
MINUTES OF THE TWENTY-THIRD MEETING OF THE 2008/2010 COUNCIL
HELD AT THE EQUITY OFFICE ON 13th APRIL, 2010

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Present: Graham Hamilton (President – in the Chair), Riky Ash, Henrietta Branwell, Annie Bright, John Carnegie, Jonathan Cecil, David Cockayne, Nicholas Courtney, Michael Cunningham, Nicky Diprose, Dave Eager, Tom Emlyn Williams, Bryn Evans (Honorary Treasurer), Natasha Gerson, Caryl Griffith, Clive Hurst, Barbara Hyslop, Yvonne Joseph, Peter Kosta, Joseph Kloska, Mary Lane, Tina May, Kate McCall, Corinna Marlowe, Paul Mead, Sheila Mitchell, Fiona Mott, Frederick Pyne, Dennis Ray, Jean Rogers (Vice-President), Rhubarb the Clown, Malcolm Sinclair (Vice-President), Nicholas Smith, Alan Thompson, Sally Treble, Tim Walton, Frank Williams, Johnny Worthy (Trustee) and Christine Payne (General Secretary).

23.1: ANNOUNCEMENTS

1) The President spoke about the death of Corin Redgrave whose funeral had taken place the day before at St Paul's, Covent Garden. He said that he had continued to perform although ill in recent times and had enjoyed an extraordinary career, maturing into a very fine actor and was justly lauded. He had always given great support to Equity and had been involved in fundraising for both ICAF and IPAT which had included donating performances of his one-man shows. Council stood and maintained two minutes silence before giving a final standing ovation. It was **AGREED** that a letter of condolence should be sent to his wife, Kika Markham.

2) The General Secretary confirmed that the next meeting would be held at the National Union of Journalists from 12.00 noon on 4th May and 10.30 a.m. on 5th May. Duncan Smith or Richard Mason will attend on Wednesday from approximately 11.30 to sign off and distribute expenses cheques. The same arrangements will apply in June.

3) The General Secretary referred to a question which had been put by a Councillor in relation to the Delegation of Authority document; she did not think there was any need to answer the Councillor's question at the meeting or put this on the agenda at present and will respond to the Councillor by the end of the week.

A question was raised about the authenticity of a letter from Ian McGarry contained in the document given that it was dated 9th April, 2010 – the General Secretary replied that this must have been due to automatic updating on the computer and she had the original document which was dated 2000 when the report was given.

Sheila Mitchell commented that she thought it should have been placed on the Council agenda so that a brief discussion could have ensued. Her view was that the system would not work unless some of the questions raised by Councillors in relation to For Information Only documents were actually discussed by Council. The General Secretary's view was that the question

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related to the origins of the document and therefore no debate was necessary at this time.

- 4) Theatre Designers' Committee Motion to 2009 ARC – this Motion had been carried at the 2009 ARC and a report given For Information Only. A question was raised as to when this was going to be implemented. The General Secretary said that she would ensure this was dealt with at the same time as the 2010 Motions. She would report to Council and the matter would be minuted.
 - 5) Clive Hurst's motion would be moved up the agenda and taken following the report on the National Minimum Wage.
 - 6) The Licensing Act would be dealt with as a new item under Live Performance.
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23.2: CORRECTIONS TO MINUTES FROM COUNCIL 22

- 23.2.1 **Minute 22.3.1 - Announcements** – in the second point made in discussion and in the second Point made in response, insert the words 'value and' in front of the word 'usage'.
- 23.2.2 **Minute 22.3.2 – Announcements** – in line 2, delete the word 'Journal' and insert the word 'Magazine'.
- 23.2.3 **Minute 22.3.5 – Silver Street** – in lines 5-6 delete the following words: 'and this had been done with only seven days' notice'. In the point made in discussion, delete 'She' in line 2 and insert 'They'; in line four, insert a full stop after Officer and delete the words 'and had met'; delete the name 'Hindley' and insert the name 'Hindell' and add the words 'also attended' at the end of the sentence.
- 23.2.4 **Minute 22.3.10 – BBC Talent Strategy** – in lines 5-6, delete the words '3.5% of the licence fee money' and insert the words 'the digital switchover surplus from the licence fee'. In lines 6-7, delete the words 'ITV' and 'in future'.
- 23.2.5 **Minute 22.3.12 – Learning Disabled Performers** – insert the words 'and Wicked Fish' after 'Lawnmowers'.
- 23.2.6 **Minute 22.4 – Equity Staff Pension Scheme** – Delete the final sentence of paragraph 1 of 22.4 Equity Staff Pension Scheme.
- 23.2.7 **Minute 22.5 – 2010 Affiliations** – CDET, BAPAM and the Actors Centre, London – in the third paragraph after Points made in response add the words 'together with Chris Barltrop' in the final sentence; in the fourth paragraph after Points made in response, line 4, delete the name Michael Cunningham and insert the name 'Maggie Cronin'.
- 23.2.8 **Minute 22.6 – ARC** – insert a new point made in discussion after the first as follows: 'It was commented that it was difficult to answer the questions and easier if they were answered in reverse'; under the heading 'Stunt Committee', line 4, delete the name 'David Carnegie'

