



**Incorporating the Variety Artists' Federation
MINUTES OF THE FIFTEENTH MEETING OF THE 2008/2010 COUNCIL
HELD AT THE EQUITY OFFICE ON 28TH JULY, 2009**

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-18TH MAY, 2009**

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 - 15.13.5 It's Great Britain - Copyright Campaign
- 15.14 LIVE PERFORMANCE
 - 15.14.1 Legal Advice - VAC
- 15.15 NEW MEMBERS AND CURRENT MEMBERSHIP POSITION

Present: Graham Hamilton (President – in the Chair), Riky Ash, Ian Barritt, Henrietta Branwell, Michael Branwell, Jo Cameron Brown, Robin Browne, John Carnegie, Jonathan Cecil, David Cockayne, Nicholas Courtney, Michael Cunningham, Nicky Diprose, Dave Eager, Bryn Evans (Honorary Treasurer), Natasha Gerson, Caryl Griffiths, Mark Holden, Clive Hurst, Barbara Hyslop, Yvonne Joseph, Peter Kosta, Harry Landis, Mary Lane, Kate McCall, Corinna Marlowe, Paul Mead, Sheila Mitchell, Fiona Mott, Frederick Pyne, Dennis Ray, Rhubarb the Clown, Nicholas Smith, Alan Thompson, Sally Treble, Tim Walton, Frank Williams, Tom Emyln Williams and Christine Payne (General Secretary).

15.1 ANNOUNCEMENTS

- 1) The President welcomed Tim Walton who had been elected unopposed as the Chorus and Ensemble Councillor and also welcomed Henrietta Branwell as a Walk-On Councillor.
- 2) The President announced that Barbara Hyslop's Motion would be taken with item 8c) because it closely related to the Manifesto for Theatre report.

15.2 MINUTES FROM PREVIOUS MEETING

- 15.2.1. Minute 14.3.2** – Skype - In line 3, delete the letters 'RP' and insert the letters 'RM'.
- 15.2.2 Minute 14.4.1** - Nominations – delete the name Peter Kosta and insert the name Joseph Kloska.
- 15.2.3 Minute 14.3.12.** – Confidential Minute – Employment Tribunal – Judy Franks - in paragraph two, line 2, insert the words 'by E mail' after 'Councillors'; in paragraph two, delete '£4,600' and insert '£4,500'.
- 15.2.4 Minute 14.4.2** – TUC Motions – in final paragraph, lines 2-3 of Motion One, Representation of Dancers, delete 'adult entertainment venues' and insert 'Sex Encounter Establishments'.
- 15.2.5 Minute 14.7.3** – Rules for National, Area, Specialist and Equal Opportunities Committees, on line 17, delete the words 'letter attached as Appendix A' in parentheses; on first line of page 268, insert the word 'against' after '1'.
- 15.2.6 Minute 14.8.3** – VAC – Statement for clarification regarding Equity and the Sex Industry - make the following changes to the Statement: in line 5, insert the word 'is' after 'this'; in line 16 delete 'sex cinemas' ; in line 17 delete 'adult phone lines' and 'bookshops' ; in line 17, add the following words in parentheses after 'permitted': (although we do not believe it officially exists in the UK but does elsewhere in the EU and USA); in line 18, delete the words 'sex worker' and insert the words 'member who had a problem as a sex worker'.

Add the following words after the Statement: 'This Statement was proposed by Dennis Ray and seconded by Annie Bright and **NOTED** as amended by Council.'

- 15.2.7 Minute 14.8.4** – National Minimum Wage – under Points made in response, delete the words 'have not taken up any of the complaints' and insert the words 'are unlikely to take up any of these complaints'; under Points made in discussion, add a new bullet point: 'Why has Equity not told members about the changes made in April to the National Minimum Wage legislation?'; under Points raised in response, point 2, delete the words 'have not taken' and insert the words 'are unlikely to take'; in paragraph 1, line 4, insert the word 'of' after 'rates'; in paragraph 1, line 7, insert a capital 'g' in place of the lower case 'g' in 'government' and delete the word 'would' and insert 'could'; in the final line, insert the word 'overwhelmingly' in front of the word 'DEFEATED'; under the first bullet point of 'Points made in response' add

the words 'and their associated arts' after the word 'acting'.

15.2.8 Minute 14.10 – Subscriptions – delete the word 'These' at the beginning of the first line and insert the words 'The Recommendations contained in the Report to Council'; add the Recommendations to Council as contained in the Subscriptions 2009 report as follows:

- That each Member should receive the full text of the letter as their subscription renewal becomes payable;
- That the August edition of the Equity Magazine will include a report on the letter setting out the aim of the letter and the hope that as their subscription become due all Members will review the subscription they are paying to ensure that they are paying at the correct rate; and
- That at the end of the year an email reminder will be sent to all Members for whom we have an email address – the email will not contain the full text of the letter but will build on the article in the August Magazine.

The Minutes and Confidential Minutes were proposed by Clive Hurst and seconded by John Carnegie as a true and accurate record of the meeting. This was **AGREED**.

15.3 MINUTES FROM COUNCIL MEETING HELD DURING THE ARC

The Minutes were proposed by Dave Eager and seconded by Frederick Pyne as a true and accurate record of the meeting. This was **AGREED**.

15.4 MINUTES FROM ANNUAL REPRESENTATIVE CONFERENCE, 16TH – 18TH MAY, 2009

15.4.1 Obituaries– in the final line delete the words 'round of applause' and substitute the words 'standing ovation'.

15.4.2 General Secretary's address– at line 31, delete the word 'delegate' and insert the word 'representative'.

15.4.3 Honorary Life Membership Awards – in line 4, add the words 'as branch secretary' after the word 'work' ; in line 5, delete the word 'General' and insert the words 'District and Variety'; in line 6, delete the words 'also all the events she had helped organise' and insert the words 'her part in founding the National Theatre of Variety'; in line 9, delete the word 'Jenny' and insert the word 'Jamie'; in line 11, delete the words 'Sheffield area' and insert the word 'Recruitment' and add the words 'based in the North' after the word 'Organiser' ; in line 15, delete the words 'since 1994' and insert the words 'from 1996-2008' ; in line 22, add the words 'as Chair' after the word 'Theatre'.

15.4.4 Motion 46: Midlands Area Committee – add 'the Council's Amendment to Motion 46, moved by Sally Treble and formally seconded'.

The Minutes were proposed by David Cockayne and seconded by Dennis Ray as a true and accurate record of the meeting. This was **AGREED**.

15.5 MATTERS ARISING FROM PREVIOUS MEETING

15.5.1 Minute 14.3.2 - Skype - the Assistant General Secretary (RM) reported that this was still being trialled; John Carnegie had agreed to participate in the trial with the Directors' Committee.

15.5.2 Minute 14.4.1 - TUC nominations – the General Secretary reported that there had been a tie for third place between Natasha Gerson and Harry Landis. Since this result, Harry Landis had decided to withdraw so that the delegation would comprise the President, the General Secretary, Jean Rogers, Natasha Gerson and Joseph Kloska. It was asked whether Harry Landis would be available as a reserve delegate if any of those now going were unable to attend. The General Secretary said she would check with Harry Landis whether he would be available in such circumstances but thought that he had since arranged a holiday at this time.

15.5.3 Minute 14.4.2 – Motions – Representation of Dancers - the Assistant General Secretary (LP) reported that further meetings were taking place with members of both Houses of Parliament to try and advance the issue with regard to the Policing and Crime Bill. He reported that protests had taken place in Camden against the Council's new guidelines on burlesque shows and discussions were taking place with the Burlesque Women's Institute which was organising opposition to this new policy. There was to be a further meeting on 30th July.

The General Secretary reported that both our Motions - 'Representation of Dancers' and 'Britain's Got Talent' - were now on the TUC Congress Agenda. The GMB had agreed to second the Representation of Dancers Motion and the title of the Motion had been changed to 'Workers in Adult Entertainment'. Both Motions had been re-worded in order to comply with the word count and were included with the Agenda for information.

15.5.4 Minute 14.4.2 – Reform of Trade Union Law – the General Secretary reported that she had written to Lord Mandelson but had not yet had the opportunity to discuss the matter with Michael Cashman.

15.5.5 Minute 14.5 - Remembrance Plaque – the General Secretary reported that the proposed Working Party for this would comprise the President, David Cockayne and Yvonne Joseph. This was **AGREED**. Clive Hurst gave Council an account of the research he had carried out on the war experiences of ENSA members. In the course of this, he had not found evidence of any commemorative plaques for ENSA members.

15.5.6 Minute 14.6 – Certification Office Decision - the General Secretary reported that the Union's solicitors had recently confirmed that Roy Radford has lodged an appeal to the Employment Appeal Tribunal and that, in all probability the Union would need to attend a hearing on this.

15.5.7 Minute 14.8.1 - Subsidised Repertory – the Assistant General Secretary (LP) said that the TMA were now suggesting a meeting in September which meant an unacceptable delay. An offer was still being awaited. In respect of the issue with the Royal Derngate Theatre in Northampton, the two unpaid cast members were now being paid and were in the process of being recruited to Equity membership.

15.5.8 Minute 14.8.2 - Commercial Theatre – the Assistant General Secretary (LP) reported that the TMA were suggesting a meeting in September.

15.5.9 Minute 14.9.4.3 – Payment of Class 1 National Insurance – the Assistant General Secretary (RM) said that Equity had expressed its concern and anger at the BBC’s decision to stop paying Class 1 National Insurance on audio contracts. An urgent meeting was being sought with HMRC to discuss further; at this meeting, HMRC also wished to discuss the position of Stage Managers in relation to National Insurance.

Points made in discussion:

- The President wished to know if there had been any discussion of this decision in the light of the McCowen and West v IRC (1993) case?
- The BBC appeared to be treating radio drama performers as though they were voice-over artists and as though they were working on a sessional basis.
- Stage Managers were mentioned in the original regulations.
- The Assistant General Secretary (LP) said that the custom and practice relative to Stage Managers had changed – it was rare for them to also be performers.

Points made in response:

- The Assistant General Secretary (RM) said that the issue had been confronted several times since the McCowen and West case. On the last occasion it was the legal advice received on the Pan-Industry negotiations which persuaded the Revenue that Equity’s position was the correct one. The Minister at the time had been Dawn Primarolo.
- One Councillor thought that performers who were part of the radio drama company were clearly employed earners. This was a very important issue and should become an agenda item for a future Council meeting.
- Stage Managers would often be employed earners for National Insurance purposes due to the nature of their contracts.
- A Councillor commented that it was the norm now with radio work for the actor to be slotted in to do one scene whereas in the past he or she would have been booked for, say, four days for 90 minutes per day. There was a need to protect members’ benefit and pension rights.
- The General Secretary reported that a meeting had taken place the day before between herself and Hilary Hadley, Head of Live Theatre, Virginia Wilde, West End Organiser, Kathy Sweet, Audio Organiser, Max Beckmann, Tax and Benefits Officer and Alan Lean, Welfare Rights Worker. Following on from this meeting, Equity would be writing to Simon Hayward-Tapp, Head of Talent and Rights Negotiation at the BBC. This was a serious matter as the arguments being used by the BBC, if successful, could be applied to practically any radio or T.V. production. At the same time, a meeting would be taking place with the Revenue and a survey would be made of Stage Managers to find out what the current working practices were. The Union would have to work closely with the Stage Managers’ Association on this.

15.5.10 Minute 14.12 – Variety Advisory Committee - the Assistant General

Secretary (LP) reported that the government had rejected all the proposals put forward by the Culture, Media and Sport Committee for changes to the current entertainment licensing scheme other than those relating to simplified licensing for travelling shows which was under consideration. Two Early Day Motions had been tabled and Mary Lane was thanked for her assistance on this issue.

