months, they are going on strike while we have been very patient with UCT Management and there has been the issue about communications with other Unions if we go along with this strike or not. I am not seeing we need to do this but apparently this question has been posed in the VC's communication. I think if we want to go any other way, that is, industrial action that is not quite a strike, we need to find a way where it hurts. For example, not giving any of our publications to the IRMA system. This could probably be one way of telling them we will not load anything and will not give any administrator our publications.
- f. Do you know what percentage of academic staff are not part of the Union?

**Responses by Shane Godfrey and other members of the Bargaining Team:**

- (i.) Arbitration was on the table, but the Bargaining team had a problem with the ToR and at this meeting, Management indicated this reluctance to reconsider interest arbitration and open up that route. After the discussions with Management, they became enthusiastic about the idea and the Bargaining team redrafted the ToR and recently received a message from them that they have problems with these.
- (ii.) The deadline we set is Friday 8 September.
- (iii.) Industrial action can take a variety of actions and does not necessarily mean a full scale strike. We can decide how we want to design our industrial action. This is something we have to decide if the interest arbitration process does not materialize. It can take the form of limited industrial action, for instance, working to rule, not participating in any administrative processes, meetings, etc. It could include not doing any alternative methods of teaching, or a one day protest.
- (iv.) One thing about the contingency plans is that everything continues to be done at our best, without necessarily taking into account the conditions under which we work. How many of you have taken leave during the year?
- (v.) The obvious thing, is the reluctance that we have to work with is the reluctance of most academics to stop teaching. This is something we understand but we would have to come up with some method that would be effective...one that will make an impact, one which most academics would be prepared to go along with.
- (vi.) What Shane is talking about is not a method the AU Executives would consider, more that of membership.

- (vii.) Speaking on my own personal view, I think we have to be visible. I think the time has come to that because they think we are a soft touch. We are very close in communication with the Employees Union (EU) and they are equally concerned about the results of our salary negotiations and Pay Policy. If UCT is allowed to unilaterally withdraw from our Pay Policy the likelihood is great that they would do the same to them, i.e. the EU. So the EU are willing to come out in support of the AU if they strike. This is also an important thing to take into account. Things like IRMA makes no difference, because UCT has an entire department that searches through all the publications by staff members and put this into IRMA themselves. I think we really need to think carefully about using those mechanisms. I am not trying to argue one way or another, I am saying we need to have a full consideration of these ideas.
- (viii.) Unfortunately a number of methods are invisible and I think these might have to be balanced. I think they might have an impact and might have to balance it with some kind of visible protest.
- (ix.) I think it is important for us, as members of the Union to talk to colleagues we know who are not members of the AU. One of the ways that Management divides staff is to talk about their responsibility towards non-Unionized members and I think they use that to disseminate mis-information around what is happening in these processes. I think if we did get to that point, I think it would be important for us to have a generalized strong staff showing.
- (x.) About 45% of staff are not members of the Union and this varies across the ranks as well. We find that there is a lot of movement around the lecturer level, as people come and go. It is quite stable at the Associate Professor level and some Professors, who feel they have been long at UCT, do not wish to belong to the Union.
- (xi.) We have a Recognition Agreement but Management wants to reduce that agreement to the same status as they want to do with the Pay Policy and it not worth the paper it is written on.

## 5. Draft 2016 Audited Financial Statement and 2017-2018 Income and expenses report

### a. Draft 2016 audited financial statement

A copy of the draft 2016 audited financial statement produced by Nolands (Mowbray branch) was made available to members via email. Mark Massyn (Treasurer) provided an overview.

#### **Income and expenditure Summary:**

- The total income for the 2016 period was derived from three sources, namely investment income, a grant from the university, and membership fees.
- The expenses in 2016 increased by 20%, due to the following reasons: entertainment costs, as there were additional meetings and the AU hosted a number of forums to cover catering costs.
- Membership fees increased by approximately 30%.
- The Union had a surplus of R160 000, which increased our current account to R2.8m.
- In 2016 there were legal expenses where the AU provided assistance to certain members. The AU Executive noted that there is an increase of members seeking representation. Catherine Hutchings, Kelley Moulton and Tim Low have played a huge role in assisting members with grievances and one case, for example, they spent a total of 400 hours trying to resolve issues, as Management do not seem to follow procedures.
- For 2017, the AU budgeted an amount of R364 000 for membership fees and based on the calculations done, we would actually receive R375 000, in line with what we closed off in 2016.
- Although we budgeted for an amount of R300 000, which is a grant from the University to the AU, the Union landscape is changing as more than five Unions exist now who are also requesting financial support and office space. We envisage that the grant from the University might be reduced.
- Increased the expenditure for the legal fees to R100 000 and the main reason for this increase is that the AU had to bring a legal team on board to assist with salary negotiations.



- The funds are ring-fenced and the only ones who can authorise the expenditure are the three office-bearers of the Union.

Mark suggested that members email him if they require clarity on the reports and proposed the Union re-appoint Nolands as auditor, which was approved by the meeting.

## 6. Election of the new Executive Committee for 2017-2018

Maanda informed the meeting that the current Executive committee members have made themselves available to serve another term, with the exception of Catherine Hutchings and Bette Davidowitz who are stepping down. Bette is retiring at the end of this year while the Union Executive had one resignation, namely Johannes John-Langba who resigned from the University.

There were no further nominations for the AU Executive from the floor.

Name	Position	Faculty	Years serving on AU	Standing for Re-election
Maanda Mulaudzi	President	Humanities	5	Yes
Kelley Moulton	Vice-President	Law	3	Yes
Mark Massyn	Treasurer	EBE	2	Yes
Bette Davidowitz	Elected	CHED	8	No
Fadia Gamielien	Elected	Health Sciences	1	Yes
Nico Fischer	Elected	EBE	2	Yes
Catherine Hutchings	Elected	CHED	7	No
Andrew Lilley	Elected	Humanities	2	Yes
Tim Low	Elected	CHED	3	Yes
Shaheen Mowla	Elected	Health Sciences	1	Yes
Hussein Suleman	Elected	Science	2	Yes
Christine Swart	Elected	Science	3	Yes

The majority members of this meeting accepted those members standing for re-election.

The AU Executive received a formal vote of thanks from a member and this was seconded by an applause by the remainder of the meeting.

## 7. Closure

Kelley Moulton (Vice-President) reminded members to provide their comments on the contingency plans on the Vula forum. Maanda thanked everyone for attending the meeting and indicated that the AU Executive would continue providing members with an update on issues.

There being no further business, the meeting was adjourned at 13h55