and insert the name 'John Carnegie'; under the heading 'Midlands Area Committee', line 3, delete the word 'the' in front of 'the' and insert the word 'that' after 'way'; under the headings for 22.6.3, delete the name 'Bryn Evans' in the second heading in bold and insert the words 'the Officers'.

- 23.2.9 **Minute 22.8.1 – Manifesto for Theatre Conference** – in paragraph 1, line 12, insert a full stop after 'Conference', delete the word 'including' and insert 'Speakers included'; in the sixth point made in response, insert the word 'be' after 'to' and change the name 'Waters' to 'Walters'.
- 23.2.10 **Minute 22.8.2 – Subsidised Repertory Claim** – move this item into the Confidential Minutes.
- 23.2.11 **Minute 22.8.4 – Corinna Marlowe's Motion** – in paragraph 5, delete the words 'E.C.Gender Equality' in the penultimate line and insert the words 'recently-published Gender Equality Scheme'.
- 23.2.12 **Minute 22.9 – Newton Investment Managers** – delete the sentence 'Bryn – we direct Trustees and then we issue instructions' in line 4.
- 23.2.13 **Minute 22.14 – Motions from Branches and Committees** – Variety Advisory Committee – delete 'The Recommendation was **AGREED**' and insert 'The Recommendation was **WITHDRAWN** and the Motion was **SUPPORTED**'; under 11, Walk On and Supporting Artists' Committee, penultimate paragraph, delete 'Colosseum' and insert 'Coliseum'.
- 23.2.14 **Confidential Minute 22.7.1 – BBC Agreement** – in the third bullet point made in discussion, delete the words 'credit sizes' and 'them' in line 2 and insert 'screen sizes' and 'credits'; in the second point made in response, delete 'ITV' and insert 'general'; delete the final point made in response and insert 'The Rights Management Group are not the right people to be negotiating the question of credits with'.
- 23.2.15 **Confidential Minute 22.7.8 – Cinema Films Audit** – delete the words 'was' and 'over' in line 2 and insert 'is' and 'more than'; in line 3, insert the words 'in unpaid royalties' after 'million'.

23.3 MATTERS ARISING FROM MINUTES OF COUNCIL 22

- 23.3.1 **Announcements** – in relation to the role of Trustees, Johnny Worthy questioned whether Trustees' meetings should be minuted.

Points made in discussion:

- The General Secretary said she would be happy for this to happen if the Trustees so decided.
- Dave Eager gave notice to Council that there would be a motion on the next Council agenda to have these meetings recorded.

Points made in response:

- The General Secretary responded by saying she thought it a good thing for the Officers and Trustees to meet informally. The Trustees' decisions are always in writing but the record of their informal discussions was not – to do so, would put matters on a different footing.
- Trustees who cannot attend will not know what happened at the meeting.
- The matter will have the chance of being debated when the motion mentioned is put forward.

23.3.2 **Minute 22.3.13 – Review of Fringe Theatre Policy** – in relation to the discussion of the national minimum wage at the previous meeting, the General Secretary advised Council that this was now on the agenda for today's meeting under the National Minimum Wage.

23.3.3 **Minute 22.6.1 – ARC 2009, Motion 38 – Future of the ARC** – a Councillor said that in relation to the questionnaire, she felt that comments had not been looked at and there were many who thought the questions were not clear. In response, the AGS (C&MS) stated his view which was that there was only a minority of negative responses and that this was supported by members of the Working Party.

23.3.4 **Minute 22.7.5 – Radio Drama** – the AGS (RM) reported that he had met with the Director General of the BBC, Mark Thompson, on 1st April together with the Head of Recorded Media, John Barclay, to discuss the BBC Strategic Review. Mark Thompson had said that there was more money going into drama and that quality overall was improving. The AGS (RM) told Council there was nothing to suggest that the BBC was increasing the money going to radio drama as could be seen by what had happened to Silver Street and the Radio 4 Friday play. Of the BBC's published figure of £600 million, £500 million was already budgeted and £100 million was being moved across.