Reference was also made at this point to the new set of checks being introduced for children's entertainers – this was the Vetting and Barring Scheme (VBS) launched in October, 2008 under which performers would have to pay an additional £64.00 to be placed on a separate database. The Assistant General Secretary (LP) said that a letter had been sent to the Independent newspaper on this and an article had appeared the previous Saturday edition.

Point made in discussion:

- This was about more than just workers in Variety and could affect many other performers.

Point made in response:

- A Councillor said that she would raise the matter as a Motion for a future Council meeting.

15.5.11 Minute 14.8.4 – National Minimum Wage – Clive Hurst reported that he had a meeting with the Low Pay Commission on 11th August to discuss the NMW as it applies to performers.

15.5.12 Minute 14.15.1 – Motion in the name of Sheila Mitchell – Sheila Mitchell commented that she felt that the RNIB issue should have formed part of the Recorded Media report. The Assistant General Secretary (RM) said that Cathy Sweet, Audio Organiser, had met with the RNIB who were refusing to change their position. The matter would be taken up at the next meeting of the Audio Committee and he would be able to report back further then.

15.5.13 Minute 14.9.2 - BBC TV Agreement – Confidential Minute. The Assistant General Secretary (RM) reported that he had sent the relevant clause of the Agreement to John Carnegie.

15.6 FINANCE

15.6.1 Budget 2009

Duncan Smith, Head of Finance, spoke to the report on the Budget. The operating deficit was now at £32,000 so there had been some improvement. He referred to the subscriptions figures and said that this figure may turn out to be better than projected. He also referred to the one-off Staff bonus, shown as £51,000 in the accounts, and to the Temporary Staff costs which included the temporary P.A. to the General Secretary – a cost which will continue until the end of 2009. He noted that there had been a considerable increase in actuarial costs due to the ongoing negotiations over the Staff Pension Scheme. He made reference to the ITV non-distributable cable retransmission monies which will be transferred to BECS for

distribution thereby resulting in a drop of £200,000 in Equity's annual income from the beginning of next year. Provision would have to be made for this.

The Honorary Treasurer, Bryn Evans, added that there would be an update in November based on the situation as of September this year.

The report was **NOTED**.

15.6.2 Unknown Funds – Counsel's Opinion. This Minute was deemed Confidential

The Council **AGREED** to instruct Mr Edward Bragiel, Q.C., to apply to the High Court on Equity's behalf for a judgement that the Unknown Funds may be used by Equity for the general purposes of the Union as specified under the Objects, Powers and Duties in Rule 3 of the Union's rule book ; and in the event that the High Court does grant permission to Equity to use this money for its general purposes, the Council agrees that they should be used over time for the general benefit of members.

15.7 COMMUNICATIONS & MEMBERSHIP REPORT

15.7.1 Results of Committee Elections.

Martin Brown, Assistant General Secretary (LP) spoke to the Election Report produced by Popularis. The results of these were as follows:

EQUITY COMMITTEE ELECTIONS 2009

Total members entitled to vote:	35582
Spoilt ballot papers:	19
Total voted by post:	2082
Total voted on web:	203
Total ballot returns:	2304 (6.48%)

Result of votes cast:

LONDON AREA COMMITTEE - 4 to be elected

Peter Barnes	354	ELECTED
Bruce Bennett	123	
Michael Earl	207	
Esther Ruth Elliot	272	ELECTED
Peggy-Ann Fraser	260	ELECTED
Barbara Hyslop	291	ELECTED
Cauri Jaye	145	
Nicola Kelleher	160	
William Maxwell	207	
Teri Scoble	152	
Jessica Sherman	258	
Jennifer Stanton	199	
Robert Willox	137	
Total valid ballot papers received	803	5.83%
Total entitled to vote	13764	

MIDLANDS AREA COMMITTEE - 12 to be elected

John Brennan	73	ELECTED
Tracey Briggs	118	ELECTED
John Burton	73	ELECTED
Sharon Cannings	61	ELECTED
Simon Clancy	73	ELECTED
Etienne	68	ELECTED
Nigel Harris	53	
Kaz Luckins	62	ELECTED
Sheila Payne	97	ELECTED
Rob Stanley	58	ELECTED
Peter Tomlyn	57	ELECTED
Jim Townsend	83	ELECTED
Sally Treble	126	ELECTED
Alan Wales	42	
Total valid ballot papers received	182	6.47%
Total entitled to vote	2810	

NORTHERN AREA COMMITTEE - 12 to be elected

Anthony Blakesley	158	ELECTED
David Corden	173	ELECTED
Deacon	103	
Eleanor Dearle	175	ELECTED
Dave Eager	218	ELECTED
Mel Francis	139	ELECTED
Yvonne Joseph	247	ELECTED
Ann Loraine	147	ELECTED
Steve McAvoy	144	ELECTED
Brenda Marsh	232	ELECTED
Joy Palmer	153	ELECTED
Geremy Phillips	210	ELECTED
Roger the Artful	147	ELECTED
Total valid ballot papers received	361	6.78%
Total entitled to vote	5322	

SCOTTISH NATIONAL COMMITTEE - 15 to be elected

Elsie Kelly Adams	55	ELECTED
Andrew Brodie-Fre	46	ELECTED
James Byars	60	ELECTED
Alicia Devine	56	ELECTED
Natasha Gerson	65	ELECTED
Isabella Jarrett	82	ELECTED
Kate McCall	74	ELECTED

Clunie Mackenzie	72	ELECTED
Michael Mackenzie	95	ELECTED
Adrian Nash	19	
Sheena Penson	70	ELECTED
William Riddoch	76	ELECTED
Linda Rifkind	57	ELECTED
Pab Roberts	56	ELECTED
John A Sampson	66	ELECTED
Alexander West	70	ELECTED
Total valid ballot papers received	134	8.15%
Total entitled to vote	1644	

SOUTH WEST AREA COMMITTEE - 9 to be elected

Robin Ardra	30	
Sarah Buckland	102	ELECTED
Josephine Crawford	71	ELECTED
Rebecca Crookshank	110	ELECTED
Stan Cullis	82	ELECTED
Nicky Diprose	124	ELECTED
Sarah Dukes	77	ELECTED
Arthur Duncan	62	
Jill Lamede	127	ELECTED
Mary Lane	92	ELECTED
David Richey	83	ELECTED
Total valid ballot papers received	173	7.31%
Total entitled to vote	2366	

MEMBERS WITH DISABILITIES' COMMITTEE - 9 to be elected

Roy Baker	635	ELECTED
Anna Cannings	582	ELECTED
Graeme Dalling	471	
Sarah Gordy	729	ELECTED
Christopher Harwood	495	
Cherylee Houston	778	ELECTED
Robin Laine	455	
Ann Loraine	518	ELECTED
Dan Meaden	365	
David Proud	767	ELECTED
Roy Radford	549	ELECTED
Dennis Ray	532	ELECTED
Patricia Varley	295	
Chris Webb	495	
James Hamilton Welsh	543	ELECTED
Total valid ballot papers received	1413	

MINORITY ETHNIC MEMBERS' COMMITTEE - 9 to be elected

Ernesto Cantu	668	ELECTED
Roxanne Clinch	713	ELECTED
Mark Holden	798	ELECTED
Sarah Ibrahim	804	ELECTED
Indira	443	ELECTED
Carlos Korotana	530	ELECTED
Shiv Pande	656	ELECTED
Rocca Salata	405	
Joseph Servi	533	ELECTED
Daniel York	766	ELECTED
Total valid ballot papers received	1268	

THEATRE DIRECTORS' COMMITTEE - 12 to be elected

Catherine Arden	730	ELECTED
Rebecca Atkinson-Lord	622	ELECTED
Ivor Benjamin	752	ELECTED
John Carnegie	703	ELECTED
Di Christian	728	ELECTED
Nicky Diprose	658	ELECTED
Patricia Doyle	798	ELECTED
Simon Dunmore	668	ELECTED
John Seaforth	689	ELECTED
Richard Syms	724	ELECTED
Jeffrey Teare	482	
David Warwick	823	ELECTED
Faynia Williams	773	ELECTED
Total valid ballot papers received	1413	

LESBIAN, GAY, BI-SEXUAL AND TRANSGENDER COMMITTEE - BI-SEXUAL AND TRANSGENDER - 1 to be elected

Ruby Diamond	636	ELECTED
Mjka-Anne Scott	516	
Total valid ballot papers received	1152	

**LESBIAN, GAY, BI-SEXUAL AND TRANSGENDER COMMITTEE – MEN
4 to be elected**

Nicholas Brand	293	ELECTED
Etienne	353	ELECTED
David George	154	
Paul Guthrie	327	ELECTED
Thomas William Kelso	223	
Peter Kosta	178	
Ian Orrock	291	
James Hamilton Welsh	302	ELECTED

Total valid ballot papers received	710	
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WALK-ON & SUPPORTING ARTISTS' COMMITTEE - 12 to be elected

Micky Baker	534	
Anthony Blakesley	421	
Shirley Bridges	749	ELECTED
Christine Bucci	616	ELECTED
Simon Clancy	591	ELECTED
Ian Clifford-Smith	359	
Michael Earl	788	ELECTED
Robert Fordham	388	
Mel Francis	529	
Charles P Hardy	477	
Linda Hardy	722	ELECTED
Maggi Hevicon-Thompson	707	ELECTED
Yvonne Joseph	809	ELECTED
Paul Kirby	568	ELECTED
Ann Loraine	566	
Brenda Marsh	905	ELECTED
Jenny Mayers	508	
Roger Morgan	682	ELECTED
Joy Palmer	436	
Roy Radford	742	ELECTED
Sally Treble	950	ELECTED
Total valid ballot papers received	1706	

Martin Brown went on to announce the result of the Walk-On Councillor elections and asked Council to note these:

BRANWELL, Henrietta	781	ELECTED
CLANCY, Simon	510	
HARDY, Linda	595	
Spoilt ballot papers	136	
Total ballot papers received	2022	5.68%
Total ballot papers dispatched	35582	

He asked Council to note the results of the by-election for the Appeals Committee:

MILL, Robert	893	
WORTHY, Johnny	981	ELECTED
Spoilt ballot papers	148	
Total ballot papers received	2022	5.68%
Total ballot papers dispatched	35582	

He also asked Council to note that Sylvia Alexander-Vine had been elected unopposed to the Standing Orders Committee.

He asked that Council note that Tim Walton had been elected unopposed as the Chorus and Ensemble Councillor.

Sheila Mitchell proposed and Mark Holden seconded that the Assistant General Secretary's report on all these elections be **NOTED**.

This was **AGREED** with one vote against.

15.8 EUROFIA

Council had before them the report of the EuroFIA Meeting which took place in Warsaw on 9th and 10th May, 2009. In answer to a query, it was confirmed that the General Secretary, President and Stephen Spence, Assistant General Secretary, (LP) represented the Union and that Andy Prodger as Chief Executive of the British Equity Collecting Society and Jean Rogers as Chairman of the British Equity Collecting Society had also been present.

The General Secretary commented that the next Meeting would be at the Radisson Hotel in Heathrow. It was asked whether there could be observers from the Council present at the next Meeting from the Council. The General Secretary said that she would look into this. The next Meeting of EuroFIA would be on 12th – 14th November, 2009.

This Report was **NOTED**

15.9 MEMBERS' INSURANCES

Andy Prodger, Assistant General Secretary (RM) referred to a letter from Kevin Harding, Director at First Act Insurance, regarding Equity's insurance renewals for the 1st October 2009. This was the second of a three year fixed rate agreement and he was pleased to report that Royal and Sun Alliance have not sought to increase rates despite significant increases in the claims over the past 12 months.

