Dear Sirs

Re: Resolution 25

Thank you for taking the time to visit myself and Sally Hunt last week as suggested in my letter dated 14 October 2008.

During the meeting you said that the union should “repudiate” Resolution 25 or otherwise face litigation. In response Sally Hunt suggested that it might be appropriate for your clients to wait and see what steps were going to be taken to implement the Resolution, and explained that proposals for the implementation of the resolution were to go to the NEC on Friday 28 November 2008. Ms Hunt explained that we were unable to share those proposals with you until the NEC had had the opportunity of considering them. Ms Hunt assured you that we would inform you of the NEC’s decision as soon as possible thereafter.

I am now able to confirm that the NEC endorsed the proposals which therefore now represent the union’s proposed implementation of Motion 25. I should explain that the programme of work was originally agreed by the Union’s Strategy and Finance Committee (SFC) on 14 November, and was prepared following detailed legal advice from Leading Counsel.

The programme of work is as follows:

1. The union will issue guidance to branches to facilitate twinning with universities and colleges in those countries covered by the international motions passed at 2008 Congress, namely Zimbabwe, Colombia, the West Bank and Gaza Strip, Burma etc.

2. The union will commission and independent report on academic freedom and the rights of staff and students within all those institutions and countries covered by 2008 Congress International Policy.

3. The union will publicise the report widely once finished and seek to raise awareness amongst members and the public of the findings of the report.
4. The General Secretary will ensure that any expenditure on Motion 25 and the other international motions from Congress 2008 is proportionate and within UCU’s agreed budget for international work.

The programme of work described above will now be progressed under the supervision of the general secretary’s office who will take advice from the International Advisory Group of SFC as required.

In reaching its decision the NEC considered and rejected your demand that it should repudiate Resolution 25. The NEC noted that the union’s rule book gave it no power to do so. Congress is the union’s supreme policy making body and therefore only Congress could conceivably pass a motion repudiating or reversing Resolution 25.

Of course it remains open to your clients to take legal action but in the light of my previous letter and the measured implementation plans described above the union hopes that on mature reflection they will decide not to do so.

Finally, the union does not share your client’s view expressed at the meeting that the proposed litigation is the appropriate way to determine conclusively the limits of any policy the union might lawfully adopt in relation to issues connected with Israel. In our view, any application to court in relation to Resolution 25 would be limited to a consideration by the court of the lawfulness of the particular wording of that Resolution. It is, in our view, inconceivable that the court would go further and make an order preventing the union from debating or discussing at all controversial matters including Israel and Palestine. That would, in our view, be an extraordinary gag on the union’s right of freedom of expression. At best therefore the court would only determine the lawfulness or otherwise of Resolution 25. But as your clients are fully well aware, if the Resolution is struck down, another, informed by the court’s judgment, will emerge in its place.

We would respectfully suggest that the important issues relating to the union’s policy in connection with Israel and Palestine should be the subject of democratic debate within the union, not litigation under conditional fee agreements. As Sally Hunt made clear in the course of our meeting, it is open to your clients to seek to bring forward a motion to Congress and to allow the union’s democratic processes to apply equally to that motion as it does to any other.

Yours faithfully,

Michael Scott
Director of Legal Services

Note: this letter is sent electronically and therefore unsigned