23.3.5 The AGS (RM) added that it appeared the BBC was looking to sell off the Radio Times. This was concerning in that it contains cast lists and complete radio scheduling. Mark Thompson had agreed to look at safeguarding this in any sale.

Points made in discussion:

- It was concerning if the sale of profitable parts of the BBC was not being ploughed back into production.
- Cast lists were not available online – only three had been submitted to IMDB.
- Why was the Radio Times being sold off if it made a lot of money?
- Apparently the profit on the sales figures for BBC Worldwide were something like £1 billion.

- Would members of the Audio Committee still get a meeting as requested in the Emergency Motion to Council?

Points made in response:

- The AGM (RM) said that the BBC was taking steps itself to try and pre-empt action from any future government in what amounted to an act of self-mutilation.
- The BBC was planning to come out of those markets which are covered by commercial entities.
- The £1 billion figure is correct but this money does go back into the BBC.
- Cast listing should be available on the BBC website under www.bbc.co.uk
- A meeting has been requested and will be chased up.

23.3.6 **Minute 22.8.1 – Manifesto for Theatre Conference** – a Councillor reported that he had received a phone call from Tony Robinson to say how successful he thought the Manifesto for Theatre Conference had been.

23.3.7 **Minute 22.14 – Motions from Branches and Committees** – Variety Advisory Committee Motion – the General Secretary reported that a meeting was scheduled for 19th May with Ruth Mackenzie, Chief Executive Director of the Cultural Olympiad.

23.3.8 **Minute 21.8 - 2010 Election Timetable** – Dave Eager referred to the discussion on the timetable for the 2010 elections and queried what discussion had taken place on this in Council.

The General Secretary replied that it had been discussed at the February Council meeting. Council had been asked to delay publication of the Magazine by a week and there had been a lengthy debate on this including an amendment which had been put forward by Michael Branwell suggesting that the deadline for nominations be extended by one week. The reason for this delay was in order that the Magazine could include a report on the Manifesto for Theatre Conference. The timetable had been raised at the March meeting but had not been considered a matter arising.

It was **proposed** by Dennis Ray and **seconded** by Clive Hurst that the Minutes were a true and accurate record of the meeting. This was **AGREED** nem con.

23.4: ANNUAL REPORT

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The General Secretary referred to the Annual Report for 2009 which was included in the Council circulation. She said that minor changes were currently with Martin McGrath, the Campaigns and Publications Officer. She asked for any substantive changes which Council thought necessary and the following issues were raised:

- 1) There was not much on gender issues and the EuroFIA Conference. The General Secretary said that changes were in process to address this. Jean Rogers mentioned the research project on Age, Gender and Performers' Employment in Europe, the petition on Equal representation of women in film and television, the meeting which had taken place with the Arts Council as well as the Early Day Motion which had been put down. The AGS (C & MS) said that gender issues would be listed as a separate item under Chapter 1.
- 2) There was currently no report on the work of IPAT – this had already been supplied by the Chair of IPAT.
- 3) There was no mention of the work of the National Council for Dance Education – it was **AGREED** that this needed to be included.
- 4) There was a discussion as to whether the Variety Advisory Committee (VAC) should be listed within the body of the report. It was **proposed** by Rhubarb the Clown and **seconded** by David Cockayne that the listing be incorporated in the body of the report rather than in the appendix. This Motion was **DEFEATED**.
- 5) There was a discussion in respect of the report on page 2 on Up Front Fees. Clive Hurst said that this was the only place where up-front fees had been discussed and thought it should be a Council Agenda item. The General Secretary said she would look at whether it should be an agenda item at a future meeting; in addition, the AGS (LP & O) would give an update in his supplementary report.
- 6) With regard to the listing of National and Regional Committees on page 66, there was a discussion as to why Alan Thompson was listed as the London Area Councillor when other Councillors were not. After further discussion, it was **AGREED** that Councillors would be identified by reference to the area which they covered.
- 7) Frederick Pyne asked for consistency in the use of his name as he was referred to both as 'Freddie' and 'Frederick'.
- 8) It was asked that committees be used throughout where appropriate rather than Committees.
- 9) There was no mention in the report on Agency licensing – the AGS (C&MS) said he would look into there was any activity in 2009 on this which needed to be recorded.
- 10) It was pointed out that there was no list of participants from the Evelyn Norris Trust. The AGS (C &MS) said it was up to the organisations involved whether they listed the participants or not.
- 11) There was no report on the Council by-election. It was **AGREED** that this should be included.
- 12) Some listings of committee members included membership at either side of the July 2009 elections and some only current membership.

Both sets of membership should be included throughout so as to make the listings comprehensive and consistent.