He explained that First Act have been able to achieve two specific improvements to the policies: firstly they have incorporated concept design into the current policies at no additional cost. This had been an outstanding issue for the Designers' Committee for some considerable period of time. Additionally Equity is continuing to work on a separate professional indemnity policy for Theatre Designers. Secondly, following discussion at the renewal last year, the cover for musical instruments under the Backstage and Accident Cover has been increased up to a maximum of £500. The previous arrangement was limited to individual items of up to £100 and whilst the overall cover remains the same, musical instruments are now covered to the full amount available.

On this basis, it was recommended that Council endorse the contents of this proposal and agree to the second year extension.

Points made in discussion:

- It was commented that this could be a recruiting tool for designers in general.
- What is the performance ratio?
- How many members are covered by fire insurance?
- What is the upper age limit for insurance?
- A question was asked about the level of subsidy?

Points made in response:

- Andy Prodger replied that as there had been one fatality and two very serious accidents, there may not be any financial benefit this year
- Andy Prodger was not sure how many members were covered by fire insurance.
- The upper age limit is 79 and 364 days.
- The Assistant General Secretary (RM) said that a report on subsidies would be brought to the next Council meeting.

This Recommendation was proposed by David Cockayne and seconded by Dennis Ray. It was **CARRIED** nem con.

15.10 GUILD HOUSE WINDOWS

The General Secretary advised that Council needed to make a decision on this today. She referred Council to her written report. Over two years ago, the Council set up a Windows Steering Group to advise Council on the repairs needed including refurbishment or replacement of the windows in Guild House. The previous Council, after a tendering process, appointed a company based in the Midlands to undertake the work and that company was subsequently dismissed because they made no effort to take the work forward; the Council then appointed a second company based in London which again did not take the work forward and so were dismissed.

Last year the Union entered into a two-year contract with Keningtons, a firm of building managers which manages the building for the Musicians' Union as well as for a number of other trade unions. Keningtons were asked to assist the Windows Steering Group and have presented a timetable to undertake the work this year. The Council has set aside a budget of £175,000 (plus VAT) for the work to be done this year. The timetable Keningtons have proposed is as follows:

- Feasibility report by 10 July
- Out to tender 24 July
- Tender return 14 Aug
- Start works 24 Aug
- Complete works 19 Oct
- Contract period 8 weeks (tbc when contractor is appointed)

The Honorary Treasurer reported that he and Stephen Spence, who is the Windows Project Manager for the Union, met with Keningtons on Friday 17 July to discuss the Feasibility Report. A digest of this Report was in the Council circulation.

The Feasibility Report was considered by the Financial Stability Working Party (FSWP) at its meeting on 20 July.

Keningtons have presented six options and have given each option an estimated cost that would be subject to tender but is thought to be a realistic estimate.

The FSWP discussed all six options – Option 1 and Option 2 are the only ones within the current budget but Option 1 was rejected as totally unsuitable; Option 5 would require planning permission from Camden Council and therefore could not be achieved this year; Option 6 is the best and it was thought that it would add value to the building and reduce noise levels - but it is almost double the budget; and Option 4

was thought to add less value than Option 6 but at an estimated cost that was only slightly less.

The FSWP considered the choice to be between Options 2 and 6 and decided that the Council should make a decision at its meeting on 28 July. However, in order to ensure that the timetable for the work to be done this year is not jeopardised, the FSWP agreed that we should ask Keningtons to seek tenders on Option 2. Following the meeting of the FSWP, Keningtons confirmed that they were also able to seek tenders for Option 6.

Keningtons had also advised that the windows were in a serious state of disrepair and the work really did need to be done this year. Equity had been aware of the poor condition of the windows for over two years and it was strongly recommended that this work urgently needed to be done. But, as stated above, Council would be aware that the 2009 Budget had provision only for £175,000 + VAT for this project and that, although our finances had improved, the Budget was still in deficit.

Therefore the Council needed to decide whether it wished to proceed with either Option 2 or Option 6. Option 2 was within the current budget, but Option 6 was more likely to add value and would give noise reduction to the building.

Option 6 would mean drawing on reserves by £100,000 – this was arguably not a good idea in view of the loss in the new year of £200,000 in cable re-transmission monies, the staff pay freeze which cannot be sustained another year and the impact of the Disability Discrimination Act audit. In September, Equity would receive a report on the Staff Pension Scheme and the deficit could be £4 million. It might be possible to pay this debt off over fifteen years in which case the Union would be paying off around £250,000 - £300,000 every year for the next fifteen years. In addition, there would be Pension costs going forward with no further contributions coming from staff if the Scheme had been closed but with a continuing burden on the employer especially in the years just after the closure of the Scheme. With austerity budgets from 1st January into the foreseeable future, questions might well arise as to whether the Union could continue its support for BAPAM or the Actors' Centres or even maintain staff at current levels. It would therefore be necessary to make some difficult decisions and, in that context, it would not be wise to draw on the reserves. Secondary glazing could be added at a later date as it is currently desirable but not essential. Taking all this into account, the Honorary Treasurer suggested possible wording for a Motion if any Councillor were minded to propose it; this wording was:

'In the light of the continued financial burden on the Staff Pension Scheme and with some regret, Council confirms that tenders be sought for Option 2, as detailed in the feasibility report received from Kenington's for the repair of the windows in Guild House.'

Following further discussion, David Cockayne proposed the following Motion:

'The Council asks that the final decision on the windows upgrading be delayed slightly to enable options and/or combinations of such options which do not meet the current timetable, to be considered. In so doing it recognizes the need for the work to be carried out as soon as possible. The Council also agrees that the Officers and Senior Management team make the decision after advice from newly-convened meetings of the Windows Steering Group and the FSWP, within the parameters agreed at today's Council Meeting.'

This Motion was seconded by Sheila Mitchell.

Later in the discussion, Ian Barritt proposed an alternative Motion that used the wording suggested by the Honorary Treasurer; this Motion was formally seconded.

Points made in discussion:

- An Option 7 was proposed which was to look at the requirements of each part of Guild House and arrive at a bespoke solution.
- It was important to invest in Guild House and maintain its value as an asset in the light of future financial burdens.
- Would it be possible to investigate a Windows Replacement Loan or a Green subsidy?
- The working conditions of Staff should be a priority.
- Options 2 and 6 do not require planning permission.
- Option 2 would bring the windows up to modern standards.
- Do we need secondary glazing on all floors?
- Are estimates guaranteed?
- Were OSMT unanimously in favour of Option 2?
- The state of the Staff Pension Fund should not be relevant to this discussion.
- Option 5 would ensure the long-term condition of the windows.
- There was a need to preserve the integrity of the building.
- Wet rot (if any) could be dealt with for as little as £30,000.
- The 'Unknown Funds' could be spent on the windows if the High Court decided they could be used for the Council's general purposes.

Points made in response:

- A bespoke solution would not necessarily cost less – Option 2 would bring the windows up to modern standards.
- A loan is a possibility but the interest payments would increase the deficit; in addition, the Union had made a pledge to the ARC not to borrow money.
- Secondary glazing would not be needed on all floors – only selectively.
- The OSMT had not taken a formal view on the option preferred; it was not anticipated that it would become such a major issue.

The General Secretary spoke to Council about the parameters which should apply to any decision on the windows. These were as follows:

- 1) Should the work be undertaken this year or put off until next year?
- 2) How much is Council prepared to spend i.e. what is the financial limit?
- 3) Who is going to make decision given that this must be made before the September Council Meeting - should the decision rest with the General Secretary?

It was **AGREED** these were the relevant parameters.

Stephen Spence, Assistant General Secretary (LP) explained that the original decision was that the work should be done this year and that the budget would be £175,000 plus VAT. FSWP had decided for tenders to go out for Options 2 and 6.

In reply to the above questions posed by the General Secretary, John Carnegie proposed that the work should be carried out this year, that the maximum spend should be £300,000 and that the final decision should be made by the General

Secretary. This was seconded by David Cockayne. Votes were then carried out on each of these three proposals.

With 2 votes against and 5 abstentions, it was overwhelmingly **AGREED** that the work should be carried out this year.

With 18 votes for, 12 against and 5 abstentions it was **AGREED** that the maximum spend should be £300,000.

With 29 votes for, 1 against and 2 abstentions it was **AGREED** that final authority be given to the General Secretary to make the decision on which option to pursue.

In the light of this a vote was taken on David Cockayne's proposed Motion – this was **CARRIED** with 6 against, including Ian Barritt, and 2 abstentions. This Motion having been passed, the alternative Motion proposed by Ian Barritt fell.

It was announced that the Financial Stability Working Party would meet to discuss the windows on 31st July.

15.11 EMPLOYMENT TRIBUNAL – JUDY FRANKS – THIS MINUTE WAS DEEMED CONFIDENTIAL

The General Secretary's report was **NOTED**.

15.12 LEGAL SERVICES

The General Secretary spoke to her report on this matter. In 2000, the Council reviewed Equity's legal services and agreed that;

- Douglas Mann & Co would continue to undertake Equity's personal injury claims, breach of contract/fee recovery work in the London area, any contract work over £5000, and provide free advice to Organisers in certain circumstances.
- Pattinson & Brewer would be instructed to advise and represent the Union in its general work, including any policy matters or any matters that relate to the general running of the Union.

In 2007 the Council again reviewed Equity's legal services and decided that:

- Douglas-Mann & Co would continue to undertake breach of contract/fee recovery work in the London area, any contract work over £5000 and provide free advice to Organisers in certain circumstances. In light of these changes their hourly rates were increased as follows from 1 January 2008:
 - Small claims for members - £155 (previously £135)
 - All other work where costs are not recovered in part or in whole from an opponent - £200 (previously £175)
- From 1 January Morrish & Co would be instructed for all our personal injury work.
- Pattinson & Brewer would continue to advise and represent the Union in its general work, including any policy matters or any matters that relate to the general running of the Union.

In the summer of 2008 we received notification that Douglas-Mann & Co had merged with Howard Kennedy Solicitors. A report was brought to Council in January 2009 on the implications of the merger and re-payment of a £50,000 interest free loan (made probably over 15 years ago) from Equity to Douglas Mann. The report stated that the Union was satisfied that the level of service to be provided to the Union had been clarified and would be maintained and that we had instituted arrangements for repayment of the loan over the next two years which will be clearly identified in our annual account.

Howard Kennedy also confirmed the basis on which free legal advice would be given to Organisers in future as follows:

- To Organisers and/or the union's legal referrals officer;
- by telephone or email;
- which takes no more than 12 minutes to provide; and
- which does not entail the consideration of any documentation sent by the union.

Since the beginning of the year the Honorary Treasurer and General Secretary had been monitoring our legal costs very carefully and in February they became concerned that the legal costs to Howard Kennedy were rising dramatically; they also noticed that the Union was being invoiced for work completed as long ago as 2006. Equity asked Howard Kennedy for clarification and it would seem that the increase in costs was due to a number of factors including an increase in the number and nature of cases sent to Howard Kennedy, a more efficient invoicing system and an increase in the hourly rate.

The Honorary Treasurer and General Secretary recently met with Martin Kenny, our Legal Referrals Officer, and Martin Brown, the Assistant General Secretary (C&MS) to review the situation and all were extremely concerned that the Union would be unable to sustain an hourly rate of £200 (£155 for small claims) going forward, particularly given that there appears to be an increase in the number of cases being referred to the Union and in turn to Howard Kennedy.

