

Meeting of the Capitation Committee

2 April 2024

Arts Building 2026

Special Meeting of the Capitation Committee to address concerns raised under section 4.5 of the Terms of Reference

Present: Senior Dean, Dean of Students, Áine Mulcahy, Aidan Marsh, Sam, Grace, Adam, Donnchda, Laszlo, Aoife, Olivia, Lara

Attending: Chairs SU EC & OC, Noelle, Simon

Apologies: Shane, Niamh,

The Chair opened the meeting seeking the thoughts of members on how Section 4.5 of the Capitation Committee Terms of Reference should be interpreted, and whether a Capitated Body's internal procedures should be permitted to be exhausted before a complaint is brought before the Capitation Committee.

There was consensus that all internal procedures regarding a complaint should be exhausted before the Capitation Committee considers the matter.

The Chair asked the TSU to summarise the complaint which they brought to the Committee. (Appendix 1)

The SU gave their formal response (Appendix 2)

In response to a query as to whether the SU have approached the College HR administration for assistance regarding their new regulations, the SU commented that they have been utilising an external consultant but will be happy to work with the College HR administration going forward as well.

The Chair of the SU's Electoral Commission (SUEC) outlined the responsibilities of that body, and the SU's Oversight Commission (SUOC) regarding constitutional interpretation, and complaints brought against the SU and its officers. A number of requests for constitutional interpretation have been brought before the SUEC over the year, and none of these requests have been overturned. The SUEC Chair noted that the EC has been concerned by an increasing number of breaches of the SU Constitution over the course of the year, however the final decision as to whether an officer should be held accountable is the responsibility of the student body, by means of the SU's Council. The EC has the option available to it to instruct that funds be withheld from any actions which would be in breach of constitution, but this has not yet been deemed necessary.

The Chair of the SUOC outlined the processes entailed in resolving complaints against an officer of the SU, and the steps which may be pursued if an officer is found to have breached their constitution.

1. A report is brought before the SU Council to ensure that students are aware that an officer has breached the constitution and that they are on formal notice.
2. The SUOC bring a formal motion of censure before the SU Council.
3. Impeachment of the Officer is sought, either through a 2/3rds majority of Council, or by means of 500 students signing a petition.

Any complaint submitted to the Oversight commission is investigated both in terms of natural and constitutional justice and care is taken to ensure transparency. On this occasion the SUOC voted internally to bring a formal motion of censure before the SU Council, and Council did not censure the officer concerned. Following this a petition of impeachment was launched and did not gain the necessary number of signatures. All internal procedures of the SU regarding such complaints are being followed and are working as intended.

It was asked if the walk-out undermines the ability of the SU Council to perform its duties. In this instance the effect was negligible, as it is believed that an estimated majority of people chose to walk out. The Chair of Council highlighted that the behaviour was not appropriate, however no rules were breached. A breach would have only occurred had Council continued to hold the motion in the absence of quorum.

The Motion of Censure will not be presented before the SU Council again as it was a procedural motion arising from a discussion and not a formal motion. Such motions do not carry over between sessions of Council.

The SU were asked if they are happy with the system as it stands. The president stated that an agreement has been reached to bring section 1.4 of the SU's constitution to referendum in the next year, and as such he does not intend to commit further breaches of the constitution.

The Capitation Committee is satisfied that the internal processes of the SU are working as intended. The committee is satisfied for those internal processes to continue and for funding to remain with the SU.

Appendix 1: Complaint Made Regarding TCDSU (Trinity College Dublin Student Union)

Dear senior dean,

I am writing to ask that article 4.5 of the Capitation committee be invoked against the Student Union, following the events of previous days, I am concerned that the student union has chosen to disregard its constitution, actively advocate for breaking it and encourage an environment wherein the wishes of few individuals are represented and the wishes of the many are disregarded.

Article 4.5 states that if a capitated body has a complaint they must endeavour to deal with it internally, and adhere to their regulations. In not doing so, it is the responsibility of the capitation committee to withhold funds until all issues are rectified.

It was the responsibility of the oversight committee to recommend the censure of the president, and it was the responsibility of the chamber to vote on this. In creating a group chat to plan a walk out, I believe the president of the student union is in further breach of their constitution, by impeding the proceedings, which the OC will have to assess.