It was **proposed** by David Cockayne and **seconded** by Nicky Diprose that the Annual Report be approved with the amendments discussed. This was **AGREED** with one abstention.

23.5: RECORDED MEDIA

23.5.1 - TAC

The AGS (RM) spoke to his written report on this. He said that the introduction of set multi-episodic rates had been made in order to address some of the concerns raised by S4C and Capital Law. He said that the draft agreement was an improvement in terms of minimum fees and significantly better than the BBC. The AGS (RM) said it was a concern that a number of programmes were registering nil audience under the BARB system.

He asked Council to accept and endorse the settlement of the claim subject to the view of the Welsh National Committee and whether they think there should be another series of open meetings with members and/or agents about how to negotiate this under the new agreement.

Michael Cunningham said he supported endorsement of the agreement and thanked the AGS (RM), John Barclay, Head of Recorded Media, and Chris Ryde, National and Regional Organiser for Wales and the South-West, for their efforts and thought there would be an agreement in principle. He **proposed** acceptance of the report and this was **seconded** by Mary Lane.

It was **AGREED** to endorse and accept the settlement of claim. In addition, this item was deemed **CONFIDENTIAL** until the Welsh Committee had had time to look at it.

[**NOTE: - by the time of posting of the Draft Minutes, this item had ceased to be Confidential as the Welsh Committee had met.**]

23.5.2 – BBC Funding

The AGS (RM) referred to the email dated 8th April, 2010 from the General Secretary to John Smith, General Secretary of the Musicians' Union, Gerry Morrissey, General Secretary of BECTU and Jeremy Dear, General Secretary of the National Union of Journalists. He said the three main issues were what will happen to the licence fee, how the digital switchover money will be used and the future of Channel 4. He said it was agreed at the FEU meeting on 9th April not to raise the issue of Channel 4's future during the general election campaign but to invite Channel 4 to meet and discuss funding on the basis that it should be publicly-owned. The AGS (RM) added that Equity had most

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to gain and most to lose in respect of Channel 4; it was not such a big issue for the other Unions. Equity polices agreements with independents and Channel 4 in a way that does not apply to other Unions.

Points made in discussion:

- Were alternative funding options discussed?
- Why weren't writers involved?
- Was there any talk of merger?
- The BBC has outsourced contributor payments to Madras; has that caused job losses here?
- The Musicians' Union should also be involved in decisions about Channel 4.
- Lighting designers choose to be members of BECTU and not Equity; could we not help them more?
- The bias against Unions in commercial broadcasters like Sky was a matter of concern.

Points made in response:

- These were looked at and will be discussed with Channel 4.
- Writers have not been attending FEU meetings and were not going to be at the meeting on 9th April.
- There was the possibility Channel 4 would be privatised; the Union view is that this would be a very bad thing; the other issue is the loss of its public service remit if this did happen.
- This was debated three years ago when it happened; there had already been job losses prior to this decision.
- Channel 4 does not directly employ musicians – all its programmes are made by independent production companies under PACT agreements. It is therefore very different from the BBC position.
- BECTU has the agreement with T.V. and Film Industry Lighting Designers even though that agreement is poorly policed and run; we should though try and help our sister Unions.

The report was **NOTED**.

23.5.3 Walk On Agreements

The AGS (RM) circulated a posting on the forum which had been made by a Walk-On Councillor who is an ex officio member of the Walk On and Supporting Artists Committee and member of the negotiating team. This posting had compared the Equity Pact TV Agreement and the FAA Agreement and had then gone on to attack Equity staff. The AGS (RM) said that he had found this posting extremely disturbing and, in relation to Staff, completely

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undeserved. He also circulated to Council a detailed rebuttal of this posting and said that the posting had been both inaccurate and misleading.

He said that the day rate amounted to £67.79 and not £67. He added that the Walk On Committee has repeatedly rejected the terms of the FAA Agreement as offered by PACT. On 15th February, 2010 the Walk On Working Party had unanimously rejected the option of having the FAA Agreement.

The AGS (RM) said he thought it was wrong to say the FAA Agreement was better or that Staff do not care. The staff were in a difficult position because the Walk On and Supporting Artists' Committee had rejected all of the employer's proposals out of hand. New proposals were now going forward to the Working Party. He hoped that the work of the staff would be taken on board in the spirit intended. He referred to the list of walk-on rates in the rebuttal which were all better than the FAA rates.