Therefore, it was their recommendation that the legal services currently provided by Howard Kennedy be urgently reviewed and that this should be done amongst the three firms of Solicitors we have, rather than undertake a formal tendering process which will be time consuming and lengthy. It was proposed that the Union enter into formal conversations with Howard Kennedy, Pattinson & Brewer and Morrish & Co to determine if it is possible to improve the current arrangements for legal services to members i.e. claims work in London, contract work over £5000, and free advice to Organisers under certain circumstances.

Recommendation: that the General Secretary, Honorary Treasurer, Assistant General Secretary (C&MS) and the Legal Referrals Officer undertake a review of our claims work in London, contract work over £5000, and free advice to Organisers in certain circumstances, and have discussions with Howard Kennedy, Pattinson & Brewer and Morrish & Co on how the arrangements can be improved both in terms of service and costs and bring a report to the Council as soon as possible.

Michael Branwell proposed and Mary Lane seconded accepting the Recommendation. This was **AGREED**.

15.13 RECORDED MEDIA

15.13.1 Equity Stunt Performers v Unique TV – this Minute was deemed Confidential

It was **AGREED** that the legal advice be accepted and that the matter be remitted to the Stunt Committee to see if they had any interest in trying to negotiate a settlement. Should the matter go to Court, Council would only support legal action if it were on the basis of a £30.00 clip fee.

During discussion on this item, it was proposed by Nicholas Courtney and seconded by Mark Holden that Standing Orders be extended to 6.30 p.m. This was **AGREED**.

15.13.2 TAC

The Assistant General Secretary (RM) said that Equity was still awaiting formal confirmation from TAC with regards to the two outstanding issues: retrospective application of the new repeat fee structure, and the length of the licence with regards to pre-purchased repeats.

15.13.3 BBC Television Agreement

A 1.4% offer had been extended to include Walk-Ons; however, this offer was set against two conditions: a) a lower rate of payment where forty or more extras were involved and b) the introduction of half-day rates for walk-ons.

After some discussion, the General Secretary recommended that the 1.4% offer be accepted for main part actors and that negotiations continue on behalf of walk-ons with those issues referred to the Walk-On and Supporting Artists' negotiating team. This recommendation was proposed by Sheila Mitchell and formally seconded. It was **AGREED**.

15.13.4 PACT Walk on Agreement

Referring to the revised Appendix A from the PACT TV Walk On Agreement, the Assistant General Secretary (RM) said that there had been an increase in overall rates. It was reported to Council at its last meeting that holiday pay had gone up but during these negotiations the Union did manage to secure increases in the actual rates for Walk Ons. The 2004 comparison document showed the improvement in the rates payable.

15.13.5 The 'Great British Creativity' Campaign

The Assistant General Secretary (RM) referred to his report on this. Council would recall that the Federation of Entertainment Unions (FEU) in conjunction with BAFTA and the UK Film Council organised a conference which was held in May 2009 entitled 'Promoting Growth and Generating Jobs in the UK Creative Industries'. The General Secretary spoke at the conference which focused on the challenges the industry faces and what steps would be required to support a viable market in digital content through the elimination of widespread illegal sharing of content by internet users. As part of further initiatives staff met with the Industry Trust for IP Awareness to launch the above campaign on the basis that illegal downloading is a major threat to the audio visual industry which has the potential to inflict serious damage on the employment opportunities and livelihood for Equity members.

The Industry Trust are seeking members currently working in the industry who are prepared to act as 'Ambassadors' for the skills, craft and commitment on which the

industry depends. Attached is a draft letter (noted as appendix ii) which illustrates the basis on which the Industry Trust wish to contact members. Staff are in discussion with the Industry Trust on the mechanics of how members can be reached and their role in the campaign.

As part of the same campaign the Industry Trust are giving staff a presentation on the detail of the campaign. The presentation will enable Staff who regularly visit drama/dance courses to inform students of the importance of the campaign and the part they can play in it. Details of the campaign will also be relayed to members by Organisers as part of their studio/set/location visits.

A Press Release and Joint Policy Statement had now been produced – these were **NOTED** by Council.

15.14 LIVE PERFORMANCE

15.14.1 Legal Advice – VAC.

The General Secretary spoke to her written report which included the Legal Advice previously circulated to Council on 17th February, 2009. She said that Council had accepted the Recommendation of the Assistant General Secretary (LP) based on that advice and, in so doing, had implicitly accepted it. However, since then she had received a letter from Dave Eager asking for clarification on whether the Council had accepted or noted the legal advice and suggesting that if the Council had accepted the legal advice then he believed the Council may be in breach of the Rules and therefore may bring a complaint under Rule 29. Although she had now received a letter withdrawing the possibility of a complaint, she thought it important that Council confirm that, in making the decision in February, it was accepting the legal advice as given.

Prior to further discussion, the President suggested a five minute extension to Standing Orders. This was proposed by Ian Barritt and formally seconded. This was **AGREED**.

Following further discussion, it was proposed by Frederick Pyne and seconded by David Cockayne that the legal advice, as previously given, be formally accepted by Council. This was **AGREED** with 14 votes for, 2 against and 2 abstentions.

15.15 NEW MEMBERS AND CURRENT MEMBERSHIP POSITION

Council **APPROVED** New Members and **NOTED** the current membership position.

The Chair commented that the outstanding Agenda items would be carried over to the next meeting.

The Meeting ended at 6.35 p.m.



**Incorporating the Variety Artistes' Federation
MINUTES OF THE FOURTEENTH MEETING OF THE 2008/2010 COUNCIL
HELD AT THE EQUITY OFFICE ON 7th JULY, 2009**

14.1 ANNOUNCEMENTS

14.2 MINUTES FROM PREVIOUS MEETING

- 14.2.1 Minute 13.3.8
- 14.2.2 Minute 13.5.4 London Area Committee Motion
- 14.2.3 Minute 13.5.5. Young Members' Committee
- 14.2.4 Minute 13.6.1 Subsidised Repertory Negotiations
- 14.2.5 Minute 13.6.2 Report to Council on the use of and payment to actors for directing students.
- 14.2.6 Minute 13.7 BECS Undistributable Funds
- 14.2.7 Minute 13.8.5 ITV - Meeting with Michael Grade
- 14.2.8 Minute 13.9 TUC

14.3 MATTERS ARISING

- 14.3.1 Minute 13.1 (c) Announcements - George Baker
- 14.3.2 Minute 13.3.3 Skype
- 14.3.3 Minute 13.3.4 Staff Pension Scheme
- 14.3.4 Minute 13.3.6 MEMC
- 14.3.5 Minute 13.3.7 Scottish AGM
- 14.3.6 Minute 13.3.9
- 14.3.7 Minute 13.5.1 Committee Elections
- 14.3.8 Minute 13.5.3 Distribution of Ballot Papers
- 14.3.9 Minute 13.8.4 Holiday Pay
- 14.3.10 Minute 13.8.4 Holiday Pay
- 14.3.11 Minute 13.9 TUC
- 14.3.12 Confidential Minute 13.11 - Employment Tribunal - Judy Franks - Confidential Minute

14.4 TUC

- 14.4.1 Delegation
- 14.4.2 Motions
- 14.4.3 Reform of Trade Union Law

14.5 REMEMBRANCE PLAQUE

14.6 CERTIFICATION OFFICE - DECISION

14.7 COMMUNICATION AND MEMBERSHIP SUPPORT

- 14.7.1 Proposals for Election of Young Members' Committee
- 14.7.2 Womens' Committee Election
- 14.7.3 Rules for National Area, Specialist and Equal Opportunities Committees

14.8 LIVE PERFORMANCE

- 14.8.1 Subsidised Repertory negotiations - Confidential Minute
- 14.8.2 Commercial Theatre Negotiations - Confidential Minute
- 14.8.3 VAC - Statement for Clarification regarding Equity and the Sex Industry
- 14.8.4 National Minimum Wage

14.9 RECORDED MEDIA

- 14.9.1 TAC - Confidential Minute
- 14.9.2 BBC TV Agreement - Confidential Minute
- 14.9.3 BBC VOD Renewal
- 14.9.4 BBC Audio
 - 14.9.4.1 BBC Audio Agreement
 - 14.9.4.2 BBC Radio Series Stacking Trial
 - 14.9.4.3 Payment of Class 1 National Insurance
- 14.10 SUBSCRIPTIONS 2009
- 14.11 SAVE LONDON THEATRES CAMPAIGN
- 14.12 MOTIONS FROM BRANCHES AND COMMITTEES
- 14.13 LEGAL CASES
 - 14.13.1 Personal Injury
 - 14.13.2 FTVR - Contract
 - 14.13.3 Miscellaneous
 - 14.13.4 Special Attention List
 - 14.13.5 Equity Stunt Performers v Unique T.V. - Confidential Minute
- 14.14 NEW MEMBERS AND CURRENT MEMBERSHIP POSITION
- 14.15 COUNCILLORS' MOTIONS
 - 14.15.1 Motion in the name of Sheila Mitchell

Present: Graham Hamilton (President – in the Chair), Ian Barritt, Annie Bright, Jo Cameron Brown, John Carnegie, David Cockayne, Nicholas Courtney, Michael Cunningham, Nicky Diprose, Bryn Evans (Honorary Treasurer), Natasha Gerson, Mark Holden, Clive Hurst, Barbara Hyslop, Yvonne Joseph, Peter Kosta, Joseph Kloska, Harry Landis, Mary Lane, Paul Mead, Sheila Mitchell, Fiona Mott, Frederick Pyne, Dennis Ray, Rhubarb the Clown, Jean Rogers (Vice President), Nicholas Smith, Alan Thompson, Frank Williams, Tom Emlyn Williams, Johnny Worthy (Trustee) and Christine Payne (General Secretary).

14.1 ANNOUNCEMENTS

- 1) The President announced that Louise McMullan had now taken over from Matt Payton as Policy Development Officer and Assistant to the General Secretary and welcomed Louise who was attending this meeting of the Council.
- 2) The President announced that a new item 6d) had been added to the Agenda under Live Performance. This would be a discussion on the Fringe and the National Minimum Wage; two Motions from Clive Hurst would also be considered under this item.
- 3) The General Secretary reminded Council that it had agreed that she and the President would be reviewing issues around Confidentiality; she would be bringing a report to the next Council Meeting.
- 4) The General Secretary reported that there had been a serious breach of Confidentiality in relation to matters on the Council agenda. One of the agenda items for the current Council Meeting had been discussed with the Press possibly in breach of Standing Orders. She said she would bring a report to the next Council Meeting.
- 5) Staff Training Day – this had been successfully completed on 25th June. It was suggested by the President that a similar day could now take place for Councillors which would include training on the responsibilities of governance. Further details would be announced in due course.
- 6) The General Secretary reported that a possible breach of Rule 29(1) (old Rule 34 in the previous Rule Book) had been brought to her attention. She was still trying to clarify which rules exactly may have been breached and would bring a report to the next meeting of the Council. Prior to proceeding to Minutes, the point was raised that there was a briefing on the Police and Crime Bill but there was no planned discussion of this on the Agenda nor on Baroness Miller's proposed amendment.

The President replied that the Bill was the subject of one of the draft Motions to the TUC Congress which would be discussed under Agenda Item 2.

14.2 MINUTES FROM PREVIOUS MEETING

- 14.2.1. **Minute 13.3.8** – delete the word 're-run' in line 1 and insert the word 'pre-run'.
- 14.2.2 **Minute 13.5.4** - under London Area Committee, page 230, delete the name Ian 'Gillitt' and substitute 'Barritt'.
- 14.2.3 **Minute 13.5.5** – under Young Members' Committee, Point 4 page 231 insert a full stop after 'apply' and delete all words after this to the end of Point 4.
- 14.2.4 **Minute 13.6.1** – Subsidised Repertory Negotiations – it was suggested and agreed that this Minute should be deemed Confidential and moved into the Confidential Minutes.