Now with the lack of a vice president, the union is no longer in a secure position, and the checks and balances are askew. An impeachment of the president, without the vice president to fill the role, may cause the collapse of the student union, which would be very bad for the capitation committee. I believe that it is our responsibility to step in and fix the situation before it goes further out of hand.

kind regards,

Fergus O'Brien, Chairperson of Trinity Sport Union, Trinity Sport

Appendix 2: Response of TCDSU

Dear Capitation Committee,

We as the Trinity College Dublin Students' Union would like to formally respond to the complaint submitted by the Trinity Sports Union under Chapter 4.5 of the Capitation Committee Terms of Reference.

Internal Processes

Chapter 4.5 of the Capitation Committee Terms of Reference grants the committee the ability to intervene, through withdrawing funds, in the internal matters of any of the Capitated Bodies, provided that the internal complaint mechanisms are not adequately dealing with matters at hand. However, in this case, all internal processes are being followed. In recommending a censure for a breach of the constitution, the Oversight Commission is fulfilling its duties. It is the duty of Council, provided that they have quorum, to decide whether a breach has actually occurred by voting for a censure, or to overrule the Oversight Commission in not voting for a censure. As a group of students conducted a walkout, independently of internal processes, quorum was called and was lost. There is nothing in the TCDSU constitution or any other document that declares a walkout to contravene the constitution or any other document. Students, via referendum, adopted these rules in 2014 by voting for the Constitution. The democratic nature of the walkout is substantiated by the arguments, as is done in many decision making bodies, that it is the expression of dissent insofar as the question should not even be put; furthermore, the onus is always on the proposer of any motion to ensure that there is adequate support in the room to maintain quorum, not on the dissenters. The Electoral Commission has a constitutional obligation to uphold quorum, which they did. Following on from this, a group of students launched an impeachment petition, which the Electoral Commission accepted. In none of these instances has the Union demonstrated the dysfunctionality of its own internal mechanisms – which is the prerequisite for a complaint to be submitted to the Capitations Committee – it has in fact perfectly aligned with its own internal processes. An example of what a dysfunctional internal process looks like is if the EC had continued despite not having a quorum, it had not accepted a petition of impeachment, etc. A complaint cannot be submitted to the Capitations Committee for mere breach of the constitution – that much is clear – it has to be a demonstrated case of an internal process failing. Breaching the constitution in itself can happen in cases of extenuating circumstances, or indeed when Council decides to allow it via overruling EC/OC. Moreover, the internal process up to and including the Board of Trustees should fail, and the Board of Trustees has not even been invoked yet, as the internal process is still ongoing.

“An Environment wherein the wishes of few individuals are represented and the wishes of the many disregard”

The complainant had not submitted any evidence or reasoning to substantiate this claim, so no reply is warranted, nor is relevant to the complaint at hand.

Group Chat to Plan Walkout

The complainant had not submitted any evidence or reasoning to substantiate this claim, but nevertheless, the Union confirms that the walkout was planned by a group of students and no Sabbatical Officer was involved in giving the direction to walkout as evidenced by the Council 7 minutes as attached to the Council 8 agenda.

Impeachment

The impeachment petition deadline for collecting 500 signatures was the 29th of March 2024, which has now passed. After the 29th of March 2024, as per the TCDSU Constitution, no impeachment referendum can be run. It collected 180 signatures, and failed to collect any more after March 25th 2024, due to a lack of popularity. As such, there is no possibility of impeachment. The Union is in a secure position to continue upholding its duties and responsibilities.

Resignation of the Education Officer

It was with regret that TCDSU accepted the Education Officer's recent resignation. TCDSU is fully committed to dealing with any issues that arise. TCDSU's Administrative Officer and the former Education Officer have had a number of meetings to ensure that all issues are dealt with and the TCDSU is fully committed to resourcing the Education Officer's role at this critical time of the year. TCDSU wishes the outgoing Education Officer the very best of luck in their future endeavours. The TCDSU has put an extensive plan in place to make sure that students feel supported. This plan was agreed upon by the Sabbatical Officers, the Oversight Commission and the Electoral Commission, and later ratified by Union Forum, and has been communicated to students. The situation is under control, and the necessary checks and balances continue to be in place to ensure continued service provision to the student body. Rather than running a bye-election during assessment season, a new email, casework @tcdsu.org has been set up, which will be dealt with by the Sabbatical Board, with necessary support from the USI, as well as some of the incoming Sabbatical Officers who will be duly compensated for the work. TCDSU notes the allegations of a toxic workplace environment, and notes the work that is being done towards improving HR within the Union, including an entirely new HR structure as well as the involvement of our Administrative Officer for support, mediation and the provision of training. The new HR structure involves the Oversight Commission, who then passes complaints over to an HR Committee composed of Board of Trustees and other members, who investigate issues and make recommendations.

László Molnárfi on behalf of TCDSU