The General Secretary said she thought this a very serious matter. She said that she was looking at a procedure to cover the issue of staff harassment as this raised issues about staff not being able to address the criticisms made. She was concerned that this had gone on to the members' forum and thought that the posting needed to be answered. In respect of the new proposals from the employer, she hoped that the Chair of the Walk On Committee would be able to give assurances that these would be properly received. She thought that a statement should go on the forum with the following aims:

- To express concern
- To identify the statement as inaccurate and misleading
- To argue that the criticisms against Equity staff are undeserved
- To correct the inaccuracies in the statement.

Points made in discussion:

- The Forum could be a licence to mischief makers.
- The attack on staff was a matter of concern.
- The FAA Agreement is not suitable with unsuitable provisions such as the half-day pay.
- This is all to do with the Committee not the staff.
- What about the monitoring of the forum?
- It needs to be mentioned in any rebuttal that as a member of the Walk On Committee this member is criticising his own actions.
- Why wasn't this posting responded to earlier?
- Clive Hurst referred to an old Equity Rate Card which showed the rate as £67.00.
- The Theatre Directors' Councillor will be putting forward a motion about the website forum – it requires a proper discussion on Council as an agenda item.

Points made in response:

- The General Secretary said that the matter of the redevelopment of the Equity website and the membership database would be discussed by Council in due course. She gave an assurance that the matter of the members' forum would be discussed as a separate agenda item by this Council.
- She said it was incumbent on management to establish proper procedures on behalf of staff.
- Members cannot be trusted to moderate the forum properly.
- Any complaint about staff should have been pursued by writing directly to the General Secretary.
- Nobody had complained about the posting – if every posting were to be monitored, extra staff would be needed. A small group can use the forum to attack the Union and staff. It is a 24 hour a day, 7 day a week forum, open to 36,000 members. It was only a single breach and should not cause us to over-react.

The Recommendation of the General Secretary was as follows:

“The Council is concerned by the posting on the Equity members' forum by Clive Hurst. The Council believes the posting is inaccurate and misleading. The Council also believes that the criticisms made against the Equity staff are undeserved.

The Council decides that a posting should be put on the members' forum setting out the facts and correcting the inaccuracies.”

This was **proposed** by Frederick Pyne and **seconded** by Corinna Marlowe.

Following this discussion, the member concerned, Clive Hurst, spoke. He asked why the posting and rebuttal had not gone out with the other Council papers. The General Secretary responded that she had thought it better not to circulate it in advance but to table it so that it could be dealt with confidentially. Clive Hurst responded by saying he thought it would have been courteous to tell him in advance. He apologised for not adding the 79 pence figure on to the £67. He said that he thought that the other figures he had given were correct: there had been no increase in the last five years and the FAA agreement paid approximately 50% more on basic rates – there had been a 10.5% rise over the past two years under the FAA agreement. When he heard that calling for a 10% rise might undermine negotiations, he had seen red. After agency deductions, Walk On members were getting below the national minimum wage on calls for more than 40 walk-ons though the Low Pay Commission is looking into this. He said he was not being malicious but just trying to stick to the facts: actors got a 5% increase under the ITV agreement whilst walk-ons were left out and this had been going on for the past three years. He also questioned why the Committee had not been allowed to meet with Andrew Chowns, Chief Executive of PACT.

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The AGS (RM) said it was difficult to formulate a response as Clive Hurst did not accept the reality of the situation. The FAA agreement is less favourable than the walk-on agreement and in fact the FAA agreement holds things back for walk-ons. The walk-on agreement needs to be tied to the main part actors' agreement but this has not been possible due to non-agreement on rates. PACT did offer a meeting to the Walk-On Committee but this was rejected by the Walk On representatives of which Clive Hurst was one. What BECTU have achieved is a 10% rise on a very low rate for walk ons.

Clive Hurst responded by saying that £48.00 is paid on top of the standard rate for 'incidental dialogue' and also travel expenses at a rate of £8.00 up to £13.80 and the impression given by the AGS (RM) is misleading.

The President called on the Right of Reply but the proposer and seconder had nothing further to add. The General Secretary read out the recommendation once again.

The Recommendation was **AGREED** overwhelmingly with 1 against and 1 abstention.

John Carnegie **proposed** that the discussion be treated as Confidential in advance of the posting on the forum in the name of the Council. This proposal was **DEFEATED**.

Council then broke for lunch, the time being 1.41 p.m.