- 14.2.5 Minute 13.6.2** – On the final line of 13.6, add the following comment after ‘AGREED’ : ‘along with adding the Birkbeck College Directing Course’.
- 14.2.6 Minute 13.7** – Under the first bullet point of ‘Points made in discussion’ delete ‘decide’ and insert ‘decided’. Move the first and second bullet points under ‘Points made in response’ into ‘Points made in discussion’. Move the second bullet point of ‘Points made in discussion’ into ‘Points made in response’ adding the words ‘into the Fund’ after ‘assist’. Under the third bullet point of ‘Points made in response’, delete 42(3) and insert 42.3.
- 14.2.7 Minute 13.8.5** – Under ‘Points made in response’ delete the third bullet point and substitute the following: ‘The issue with Britain’s Got Talent was that the National Minimum Wage provisions do not apply to competitions’. Add a new bullet point: ‘Michael Grade commented that new dramas were coming up – a list of these had been requested at the meeting’.
- 14.2.8 Minute 13.12** at the top of page 243 after ‘attending’ add the following words ‘whose name had been omitted from the Report as one of the Branch Committee Members attending to give information to the meeting’.

The Minutes and Confidential Minutes were proposed by Dennis Ray and seconded by Mary Lane as a true and accurate record of the meeting. This was **AGREED**.

14.3 MATTERS ARISING

- 14.3.1 Minute 13.1 c)** The General Secretary reported that George Baker had been sent two bottles of red wine and was making a good recovery.
- 14.3.2 Minute 13.3.3. - Skype** – the Assistant General Secretary (RM) reported that this would be trialled again at the Stage Managers’ Committee at the end of month. No request from any councillor to take part in additional trials had yet been received.
- 14.3.3 Minute 13.3.4 – Staff Pension Scheme.** A query was raised about the Valuation process with regard to the Staff Pension Scheme. The Assistant General Secretary (RM) reported that he did advise Council that the valuation process should be completed by the end of the year though there was no guarantee that this would be the case; the legal timeframe was fifteen months from the date of valuation. A further query was made as to how this process sat with the triennial evaluation. Andy Prodger explained it was possible to bring this triennial process forward which is what was being done. Once in place and signed off, this new valuation would be valid for three years.
- 14.3.4 Minute 13.3.6 - Minority Ethnic Member’s Committee.** As a matter arising from this Minute, the Assistant General Secretary (C&MS) was asked which members had been going on drama school visits. He said he would bring a full report to Council on this. He was also asked how many of these were ethnic minority members. He said he would also report back on this. In response to a further query about how members are chosen, Martin Brown replied that the Staff choose them from a list of

volunteers.

14.3.5 Minute 13.3.7 – Scottish AGM. The General Secretary reported that Euro FIA had received further funding and that the Steering Group would be meeting in July. The Steering Group will look at the possibility of combining the EuroFIA Conference with the Scottish AGM

14.3.6 Minute 13.3.9 – The General Secretary reported that a member had requested an audio tape of the Annual Representative Conference which was made for the purpose of assisting staff. She had been able to supply the member with a transcript of the member's own speech to Conference but could not give that of any other member without their consents. So far as the Minutes were concerned, once they were approved by Council, a copy of these could be supplied. It was therefore not possible to supply a copy of another member's speech or the Audio Recording itself. Frederick Pyne moved and Peter Kosta seconded supporting the General Secretary's position on this. This was **AGREED** nem con.

14.3.7 Minute 13.5.1 – Committee Elections. A Councillor queried whether, given that there is now a different method for election to the London Area Committee, what is the position of members co-opted on to a Branch Committee – does a co-optee have the right to seek election from his or her Branch to the London Area Committee?

The Assistant General Secretary (C & MS) said that co-opted members do not have the right to stand for election to the London Area Committee.

14.3.8 Minute 13.5.3 Distribution of Ballot Papers.

A number of points were raised in relation to the Distribution of Ballot Papers:

Points made in discussion:

- It was easy for the ballot papers to be misunderstood. Was there any guidance on the Website?
- There is a need to be clearer about members' right to vote in one category or another.
- More explicit guidance is needed on who has the right to vote as a London member in election to the London Area Committee.

Points made in response:

- The point about more guidance being needed on the right to vote was well-made and this would be considered when the process was reviewed.
- Those who reside in a London Borough have the right to vote but more explicit guidance will be considered.

14.3.9 Minute 13.8.4 Holiday Pay

Clive Hurst reported that he had met with Employment Agency Standards and raised the issue of the National Minimum Wage and Holiday Pay. He has asked whether the EAS could reinforce these rights within the EAS Regulations themselves. Most people do not get Holiday Pay when they do background work in commercials. The EAS looked favourably on that and understood why it needed reinforcing. Clive Hurst thought there was a need to stress that there would be 12.07% payable as holiday pay where there were no Agreements in place. Saying that they were entitled to 5.6 weeks per year did not make it clear enough to members. The Assistant General Secretary (RM) agreed with this.

14.3.10 Minute 13.8.4 – Holiday Pay. The Assistant General Secretary (RM) reported that agreement had been reached with the BBC and PACT for increases to Holiday Pay for Walk-On's and Supporting Artists. Under PACT, the walk-on rate was now £9.79 and the Supporting Artist rate £7.30. Under the BBC Agreement, the Walk-On rate was now £11.11 and the Supporting Artist Rate £8.78.

14.3.11 Minute 13.9 - TUC – The General Secretary has had lengthy discussions with the TUC on the subject of whether to base our TUC subscription on the membership figures for 2007 or 2008. They asked Equity to declare the membership figures for 2008 but have further discussions with the TUC General Secretary, Brendan Barber, in the light of the pay and subscriptions freeze, deficit budget and Pension Scheme deficit. She also reported to Council that the total Trade Union membership was down by 330,000 and there had been an £880,000 reduction in subscription income to the TUC.

The Recommendation of the General Secretary was therefore that Equity declare the full membership figures for 2008 and have separate discussions with the General Secretary of the TUC, Brendan Barber, to address our concerns..

This was **AGREED** nem con.

14.3.12 Minute 13.11 – Employment Tribunal – Judy Franks. This Minute was deemed Confidential.

There were no Matters Arising in the Confidential Minutes

In response to a question, the General Secretary stated that the corrected Minutes would be put on the Website and sent out to Councillors by email.

Peter Kosta said he would put a Motion to Council about how Matters Arising were discussed as there was a view that it would be easier to discuss Matters Arising item by item rather than considering Staff and then Councillors' Matters Arising separately.

14.4 TUC

14.4.1 Nominations

The General Secretary reported that six Councillors had nominated themselves to attend the TUC General Congress: they were Natasha Gerson, Joseph Kloska, Harry Landis, Corinna Marlowe, Jean Rogers and Sally Treble. She distributed ballot

papers and said that the closing date for voting was 17th July. The ballot papers included a prepaid envelope.

14.4.2 Motions

The General Secretary confirmed that there was a maximum word limit of 250 words per Motion and therefore some editing may be needed. There were three Draft Motions to be presented to the TUC : 'Britain's Got Talent' ; 'Representation of Dancers' and 'Digital Britain'

MOTION ONE

Representation of Dancers

"All workers have the right to earn a living and to access trade union membership, representation and support. Congress reaffirms its commitment to representing all workers, regardless of workplace or industry, including those in the adult entertainment sector.

Under the proposed Policing and Crime Bill, a large number of venues will be reclassified as 'sex encounter establishments' and will require Sex Encounter Establishment Licences in addition to the existing premises licence. This could cost up to £30,000 per venue.

Congress believes that this legislation will reduce the number of workplaces available to workers such as dancers. Already there have been instances where local councils have introduced additional licensing requirements. Consequently, burlesque and other dance events have been cancelled and performers have lost work.

Congress further believes that use of the terms 'sex encounter' and 'sex establishment' gives the wrong expectation of the work dancers do in this field of entertainment.

Entertainment venues which currently employ professional dancers are sufficiently covered by the Licensing Act 2003. Congress therefore calls for the removal of Section 26 of the Policing and Crime Bill.'

The Assistant General Secretary (LP), Stephen Spence gave some background to this Motion. The Police and Crime Bill seeks to extend the definition of Sex Encounter Establishments from bookshops and cinemas to include lap dancing establishments and other venues which have stripshows or burlesque The London Borough of Camden has already introduced restrictions on burlesque performances. The TUC Women's Conference has adopted a position to oppose unionization of sex industry and they have included lapdancers in this. The potential effect of the legislation on members is already being seen."

Points made in discussion:

- It was important how Equity speaks to this Motion in order to maintain TUC support.
- There was an issue of censorship here and one of respect for performers.

Following distribution, Councillors took five minutes to read these Draft Motions.

MOTION 2

Britain's Got Talent

“Congress notes the continuing reliance of Commissioners on reality formats to attract large TV audiences and in particular the increasing numbers of ‘talent search’ programmes such as X Factor and Britain’s Got Talent.

Congress strongly believes that the only proper way to choose a performer is through an audition process in front of professionals. Talent search programmes often given young people the misleading idea that it is not necessary to train, rehearse and work for years in order to become an established performer. The reality is that winners of talent search programmes are often professionally-trained actors –as was the case with I’d Do Anything, Any Dream will do and How Do You Solve A Problem Like Maria?

Congress further notes that Equity has successfully negotiated with the BBC to ensure that younger performers in these shows are not exploited. Congress further notes Equity’s efforts to ensure that reality TV stars can get protection from a union and fair pay.

However, Congress believes that more needs to be done. The winners of talent search shows are often compelled to enter into restrictive contracts which tie them to a particular management company for long periods.

In June 2009, a poll by the Guardian found that 67% of the British public thought Susan Boyle, a contestant on Britain’s Got Talent, had been exploited. Following the programme, the then Culture Secretary, Andy Burnham, acknowledged that there is ‘a need to get better at that pastoral care’ on reality TV shows.

Congress therefore resolves:

- To endorse the Equity campaign for a Code of Conduct aimed at preventing the exploitation and humiliation of contestants on talent search shows.
- To call on reality TV makers and commissioners to ensure that finalists in talent search shows are paid in line with industry agreements
- To campaign for more original drama, comedy and entertainment to be commissioned and made in the UK, drawing on the talents of professional performers working under the terms of a union negotiated agreement.
- To continue to campaign for better enforcement of the National Minimum Wage and to highlight that performers taking part in competitions may be considered workers and should therefore not be excluded from the scope of the Act.”

The Assistant General Secretary (RM) said that two issues closely related to this Motion were that of the National Minimum Wage and the fact that competitions were exempt from this and the wider issue of the reduction in Drama, as opposed to Reality Shows, on television.

Points made in discussion:

- It was better not to mention the National Minimum Wage at all but to refer rather to a good fee or remuneration.
- Some of these shows set out to deliberately humiliate performers to the extent of choosing those they know will invite ridicule.
- This was a vitally important Motion highlighting as it did the question of proper pay for performers and the problem of exploitation of workers.
- We need to be clear here what we mean by 'workers' – would it include those going for audition to these shows?

Points made in response:

- The NMW needs to be included in the Motion as it was a loophole in the law which meant that this did not apply to 'competitions'.
- It was true to say these shows exploit performers and, in addition, they prevent more talented artistes getting any air time.
- Workers should be in inverted commas.

It was **AGREED** that workers should be in inverted commas. Following lengthy discussions, several other amendments were made with the result that the Motion now read as follows:

Britain's Got Talent

"Congress notes with concern the continuing reliance of television companies on reality formats to attract large TV audiences and in particular the increasing numbers of 'talent search' programmes such as Britain's Got Talent. The contestants in such programmes are often compelled to enter into restrictive contracts and because of a loophole in the National Minimum Wage Act for competitions they generally do not get paid.

