

## Meeting of the Capitation Committee

13 February 2018

### Meeting Commenced at 11.00am

**Present:** Chair (Senior Dean – Prof. John Parnell); Secretary – Aidan Marsh; Financial Services Div. Rep. – Elaine Sharkey; Student Life Comm. Rep. – Dean of Students, Prof. Kevin O’Kelly; CSC (Chair) – Benn Hogan; CSC (Hon. Treasurer) – Ronan Hodson; CSC (Ord. Member) – Greta Warren; CSC (Treasurer) – Dahnán Spurling; DUCAC (Chairman) – Donagh McDonagh; GSU (President) – Shane Collins; GSU (Treasurer) – Pia Helbing; PUBS (Treasurer) – Carla King-Molina; SU (President) – Kevin Keane; SU (Student Welfare Officer) – Alice McPhearson; SU (Education Officer) – Damien McClean

**Apologies:** SU – Simon Evans

**In Attendance:** CSC - Joseph O’Gorman, GSU - Dr Geoff Bradley; DUCAC - Aidan Kavanagh, PUBS - Rory O’Sullivan, Clare McCarthy

Aidan Marsh, Committee Secretary, Circulated the attendance sheet for members signature.

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The Chair opened the meeting by outlining how the meeting would be run. Stating that it was a special meeting called under 4.5 of the Capitation Committee Terms of Reference, which reads:

*In the case of a complaint against a dependent organisation, the Capitation Committee will require that the capitated body deal with the complaint internally to ensure adherence to the relevant regulation(s). If the capitated body’s internal procedures are deemed to have dealt with a complaint unsatisfactorily or in the case of a complaint against a capitated body, the Capitation Committee will ensure compliance with the regulation(s) and to this end retains the authority to withhold funding from any of the Capitated Bodies.*

A complaint had been received by the Senior Dean on 7 December by Clare McCarthy of Trinity Publications (See Item 1) regarding her removal as Chair of Trinity Publications. The Senior Dean stated that the Committee was not gathered to pass judgement on personal matters, but to determine whether Trinity Publications had followed correct procedure, and referenced documents which had been circulated to the Capitation Committee – The initial motion of No Confidence circulated by members of Trinity Publications, the report on the meeting at which the Motion of No Confidence took place, and articles 4.6, 5.11, and 10.7 of the Trinity Publications Constitution.

The Senior Dean offered Ms McCarthy the opportunity to make a statement, and said that Trinity Publications would be permitted to make a statement of their own afterwards. Following that Ms McCarthy and the representatives of Trinity Publications would leave the room.

Ms McCarthy read a prepared statement and outlined her case with regards to the purpose of the meeting.

Rory O’Sullivan, Secretary of Trinity Publications, read a prepared statement again being confined to the purpose of the current meeting.

Ms McCarthy then replied to this statement.

An opportunity was given for members of the Capitation Committee to ask questions of Ms McCarthy and of the representatives of Trinity Publications.

A number of questions were raised and detailed discussion undertaken on articles 4.6, 5.11, and 10.7 and the cases made by the appellant and Trinity Publications.

In particular:

1. Kevin O’Kelly (Dean of Students) asked representatives of Trinity Publications about the reason for the apparent deviation from article 5.11 of the Trinity Publications Constitution, stating that the reason they had given for deviating was that the Committee could not function, but that they later stated a difficulty for getting the committee to meet within the five day period.

Mr O’Sullivan responded that it was both, but that it was their belief that had they waited for the longer period stated in the constitution the situation would have become untenable.

2. Kevin Keane stated that it had been said that there had been multiple attempts to contact the sitting chair Claire McCarthy. Was there any notification, he asked, from Ms McCarthy indicating that she would be unable to attend the meeting regarding the Motion of No Confidence?

Ms McCarthy stated that she believed that the meeting was invalid. When pressed she stated that she did not communicate that she would not be in attendance.

3. Donagh McDonagh asked what the quorum was for Trinity Publications.

Mr O’Sullivan reported that there were 11 members of Publications in attendance, and that of those, 10 voted, including the complainants.

Ms McCarthy and the representatives of Trinity Publications were asked to leave.

The Chair suggested that the Capitations Committee focus on articles 5.11 which reads:

*In the event of a member of the Publications Committee failing reasonably to fulfil their responsibilities as laid down in this document and their Contract of Editorship, where applicable, a motion of no confidence may be proposed by any member of the Publications Committee. Such a motion, if carried, has the effect of dismissing the person from their position with immediate effect. The following procedure shall be followed as best practice in order to avoid an unfair dismissal:*

- *The person shall receive a written warning.*
- *If appropriate explanation is not received and improvement is not seen then a vote of no confidence shall be placed on the agenda for a meeting of the Publications Committee, with 5 working days notice given to all parties.*
- *The person in question shall be afforded an opportunity to present their case to the Publications Committee before a vote is taken.*
- *A two-thirds majority of a quorate meeting of the Publications Committee shall be required to carry a vote of no confidence.*

And 10.7, which reads:

*In the event of any dispute upon a clause of the Constitution, the Executive Committee shall have the power reasonably to interpret the Constitution. Upon a simple majority vote of a quorate meeting of*



*the Executive Committee this interpretation shall be accepted. The decision of the Executive Committee on any matter regarding the interpretation of the Constitution shall be final.*

As these two articles seemed to be what was relevant to the meeting. There was no disagreement and focus was made on some of the core wording of these articles e.g. 'Shall be followed' & 'Shall have the power reasonably to interpret' etc.

Some considerable discussion occurred on the grammar and the usage of the word 'Shall': some felt that in this context 'shall' had equivalent meaning to 'must'. Some members felt that point 2 of Article 5.11, might not be binding and others that much of 5.11 had not been followed.

In relation to Article 10.7 questions were asked as to whether the interpretation of Trinity Publications was reasonable or not, or so unreasonable as to be completely outside the bounds of their constitution.

It was pointed out that the constitution nowhere conveys that a sense of urgency or impact should cause deviation from 5.11, or that the five day notice should not be applied and that both parts of 5.11 should be given equal weight.

Geoff Bradley brought to the attention of the Capitation Committee Article 5.8, of the Trinity Publications Constitution which states "Any members of the Publications Committee shall be entitled to place items and motions on the agenda on giving at least four days prior written notice to the Secretary. Motions arising from items discussed in the meeting may be voted on immediately." And pointed out that no matter the possible variance of interpretation of 5.11, 5.8 was clear, and was not in this case applied.


Some further discussion occurred about the processes used and general legal provisions including the precept of 'Hear the Other Side' and that 'Nemo iudex in causa sua' (No-one should be a judge in their own cause).

After yet further brief discussion the Chair stated that it seemed to be general consensus that neither 5.11 nor 5.8 were applied.

All members of the Capitation Committee were in agreement that 5.8 had been breached and so the final decision of the Capitations Committee on the matter was as follows:

"On the basis of a breach of section 5.8 of the constitution, the motion to remove the chair was invalid."

The meeting ended at 12.30pm.

Signed: 

John Parnell

Senior Dean, Chair