23.6 EQUITY/GHANA ACTORS GUILD TWINNING SCHEME

The AGS (C&MS) reported that the TUC had agreed to assist with the funding of the visit to the U.K. of the President and Treasurer of the Ghanaian Actors' Guild. The TUC will support both of them with some funding from Equity. He reported that he had visited Ghana in March to try and make progress on the objectives of the twinning and that significant progress was being made. He said that Ghana was now in constructive engagement with the Film Producers' Association (FPA) and was trying to get a quota of 70% of Ghanaian programmes on Ghanaian T.V. The AGS (C&MS) said that there had also been progress on the development of a Ghanaian Collecting Society; he had also met with the General Secretary of the Ghanaian Trade Unions and was also able to deliver a training session on newsletters. Equity could also help the Ghanaian Union to develop membership record software and there was a hope that the British Council would be interested in delivering professional training and that British Council funding could be tapped into. The AGS (C&MS) said he was trying to liaise with Equity members who had links with Ghana; so far, Hugh Quarshie and Adjoa Andoh had shown an interest.

Points made in discussion:

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- How many members have they got?
- Could ICAF members meet with them?
- Does AfroFIA still exist?
- Will Equity be writing to IPAT specifically about this?
- Do Ghanaians require a visa to come here and has this been applied for?
- Would the Ghana Actors' Guild consider extending membership to non-actors?

Points made in response:

- About 600 of whom some 300 are fully paid-up.
- There will be opportunities to meet the President and Treasurer at the ARC; IPAT may be able to help with performer poverty issues.
- AfroFIA is still functioning and a meeting was hosted in Accra in the Autumn.
- Samuel Nii Odoi Mensah is one of the two coordinators of AfroFIA.
- The AGS (C&MS) said that this had been gone through in Accra and was the responsibility of the Ghanaian actors though Equity had provided letters of support.
- It was not the norm for anyone other than actors to join; technicians are not members of a Union in Ghana and most skills are not represented.

This report was **NOTED**.

23.7. LIVE PERFORMANCE

23.7.1 West End Contracts.

The AGS (LP) referred to the new SOLT/Equity West End Agreement published in booklet form in November, 2009. He also referred to the West End Organiser, Virginia Wilde's report which showed there had been lengthy delays in SOLT producing the new software needed to generate individual contracts but this was now available and was finally sent out in the week commencing 29th March, 2010.

This report was **NOTED**.

23.7.2 Subsidised Repertory Agreement – this item was deemed Confidential.

The AGS (LP&O) gave Council an update on negotiations with the TMA.

23.7.3 Licensing Act

The AGS (LP &O) reported that the Minister for Culture, Media and Sport, Gerry Sutcliffe, had initially said that he would support the small venues exception for venues holding 100 or fewer and indicated that he would meet with the Local Government Association on this. This meeting had been postponed twice due to public services strikes. However, following a meeting at the House of Commons between Gerry Sutcliffe, John Smith, General Secretary of the Musicians' Union and Louise McMullan, Equity's Policy Development Officer, Gerry Sutcliffe indicated that he was prepared to look at extending the exemption. The AGS (LP &O) said that since that meeting there had been no formal confirmation and, in subsequent statements, Gerry Sutcliffe seemed to be indicating there would be no change until after the election and the exemption would be limited to 100. He said that both the Liberal Democrats and Conservatives had indicated that they would support an exemption for 200 or fewer attendees. The AGS (LP &O) reported that Equity were now seeking clarifications from the Minister following the earlier informal meeting.

Points made in discussion:

- It needs to be made clear that none of this applies to Scotland as the law is different there.
- A Councillor referred to the response to the DCMS Consultation and queried why the response to question three of the consultation (Do you agree that audiences for exempt performances should be accommodated entirely within the building where the performance is taking place? If no, please explain why?) did not challenge the restriction to buildings only?

Points made in response:

- The AGS (LP & O) said that this was a matter of tactics but he would look into it further.

23.8 NATIONAL MINIMUM WAGE IN THE ENTERTAINMENT INDUSTRY

23.8.1 National Minimum Wage.

The General Secretary referred to her written report which was NOTED.

23.8.2 Motion in the name of Clive Hurst.

Clive Hurst's motion on this subject which was before Council and which read:

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'Council is aware that the Low Pay Commission published their 2010 Annual Report on 25th March, 2010 where the LPC stated:

"We therefore recommend that the Government produces, in conjunction with interested parties, sector-specific guidance on the National Minimum Wage for the entertainment sector. We will monitor the situation with regard to this group of workers carefully and, following publication of the sector-specific guidance, review the effect of its publication".

In the light of this, Council calls on the General Secretary to take immediate/all necessary action to assist/lobby/consult with BERR National Minimum Wage Team (NMW), the Low Pay Commission (LPC) 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 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 **seconded** by Sally Treble.

Speaking to his motion, Clive Hurst thanked those Equity members who had met with Gerry Franks and was pleased that the Union was now getting guidance and the Union was able to input into it.