Congress believes that talent search programmes give young people the misleading idea that it is easy to get into and succeed in the entertainment industry.

These programmes may be very popular with the public but are based on exploitation and humiliation of vulnerable people which cannot be acceptable. A poll by the Guardian found that 67% of the British public thought Susan Boyle, a contestant on Britain's Got Talent, had been exploited.

The public's demand for high quality entertainment should be met by professional drama and light entertainment which has been replaced by this cheap exploitation. Congress therefore resolves:

- To call on the makers and broadcasters of reality programmes to ensure that performers in talent search shows are paid in line with industry agreements. To highlight the inadequacies of the National Minimum Wage Act which allow TV companies to exploit people and justifies them working for nothing.
- To campaign for more variety and light entertainment, comedy and original drama to be commissioned and made in the UK, drawing on the talents of professional performers."

MOTION THREE

Digital Britain

“Congress welcomes the launch of the Digital Britain report as a demonstration of the government’s recognition of the central importance of the UK’s creative industries both culturally and to the future of economic growth.

However Congress is deeply disappointed that there is so little in this report that seeks to preserve the production of high-quality, high-value drama. Infrastructure is worthless without content – it is content which drives take up of new technologies and content that encourages the creation of new markets and job opportunities. The public service tradition in broadcasting gave Britain a reputation for producing programming of the highest quality – content that not only enhances this country’s culture but which also makes a major economic contribution through overseas sales and licensing. Digital Britain offers almost nothing to ensure that this tradition continues or to help drama production adapt to the changing circumstances of a digital market.

In fact it potentially creates an environment where less quality content will be commissioned by recommending ‘top slicing’ the BBC’s income from the television licence fee. Congress agrees that regional news output needs to be protected. However it also believes that children’s programming as well as high quality drama should also be protected and questions the logic of redistributing the licence fee which provides no additional resource with which to create such programming. Congress calls upon the Government to look at alternative additional funding options and in particular at levying those Broadcasters who provide little or no PSB content but make significant profits from its re-use.

Additionally Congress welcomes the provisions in Digital Britain which encourage Ofcom and Internet Service Providers to take a more active role in addressing privacy. We support introduction of a greater duty on ISP’s to act against individuals who use their internet connection to download and distribute copyright material. Congress also supports the moves to empower Ofcom and ISP’s to introduce technical measures – including bandwidth-capping and site-blocking – to prevent piracy by individual users. However, Congress believes that UK copyright laws need to be clear and relevant if we are to educate and convince customers, particularly young consumers, that piracy really is theft and can severely damage the industry which provides the entertainment they so much enjoy. The confusion that exists about format shifting blurs the edges of what is acceptable and what is illegal. Congress therefore calls on the government to bring itself in line with the other major producing countries of Europe and legalise format shifting with the necessary compensatory measures for rights holders.”

The Assistant General Secretary (RM) explained that there were five key policy areas addressed in this Motion: drama and children’s T.V.; top slicing ; industry levies; piracy and the compensation of performers for content shifting. These were all of great importance and all addressed points raised in the Digital Britain report.

Points made in discussion:

- As a Motion it is too diffuse and tries to make too many points at once.
- It would be difficult to make a speech to cover all these points at Conference.
- The issue of top-slicing is a vitally important one – there may be a way of editing the Motion to make it more usable.

Points made in response:

- All these points are addressed in Digital Britain and the Motion is a reply to these points.
- The Digital Britain Motion is far and away the most important one, there is a duty to explain this to the TUC and the public at large.

The General Secretary commented that the consultation period on Digital Britain ends in September and there was much uncertainty on what the government will do. The FEU is working together on this and an Early Day Motion has been put down on top-slicing. Furthermore, a Motion from BECTU had been put forward on the Piracy issue.

The Chair said that question of which two Motions of the three would go forward to the TUC Congress would be decided by a preference vote. Councillors would only be able to vote on two of the three. Councillors then voted; the results were as follows:

MOTION ONE – 19 in favour

MOTION TWO – 25 in favour

MOTION THREE – 11 in favour

Motions One and Two (Representation of Dancers and Britain's Got Talent) would therefore proceed to Congress.

14.4.3 Reform of Trade Union Law

The General Secretary spoke to her report on this matter: The Council at its meeting on 7 April endorsed the following motion in the name of Sheila Mitchell:-

'Given that a change of mind governing the laws for the election of a President of a Union was possible, this Council agrees to investigate the possibility of and take soundings about a change to the law regarding the need to hold a by-election in the event of a death or resignation. It is plainly an absurdity for many Unions to have to disburse a large sum of money on holding a by-election when, for the most part, the main elections have left a list of candidates who have already secured votes and so could be co-opted'.

It was agreed that in the first instance Equity should write to Brendan Barber, TUC General Secretary, to see if there was any appetite to lobby to change the law to the effect that Unions could, in the event of a death or resignation of a member of their governing body, once again have the ability to co-opt runners-up in elections for their governing bodies rather than having to hold elections which are expensive.

Council had before them Brendon Barber's response of 1st June.

Recommendation: that Equity raises its concerns with the Secretary of State for Business as suggested.

Sheila Mitchell proposed and Alan Thompson seconded going ahead with the above Recommendation.

It was suggested that the double negative be taken out of the last line of paragraph 2 so that the words 'not inexpensive' were deleted and the word 'expensive' inserted. This was **AGREED**.

The Recommendation as amended was **AGREED** nem con

It was suggested that Michael Cashman be asked if he could discuss the Union's concerns with Peter Mandelson, Secretary of State for Business. This suggestion was **AGREED**.

Following this, Council adjourned for lunch to resume at 2.00 p.m.

Council recommenced at 2.00 p.m. The Chair first reported that Miriam Karlin was now at Athlone House, Harrow Road for rehabilitation. She could be visited between 11.00 and 12.30 p.m. If any Councillors were interested in visiting her, further details were available from the Chair.

14.5 REMEMBRANCE PLAQUE

The Chair reported that if Council thought it was a good idea, then a small Working Party could be set up to look at the feasibility of having a plaque. He referred to the Report on this from the General Secretary which included the recommendation under consideration.

Last year Jeremy Phillips, after writing to the Prime Minister, asked the Officers to give consideration to placing a remembrance plaque on Guild House to commemorate all members of the entertainment profession who died during times of conflict.

According to DCMS (Department of Culture, Media and Sport) the Imperial War Museum has a record of two memorials to entertainers, performers etc who have been killed during times of conflict. There is a memorial Pall in Westminster Abbey which is dedicated to the memory of Actors who died in World War One, and there is also a World War One memorial plaque in the Theatre Royal, Drury Lane dedicated to the memory of 'actors, musicians, writers and workers for the stage'.

Jeremy Phillips was concerned that neither of these plaques directly included Variety artists.

The Officers are very supportive of this proposal and have made enquiries with Camden Council who require more information on the plaque before an application could be considered. The information required includes its dimensions, height from the ground, colour of the text and background, materials to be used, projection from the building and so on.

Therefore, should the Council agree that a remembrance plaque should be placed on Guild House then the Officers recommend that the Council should establish a small working party to bring recommendations to the Council on the design and placing of the plaque so that an application can then be made to Camden Council.

Recommendation: that Council agrees to set up a working party which will bring recommendations to the Council before the end of the year.

Points made in discussion:

- This should not just be about World War 1 but more recent Wars as well.
- One Councillor thought that people should be remembered equally and indivisibly not just through their professions.
- WW1 was a very long time ago – does it serve any purpose 90 years later?
- Is there an ENSA plaque anywhere?
- Would it be a list of names?

Points made in response:

- The length of time since the War in question is not relevant as this is a remembrance of all conflicts.
- It would not matter if a person was commemorated in more than one way i.e. by reference to their professional allegiance and elsewhere.
- The plaque would state 'In memory of all those who....
- One Councillor said he would do a Website search under ENSA to see what commemoration there was for this.

The Recommendation was proposed by Yvonne Joseph and seconded by Frederick Pyne.

It was **CARRIED** with six abstentions.

The General Secretary asked Councillors to let her know if they were interested in getting involved in a Working Party on this.

14.6 CERTIFICATION OFFICE DECISION

The General Secretary spoke to her brief report on this. On 4 June, 2009 Equity received the decision of the Certification Officer, David Cockburn, on the complaints brought by Roy Radford. The Certification Officer determined:

1. The Claimant's first complaint is dismissed on withdrawal by the Claimant.
2. The remainder of the Claimant's application that Equity breached its rules in the matter of disciplinary action against him following a hearing on 6 February 2008 is dismissed on the grounds that the application was made out of time.

The full Decision on this was made available to Council.

This Decision was **NOTED**.

14.7 COMMUNICATION AND MEMBERSHIP SUPPORT

14.7.1. Proposals for Election of Young Members' Committee

The Assistant General Secretary (C& MS) said that the two issues to be looked at were the proposed timetable for the Young Member's Committee and secondly what

the maximum age should be. The Recommendation of staff was for an age limit of 26 or under at the start of the ballot.

At its meeting on 2 June the Equity Council agreed to establish a Young Members' Committee and further decided that elections for this Committee should take place this year. The Council now needs to agree arrangements for these elections.

The proposed timetable for the elections is as follows:

- Call for nominations published in the Summer 2009 Equity magazine which, will be posted to members on Wednesday 5 August 2009.
- Closing date for nominations: 12 noon on Friday 25 September.
- Ballot papers distributed with the Autumn 2009 edition of the Equity magazine, which will be posted to members on Wednesday 4 November 2009.
- Close of poll: 12 noon on Friday 27 November 2009.
- Result declared to the Equity Council on Tuesday 2 December 2009.

At its meeting on 2 June, the Council agreed to a proposal from the open meeting of young members that the age limit of the committee and its constituency should be set after the new committee had consulted with young members. The timetable above achieves the aim of holding elections for the Committee in 2009, but makes unachievable a consultation with young members in advance of the call for nominations.

Staff have therefore consulted with the eight young members the Council agreed in June to co-opt to the Committee and their recommendation is that the age limit should be as follows:

- Members are eligible to stand for the Committee and to vote for the Committee if they are 26 or under at the start of the ballot.

It is essential that there is a common definition for standing for the committee and voting for the committee so as to avoid the problem of qualifying to stand but not to vote, which is the reason for having a single trigger for both procedures.

The Officers and Senior Management Team recommend that the Council **APPROVES** the above arrangements.

Points made in discussion:

- Why not make the date that on which nominations close?
- Will this rule out further discussions about age?
- How many are there on the Committee?

Points made in response:

- The date needs to be at the start of the ballot so that eligibility to stand and eligibility to vote are the same.
- All provisions are a continuing process and it would be open to the Committee to discuss the age question further.
- There are nine members of the Committee.
- This was about the future of the Union.

John Carnegie proposed and Natasha Gerson seconded endorsing the timetable and maximum age provision in the Report, subject to the start of the ballot process being more clearly defined in line with Rule 15.6.

This was **CARRIED** with one abstention

14.7.2 Women's Committee Election

The Assistant General Secretary (C&MS) reported that a name had been left off the ballot paper in the election for the Women's Committee which is why he was recommending that it should be re-run. The error was not spotted by Equity, or the independent scrutineer or the printer. He explained that this error was regrettable but with 21 Committees, 259 candidates and 40,000 words of election statements to be read such errors become more probable.

As soon as the error was identified, advice was taken from the independent scrutineer who confirmed Equity's view that the only course of action that would be fair on the candidate in question would be to re-run that particular election. Following the discovery of the error, an e-mail was sent to every member with a registered e-mail address and a notice was published on the front page of the Equity web site.

The proposal is to include a ballot paper with the Summer 2009 edition of the Equity magazine. In order to contain the costs, the ballot paper will be a self-sealing single sheet that can be returned in the post without a need for an additional reply-paid envelope.

Because costs on this round of elections have been rigorously contained, it is anticipated that the total cost of the committee elections, the bye-elections for the Council and the Appeals Committee and the additional cost of re-running the Women's Committee election will be significantly under the £50,000 allowed for in the agreed budget.

RECOMMENDATIONS:

That Council agrees to the re-running of the election of the Women's Committee. Accordingly, ballot papers would be reissued and their would be fresh election statements. Any additional cost will be carefully monitored.

Points made in discussion:

- Would only women members be able to vote?
- Would there be a note in the magazine about this?

Points made in response:

- The Assistant General Secretary (C&MS) answered in the affirmative to both these questions.

The Recommendation was **AGREED**

14.7.3 Rules for National, Area, Specialist and Equal Opportunities Committees

William Maxwell, as member of the London Area Committee and a representative for that Committee at the 2009 Annual Representative Conference, has raised a concern with the General Secretary about the responsibilities of representatives of national and area committees in relation to the motions that arise from the national and area Annual General Meetings.

It has been Council guidance over many years that the Annual Representative Conference motions arising from national and area Annual General Meetings should be proposed at the Annual Representative Conference by the representatives of the corresponding national or area committee. The Council has offered this guidance because the union's Rules do not allow for national or area Annual General Meetings to elect their own representatives to attend the conference.

The Rules of the union do not permit committees or branches to mandate their representatives. As a result it has been the Council's view that it is permissible for representatives to agree to remit a motion without first seeking permission from the relevant committee or branch.

At this year's Annual Representative Conference the Council asked the representatives from the London Area Committee to agree to remit the motion on subsidised repertory theatre pay which had come from the London Area Annual General Meeting (Motion 4). William Maxwell has written to the General Secretary expressing concern that he was put in a difficult position by this request. He writes:

"It does concern me that any future motions from a well attended AGM may be asked once again to remit, which may give the hapless spokesperson sleepless nights when he or she is speaking on behalf of so many members, especially when we're all concerned with apathy amongst the membership at large. Also at the ARC itself, you have to explain why you're not remitting which eats its way into those precious five minutes instead of explaining your case.

I would therefore ask Council to forget about this particular motion and look at the problem as a whole. How in the future can an ordinary member and representative at the conference from the relevant committee, deal with a similar situation that I had to deal with? Well attended AGMs are our lifeblood and I think they should be respected. That said, it is a difficult problem and if Council so decide, I wish them well in trying to resolve it."

In the light of the concerns raised by William Maxwell, Council needs to decide whether it needs to clarify the responsibilities of representatives elected to the ARC by national and area committees.

As the Rule makes it clear that representatives cannot be mandated, it follows logically that representatives can not only choose which way to vote on a particular motion, but also make decisions on whether to withdraw or remit a motion. However, the Council has never formally interpreted the Rules to encompass this. The Officers and SMT are recommending that the Council makes such an interpretation.

The Council has over the years expected representatives elected by national and area committee to propose the motions arising from national and area Annual General Meetings, but the rules of the national and area committees do not make that duty clear. The Officers and SMT are recommending that the national and area committee rules are altered so that there is a specific duty on national and area committee representatives to an ARC to propose motions arising from national and area AGMs.

Finally, the Officers and SMT are recommending to the Council that the Council offers guidance to elected representatives that the mover of any motion or amendment has the power to withdraw or remit that motion or amendment after consultation with their fellow representative or representatives.

RECOMMENDATIONS:

1. That under its powers to interpret the Rules set out in Rule 44 the Council interprets Rule 37.2.20, which states that representatives shall not be mandated by their Committee or Branch, to mean that representatives have the power to remit or withdraw a motion or amendment without first seeking the approval of the body which elected them. Under Rule 44, interpreting the Rules requires a two-thirds majority.
2. That a new rule is introduced to the rules of the national and area committees as follows:
“It shall be the duty of the representatives of the Committee to propose any motion agreed by the Annual General Meeting as a motion for the Annual Representative Conference.”
3. That the Council offers the following guidance to representatives:
“The mover of a motion or amendment has the power to withdraw or remit that motion or amendment after consultation with their fellow representative or representatives where applicable.”

The Recommendations were proposed by David Cockayne and seconded by Michael Cunningham

Points made in discussion:

- There was a need to look at how this came about – the problem could have been dealt with during the LAC meetings prior to Conference.
- The proposals were very clear and should be supported.
- There has to be a mechanism for withdrawing as well as remitting – ongoing negotiations may lead to a Motion having to be withdrawn.

Points made in response:

- The proposals are problematic – they would work for specialist committees but not with AGM's. It was better not to ask for the Remission of a Motion coming from an AGM.
- The person who had proposed the Motion at the LAC had refused to withdraw it although warned it could be problematic by both Martin Brown and Andy Prodger.
- The Recommendation was simply putting down on paper what has been custom and practice until now.
- It may be difficult given that AGM's only happen once a year but it would not be wise to limit the options with AGM Motions to support or reject only.

Recommendation 1 – This needed to be passed by a two-thirds majority.

This was CARRIED with 20 for and 1 against; it was therefore passed by a two-thirds majority.

Recommendation 2 – CARRIED with two abstentions

Recommendation 3 – CARRIED with three abstentions

14.8 LIVE PERFORMANCE

The Assistant General Secretary (LP) spoke to his report.

14.8.1 Subsidised Repertory Campaign – this Minute was deemed Confidential

14.8.2 Commercial Theatre – this Minute was deemed Confidential

14.8.3 VAC – Statement for clarification regarding Equity and the Sex Industry

The Assistant General Secretary (LP) spoke to his report. The VAC has developed this Statement to assist in discussions that have been occurring on the demarcation between adult entertainment and the sex industry as Equity undertakes its work representing dancers in this field. It was provided to the Council for information.

Following a lengthy discussion, a number of amendments were discussed and agreed.

Statement for clarification regarding Equity and the Sex Industry

Definitions

Sex industry worker: “A person who supplies sexual services for money”.

Sexual services: “The commercial use or display of the body of the person providing the service for the sexual gratification of others”

The key word in this is “gratification” which means “satisfaction”.

No explanation is needed of what sexual satisfaction is but if it takes place on the premises, at the time, then the performers/workers involved could be considered to be providing sexual services.

Equity’s understanding of what goes on in lap dancing clubs and the like is that the punters may get excited when watching the adult erotic entertainment but this falls short of the above. There may be times when the line is crossed at some clubs but that would be in breach of their licensing rules. It may also be that the same performers do other things in their own time which is their choice and also not Equity’s concern.

Equity’s understanding is that the sex industry covers massage parlours, escort work, prostitution in ‘flats’ or on the street, peep shows, live sex shows and perhaps dancing where contact is permitted (although we do not believe it officially exists in the U.K. but does elsewhere in the EU and USA).

Equity does not recruit members on the basis of sex work and would not assist a member who had a problem as a sex worker.

The Statement was proposed by Dennis Ray and seconded by Annie Bright and **NOTED** as amended by Council.

14.8.4 National Minimum Wage

The Assistant General Secretary (LP) distributed the headline and article on the front page of that week's 'The Stage' newspaper which stated '*Equity minimum wage proposal will 'destroy' fringe theatre*'. He said that as a result of this, the issue now had to be prioritised and other issues set aside. The issue was about rates of pay as it is in any other industry but, for many members, Fringe Theatre provides the opportunity to try out parts even if they are low paid or even unpaid. As a result of this publicity, there was a danger the Government could widen the exemptions to the National Minimum Wage.

He went on to put a draft statement before Council entitled '**Fringe Theatre and the National Minimum Wage**'. The Statement read as follows:

- 1. The National Minimum Wage was introduced by the Government in the National Minimum Wage Act 1998 and the National Minimum Wage Regulations 1999 and applies to any individual defined as a 'worker'.
- 2. The National Minimum Wage legislation confers rights on an individual to make a claim. HM Revenue and Customs also have an enforcement power.
- 3. The Union does not have the right under law to make a National Minimum Wage claim but can support a National Minimum Wage claim on behalf of and with the consent of a named individual or a number of named individuals.
- 4. Equity has a Fringe contract based on the National Minimum Wage which it recommends to members and encourages all fringe producers to use.
- 5. Equity is aware that some members choose to work on the fringe for less than the National Minimum Wage for their own professional reasons and Equity acknowledges that there is widespread support from the membership for the Fringe.
- 6. Equity does not as a matter of course advise members against working on the fringe for less than the National Minimum Wage
- 7. Where a member approaches Equity for help because s/he believes a National Minimum Wage payment is appropriate, Equity will assess the claim and pursue it where the individual is judged to be a 'worker' and the claim has merit. Each National Minimum Wage claim will be judged on its strengths as with any other legal claim.

The Assistant General Secretary commented that under Point Three he was still waiting for confirmation as to whether the Low Pay Commission can also be an enforcement body. He added that most Fringe Theatres do not use the Fringe contract.

He further commented that point six raised many issues. Actors may be in profit-share arrangements, may be volunteers working for charity or students in full-time

education. In none of these cases would they be classed as 'workers'. If Equity were to try and commit to insisting that the National Minimum Wage be paid it would be very hard to maintain members' support for this.

Points made in discussion:

- We should not seek to stop members from appearing in Am Dram if they want to.
- The loss of the exemption could result in damage to the Fringe or to a drop in Union membership.
- Actors should be earning money in the Fringe – one actor had made 80 complaints to HMRC in the last six months about actors working for nothing.
- Has the Assistant General Secretary (LP) received complaints from actors about working conditions on the Fringe?
- What would be done with the Draft Statement if approved?

Points made in response:

- One Councillor felt he should have the right to do Charity Work for free from time to time if that was what he wanted to do.
- The National Minimum Wage applies to 'workers' – the HMRC are unlikely to take up any of the complaints made by the actor mentioned.
- Very few actors had ever approached the Assistant General Secretary (LP) to discuss working conditions on the Fringe
- The Draft Statement would become Union policy, there would be a press release and further discussions would take place on how the Statement should be used.
- Stage Managers often work well beyond the hours of the Working Time Directive – it was just part of the job.

David Cockayne proposed and Harry Landis seconded endorsing the draft statement.

The draft statement was **ENDORSED** with two abstentions.

Council then went on to consider the two Motions in the name of Clive Hurst which related to the Fringe and the National Minimum Wage.

Motion One did not get a seconder and therefore fell.

Motion Two.

"Council is aware that there are no official NMW guidelines – specifically for those in the entertainment industry within the government's publication: 'National Minimum Wage Guide for Employers', such a guide merely refers to employers: see <http://www.berr.gov.uk/files/file48127.pdf> The existing guide certainly does not define what is deemed to be amateur and what is not – for actors. There are no guidelines on profit share or Fringe Theatre. In fact there is nothing to help our members or their agents through this minefield. Our industry has totally different work practices to any other industry; yet we have had no official guide for 10 years. Therefore, Council calls on the General Secretary to take immediate/all necessary action to lobby/consult with BERR National Minimum Wage Team, the Low Pay Commission and (possibly) BERR Employment Agency Standards, in order to:

A Provide within or separately to the above NMW guide to employers (and, in our case, also work-finding services) what is and what is not legal within the NMW Regulations

B Define the parameters within such a publication to what exactly can be deemed to be amateur and what can be deemed to be professional.”

This Motion was formally seconded by Alan Thompson.

Points made in discussion:

- Clive Hurst referred to the letter in The Stage from the Chair of the Amateur Dramatic Society which set out the distinction between amateur and professional.
- Pushing for change in this way may result in a change in the law which prejudices those members working regularly in Fringe Theatre.