The General Secretary said that it had become clear as she attended this year's AGMs that there was some confusion amongst members on the Union's policy on the National Minimum Wage. She therefore thought it important to set out the Union's current policy and also informed Council of the recommendations in the Low Pay Commission's 2010 report as it pertained to the Entertainment Sector.

She said that the National Minimum Wage legislation applied to 'workers' and that the Union will support claims by an individual on a case by case basis and would report an employer for non-compliance with the NMW legislation as happens often with NMW issues on films.

She said the Union's current policy was now being challenged by younger members and, in particular, how that policy applied to the problem of members feeling compelled to work for nothing. The LPC recommendation had stated as follows:

'We therefore recommend that the Government produces, in conjunction with interested parties, sector-specific guidance on the National Minimum Wage for the entertainment sector'.

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She said that the Union had already been contacted to assist in drafting this new guidance and therefore asked Council to simply note her report at this stage.

Points made in discussion:

- Would it help if we took action on behalf of the whole cast?
- The important distinction was between choosing to work for no pay and being forced to do so.
- Have there been any attempts to take this further through the Union and not individuals?
- Tim Gale, the Films Organiser, has worked very hard to get us to the current position and the contributions of Clive Hurst and other members have been valuable. Those drafting the new guidance have acknowledged that the Film Organiser's views will be taken into account.
- The government will not necessarily follow the TUC position.
- The definition of what constitutes a 'worker' is complex; it is not just a question of whether you supply your own clothes.

Points made in response:

- Only if each cast member was prepared to be named individually.
- We shouldn't be saying that the NMW is enough or we fall into the Sub Rep argument where ASMs are given parity with cleaners.
- Working on the Fringe is an individual decision – it may be a way of getting other work or it may be because of a belief in the work itself.
- There had been an ARC motion to ask if the law could be changed to enable the Union to bring an action and not individuals. However, the current guidance aims to interpret and better enforce the law.

The report was **NOTED**.

Clive Hurst, speaking to his motion, said that where a production company was offering less than the NMW, Equity should take steps to ensure the member receives it. The LPC have taken this on board. He therefore wished to pursue his Motion despite the LPC position and the new guidance.

The General Secretary said there was a difference between the motion he proposed and the guidance. Such guidance may or may not involve consulting the bodies he mentions; the difficulty is with part B of his motion and the definition of 'amateur' and 'professional'; the issues are around what is meant by 'worker' and it is confusing and misleading to bring in these other terms.

The AGS (LP & O) said that the motion seeks to lay down both strategy and tactics and as a motion it was not adequate. The legal situation was

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something to be defined by the courts and, in addition, he was not sure if the motion should contain a reference to 'work-finding services'.

Referring to Section 4.50 of the LPC report, Clive Hurst said that the guidance would be there to assist 'employers, agencies and workers in the sector'. He thought that the guidance would be indicating what is and is not legal.

The motion was **DEFEATED** with 1 for and 1 abstention.

23.9 CAMPAIGNS & PUBLICATIONS OFFICER

The AGS (C &MS) reported that a new Campaigns and Publications Officer had been appointed. He was very grateful to Martin McGrath, the outgoing Campaigns and Publications Officer, for all his excellent work including developing new campaigning web sites, his interviews for the Magazine and all he had done for the T.V. is Changing and Manifesto for Theatre campaigns.

The new appointee, who would be starting on 4th May, was called Phil Pemberton. He had experience of both print and online publication and had been a Unison shop steward when working for the Library Theatre in Manchester. He was currently overseeing the publication of two magazines.

The President, referring to Martin McGrath, also mentioned his excellent work on Reviews of the Year and Annual Reports. He asked that Council's appreciation of all his work over the past four years be **NOTED** and conveyed to him. This was **AGREED**.

23.10 MOTIONS FROM BRANCHES AND COMMITTEES

1. Midlands AGM

This AGM urges the Equity Council to examine the film area of 'Micro budget' films, together with BECTU that falls below the lower limit for Low Budget Films (that can be registered with the Joint Films Council of Equity & PACT) and devise terms and conditions for actors and technicians who are employed on such productions.

OFFICERS/SMT RECOMMENDATION: Support. We are already looking into this as a result of the recent BECTU/Shooting People Debate – and we have offered to work with BECTU to formulate such a contract and then try and encourage micro budget filmmakers to use it.

In the past we have devised a very low budget contract based on minimum wage, but the concern we have not yet been able to resolve is if this is widely

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promulgated then there may be some level of migration away from the reasonably good rates of the Pact Low Budget Film (LBF) arrangements.

There is no lower budgetary limit for the Pact LBF rates. As registered LBF have had budgets as low as £15K, there seems no way to use a film's budget as a determinate for use of our low budget contract. For this reason, we have not progressed our NMW contract, although the Student Film contract currently being sent to Film Schools is based on the NMW, as no student would use the Pact LBF. In summary:

- The current Equity/PACT Films Agreement already contains provisions for Very Low Budget film production.
- We have a films schools agreement which we promulgate across all courses in UK.
- We should be aware that to put together a separate agreement with BECTU which seeks to reduce the rates of pay within the collective agreement may lead to PACT wishing to reduce rates in the collective agreement.

The Recommendation was **AGREED**.

2. West and South-West London Branch

The West and South West London General Branch suggests that some of the rules governing branches, far from encouraging members to join them, are acting as a deterrent. These rules were put in place when the General Branches became official and since then there have been modifications and additions, but no comprehensive review to ensure that they still serve the membership.

We call on Council for a working party to be set up, with a majority drawn from General Branch members, to examine the existing General Branch Rules and submit any changes to Council in time for this to be put to the 2011 ARC.

OFFICERS/SMT RECOMMENDATION: Support. There is an ARC motion in the name of the Blackpool Variety Branch calling for a working party to look into branch boundaries. If this motion is carried by the ARC, the Council should establish a single working party to look at the issues raised in the West and South West London Branch motion and the Blackpool Variety Branch motion. This working party should be made up of members of the Council, the Officers and equal representation from General and Variety branches. Under Equity's Rules, the rules governing the operation of branches are a matter for the Council and not the ARC. This working party should therefore report back to the Council.

Sheila Mitchell **proposed** that consideration of the motion be postponed until after the Blackpool Variety Branch motion is heard by the ARC. This was **seconded** by Yvonne Joseph.

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In support of this proposal, Sheila Mitchell said the recommendation was changing the make up of the Working Party intended by the motion. If the arguments had been properly heard, Council would have seen that the motions are different. The West and South West Branch want to look at all rules and not just branch boundaries.

Points made in discussion:

- The recommendation could simply state 'Support' with what follows deleted as this motion and that from Blackpool Variety Branch are asking about different things.
- The matter could be resolved by the VAC if it is only to do with boundaries.
- The Blackpool Variety Branch motion does not specifically refer to Variety anywhere.

Points made in response:

- Both motions are irrelevant and unnecessary.
- Both motions are calling for a working party to be appointed.
- It would be of value to have a single working party looking at branch boundaries and other things which deter membership.
- Branches are in need of a comprehensive review so the motion should be supported.

Vote on Sheila Mitchell's motion - 13 for, 4 against and 10 abstentions. The motion was therefore **CARRIED** and consideration of the West and South West London Branch motion will be postponed until after the ARC.

23.11 LEGAL CASES

MISCELLANEOUS

Kenny Barton v Tap & Spike

Rebecca Gage v Select Productions International Ltd

John Edward v Chris Tarrant

Tracy Wiles v Alan Shields / L107

Andrew McGowan v Chicago Sports Bar – Notts

Anthony Kicks v Barton Road Club

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Lennie Dee v Taffs Well RFC – Cardiff

Carole Copeland v Chesterfield BC

Tina Wynne v Churchills PH – Coalville

It was **proposed** by Frederick Pyne and **seconded** by Mary Lane that these cases be **NOTED**.

This was **AGREED** nem con.

23.12 MEMBERSHIP

The New Members were **AGREED**.

The AGS (C &MS) said that membership figures for members paying a subscription were slightly up on March last year: 34,151 as opposed to 34,146.

The current membership position was **NOTED**.

23.13 COUNCILLORS' MOTIONS

Motion in the name of Sally Treble:

Equity's Annual Report has always been viewed as a true and accurate record of the work of the Union on a year by year basis. However, if following the publication inaccuracies are discovered in the report, then the Council should, as is their duty, consider how best to correct those inaccuracies to safeguard the records of the union.

This motion was **seconded** by Barbara Hyslop.

Points made in discussion:

- If there are inaccuracies in an Annual Report there should be a formal vote at the following year's ARC to accept the correction.

Points made in response:

- There was an error in the 2008 ARC minutes where it was wrongly recorded that the Birmingham Variety Branch motion was defeated. This was corrected online and in the archive and in the Minutes Book.

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All branches and committees were aware that the motion had been carried and there was therefore no need for further action.

- The Annual Report is endorsed by Conference but is not the property of Conference; it belongs to the General Secretary in her name.

Following further discussion, Council **AGREED** that any corrections to the preceding year's Annual Report should be included in the current one. This will ensure that they are agreed by the ARC. A note should be placed in any archive copies of the previous report detailing any such corrections.

The Council Meeting concluded at 4.50 p.m.