Points made in response:

- People who work in the Fringe are professionals even if not working for full Union rates – they see acting and their associated arts as their premier profession.
- The Union did have profit-share guidelines for many years but legal advice stated the Equity should not proceed to develop contracts as there was too great a risk of litigation; instead, the Union tried to get more members on to ITC contracts.
- Only through pressure will change come about – it is a question of protecting members from unscrupulous employers.

Motion Two was overwhelmingly **DEFEATED** with 2 in favour and 4 abstentions.

14.9 RECORDED MEDIA

14.9.1 TAC – this Minute was deemed Confidential

14.9.2 BBC TV Agreement – this Minute was deemed Confidential.

14.9.3 BBC VOD Renewal

The Assistant General Secretary had produced to Council a letter dated 18th June, 2009 from Nicola Hill, Rights Negotiation Manager, regarding the BBC Public Catch-up service.

In line with other agreements, the BBC is offering a 1.4% increase on the current agreement taking this through the 30th June 2010.

Recommendation: That an extension of this agreement for another year be endorsed.

This Recommendation was **AGREED**.

14.9.4 BBC Audio

14.9.4.1 BBC Audio Agreement

The Assistant General Secretary (RM) explained that the BBC Audio Agreement is due to be updated on the 1st of August. The BBC are proposing the following: –

- 1) 1.4% increase on all fees
- 2) An increase on the podcast window from 7 days to 30 days. The BBC currently pay an additional 1% on fees for material made available for podcast and they wish to increase the window these are available to 30 days. It is felt this is too much of an increase and the window should not be increased any further than 14 days, which is the current period that material is available on demand. This had been agreed.
- 3) To remove the £50 advance against royalties that is paid for commercial audio recordings. The BBC say this advance is acting as a barrier as they have to consider the risk when releasing a title commercially. They also have £175,000 of unrecouped advances which is obviously difficult in this economic climate.
The Audio Committee believe we should continue to argue against this as it is a worsening of the agreement. The BBC had accepted this rejection.

Recommendation: On the basis of the update given the Council was asked to endorse this Agreement.

This Recommendation was **AGREED**

14.9.4.2 BBC Radio Series Stacking Trial

The Assistant General Secretary (RM) referred to a letter from Nicola Hill, Rights Negotiation Manager at the BBC regarding the series stacking 6 month trial they are wishing to begin in July. The BBC are offering £1,500 to cover the artists' contributions and to include the administration fee to BECS. The Audio Committee discussed their original offer of £1,000 but felt this was too low and should be increased. The BBC considered the feedback from the Audio Committee and agreed to increase the offer to £1,500. The Audio Committee endorse this proposal and are happy for the 6 month trial to go ahead on this basis.

Recommendation: That Council accepts this proposal from the BBC

This Recommendation was **AGREED**

14.9.4.3 Payment of Class 1 National Insurance

Sheila Mitchell raised the issue of non-payment of Class 1 National Insurance Contributions by the BBC on all audio contracts. The Assistant General Secretary reported that this was being challenged by Equity and a meeting with the BBC had been arranged. In addition, the Union was in contact with the HMRC office at Salford to query the nature of the advice given to the BBC.

14.10 SUBSCRIPTIONS 2009

The Recommendations contained in the report to Council were as follows:

- That each Member should receive the full text of the letter as their subscription renewal becomes payable;
- That the August edition of the Equity Magazine will include a report on the letter setting out the aim of the letter and the hope that as their subscription become due all Members will review the subscription they are paying to ensure that they are paying at the correct rate; and
- That at the end of the year an email reminder will be sent to all Members for whom we have an email address – the email will not contain the full text of the letter but will build on the article in the August Magazine.

These were **ENDORSED** without the need for further explanation from the Honorary Treasurer.

14.11 SAVE LONDON'S THEATRES CAMPAIGN

The General Secretary referred to her report and a letter from Johnny Worthy, Chair of the Save London's Theatres Campaign (the Campaign), dated 3rd March, which had been sent to all member of the SLTC Committee. The proposals set out in this letter were supported by that Committee and on 4th June the General Secretary had met with Johnny Worthy, John Levitt and the Honorary Treasurer to discuss the Committee's decision.

In order to transfer the Campaign's financial assets to Equity and ensure that they are used for the purpose as determined by the Committee, the following proposals were recommended to the Council by the General Secretary, Honorary Treasurer, Johnny Worthy and John Levitt:-

1. The Campaign will immediately transfer £7,900 to Equity.
2. The Campaign will retain just over £900 as working capital to be used to maintain the Campaign's office in St Pauls' Church and to assist the winding up of the Campaign in early 2010. The remaining balance will be transferred to Equity when the Campaign has been wound up.
3. Equity will continue to provide financial assistance of £125 per month towards the Campaign's administration costs. The final payment will be made in November 2009 as the Campaign will close officially on 30 November 2009.
4. A separate account will be set up as follows:-
 - a) The account will comprise all the Campaign's funds as transferred to Equity.
 - b) The account will be used to support the Union's campaigns for any theatre at risk in the Greater London area.
 - c) The signatories to the account will be the General Secretary, the Honorary Treasurer and Johnny Worthy, Equity Trustee and Chair of the Campaign.

Recommendation: Council is asked to endorse the recommendations as set out above.

Council expressed its thanks to Johnny Worthy for all his work as the Chair of the SLTC and, in turn, Johnny Worthy asked Council to express their thanks for all the work officers had done on the Save London's Theatres Campaign over the last 30 years and, in particular, John Levitt and Sheila Collings. This was **AGREED** with enthusiasm.

A Councillor asked whether the Union would take on the role of the SLTC if theatres were at risk. The President replied that any such theatre would be added to the Theatres at Risk Register and the Assistant General Secretary (LP) said there would be three sources of support: the Theatre Trust, the London Area Committee and Equity and, whilst they could not replace the SLTC, they would certainly between them take up the case of any threatened theatres.

It was proposed by Rhubarb the Clown and seconded by Sheila Mitchell that the above Recommendation be **ENDORSED**. This was **AGREED**.

14.12 MOTIONS FROM BRANCHES AND COMMITTEES

1. West End Deputies' Committee

The West End Deputies ask Equity to mount a campaign for the return of cats to the West End; not the acclaimed musical but the old fashioned mouse-catching variety. Over the past few seasons, there has been a marked rise in vermin infestation backstage in theatres across the country. The age old tradition of the theatre cat is not only an environmentally sound alternative to poison and traps, but it is also good for morale.

Officers/ SMT Recommendation: Support, subject to the aims of the wider campaign in the West End.

The OSMT Recommendation was **AGREED**.

2. Variety Advisory Committee

1. This VAC is resolved in its campaign for professional variety to be featured on television and will seek to approach high profile variety members who are producing variety on television and stage. The aim would be to recognise and highlight their endeavours, in the Equity Magazine and other publications, to encourage more such independent production on television and stage.

Officers/ SMT Recommendation: Support. Staff to research current position and come back with detailed proposals.

This OSMT Recommendation was **AGREED**

2. This VAC notes the conclusions from the Variety Strategy Team report and members' survey and wishes to express disappointment that the report appears to be flawed and believes it is important that Equity continues to campaign profoundly on legislation that affects variety performers.

Officers/ SMT Recommendation: Equity will continue to campaign on a variety of issues in line with ARC motions and the Variety Strategy Team recommendations as amended following the consultation process, which will conclude at the VAC meeting on 29th July 2009.

Points made in discussion:

- The VAC was not happy with the way the Variety Strategy Team was set up; they felt they were not sufficiently involved

Points made in response:

- The Team was set up after the ARC in 2008 and it was made clear at the time this would be a staff team.

The Assistant General Secretary added that the consultation period would go on until 29th July and a final report will then come to Council for a final decision to be made.

The OSMT Recommendation was **AGREED**

14.13 LEGAL CASES

Martin Kenny, Legal Referrals Officer, spoke to his report on these cases.

14.13.1 PERSONAL INJURY

Cordelia Paton v Ham House Richmond

Member was working at the National Trust property in Richmond when she fell and damaged her back and ligaments in her right knee.

FULL

Full Legal Protection was **AGREED**

14.13.2 FTVR – CONTRACT

Jasper Carrott v Endemol UK plc

Our member remains unpaid for a series of episodes for the fifth series of the game show Golden Balls. Despite recording these episodes Endemol are relying on a defence that cites ITV's failure to pay Endemol for the production. However our member is contracted to Endemol and hence they are liable for his fees.

FULL

Full Legal Protection was **AGREED**.

Bryn Evans, Honorary Treasurer, proposed extending Standing Orders to 6.30 p.m. This was **AGREED**

14.13.3 MISCELLANEOUS

Charles Angiama v Londinium Media Management

Phil Wilmott v Arts Education School – London

Tracey Briggs v Bartle Bogle and Hegarty Ltd

Anna Whatley v Chain Reaction Theatre Company

Kathy Donovan v The Pines Hotel (Chorley) Ltd

Brian Tranah v B Hurd

L Thomas v John Oliver Organisation Ltd

John Roberts v Hughes 1st Battalion Welsh

Susan Hurdsfield v Brandwood

Fred Sharp v Shelia Kirk

Martyn Oram v The Castle Wellingborough

These cases were **NOTED**

14.13.4 SPECIAL ATTENTION LIST

Mr Kristin Magnuson – Gekko Entertainments Limited

Above named company went into liquidation owing six Equity members over £7000 in unpaid salary. Therefore his name and trading title should be added to the next publication.

This was **AGREED**

14.13.5 EQUITY STUNT PERFORMERS AND UNIQUE T.V. – it was AGREED nem con that this Minute should be **Confidential**.

14.14 NEW MEMBERS AND CURRENT MEMBERSHIP POSITION

The New Members' List was **APPROVED**

The Current Membership position was **NOTED**.

14.15 COUNCILLORS' MOTIONS

14.15.1 Motion in the name of Sheila Mitchell

"The RNIB like everyone else is going through economic difficulties and as a consequence is cutting the rate paid to readers from 35p to 25p per finished recorded minute. Having gone through the motions of consulting with Equity they went ahead anyway. It is necessary that members should realise that Equity is against the cut and in consequence the Audio Book Working Party are asking for Council's approval for a communal e mail to be sent out to all members informing them of the facts. A wording for this e mail will e available to the Council to approve."

Points made in discussion:

- What is the purpose of this Motion?
- Sheila Mitchell explained that RNIB had informed the Audio Committee that this cut was needed to keep Producers and maintain the recorded titles.
- The RNIB main premises were now in Peterborough – performers were not offered any travel expenses for getting there.
- RNIB recordings were being sold to commercial companies and the Readers were not getting anything for these sales.

Points made in response:

- The purpose was to make it clear to each Audio member that Equity did not approve of these cuts.
- Andy Prodder commented that there was a need to refer the matter back to the Working Party. It was not acceptable under any circumstances that recordings were being sold commercially without any payment to the Readers and direct discussions with RNIB were now needed.

In discussion, it was **AGREED** firstly that the last two sentences of the Motion should be deleted and the following sentence substituted ‘ *The Equity Council opposes the cut and in consequence agrees that a communal E mail be sent out to all members informing them of the facts*’.

The Motion as amended was formally seconded by Alan Thompson.

Following further discussions, however, and in the light of the Assistant General Secretary’s (RM) comments, it was decided that the matter should be referred to the Audio Committee.

In the light of this, Sheila Mitchell **WITHDREW** her Motion and Alan Thompson, her seconder, agreed to withdraw.

THIS CONCLUDED THE COUNCIL MEETING WHICH ENDED AT at 6.30 p.m.