PRESSING ‘PAUSE’ ON STRIKE ACTION: HISTORICAL CONTEXT FOR THE JOINT EXPERT PANEL

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Since news of the UUK (Universities UK) offer for a JEP (Joint Expert Panel) dropped on 23 March, UCU (University and College Union) members have seen a range of arguments for and against acceptance. Wherever they differed, one point of consensus was readily observable — a lack of trust in the employers’ side to act in good faith. Yes or No, few truly believe that UUK won’t try to press for changes detrimental to university staff’s pensions whenever they can.

In some cases, this scepticism has expressed itself in the formulation ‘I accept the offer, but remain vigilant and mobilised’. This view holds that the panel must be allowed to do its work and if UCU members are still dissatisfied, they should be prepared to take strike action again at a later date. Effectively, this proposal advocates putting our collective action on ‘pause’ for a potential future show-down.

For labour historians like myself, this scenario is very familiar. The history of industrial relations in this country is littered with incidents like these, where desperate employers offer some sort of neutral arbitrator, independent panel or parliamentary court of inquiry to the unions in exchange for a return to work. This sort of tactic would appear in Chapter 2 of An Employer's Guide to Ending a Strike after the chapter about menacing letters and threats to lay people off.

Their attraction to employers is simple. They enable them to bring an end to damaging disputes without having to agree to any concessions. They are also useful in reducing a conflict that is political and social to one formulated in legalistic terms, a shift that often favours employers.

Crucially, it is a move that largely removes the union’s social power — its capacity to use collective action to disrupt work — from the field of play. During inquiries, members are mere bystanders and historically, union activists have found it almost impossible to re-start disputes once they have initially stopped. Solid strikes flow from a deep well of solidarity, organisation and collective optimism, all of which requires a huge effort on the part of members to come about in the first place and to be sustained thereafter. That kind of worker solidarity isn’t a tap that can be turned on and off, it depends more than anything on a sense of momentum.

Examples of the effects of this kind of de-mobilisation are plentiful. From my own research on the motor industry, in the 1960s and 1970s independent investigations were frequently used to bring a halt to a variety of disputes. For instance, at Dagenham in 1962, Ford dismissed 16 shop stewards, alleging they were using their position to disrupt production maliciously. When the assembly plant walked out demanding reinstatement, union
officials used a government offer of a parliamentary court of inquiry to persuade them to resume work. When the court upheld the firm’s decision, the dismissed workers attempted to re-start the strike but were boxed in by the reluctance of both union officials and co-workers to go again. After months of attacks on the sacked workers by the national press, inertia set in.

Ford and the government pulled the same trick in 1968 when Dagenham’s sewing machinists went on strike. The Dagenham women had two claims, equal pay and recognition of their skill. The firm partially conceded the first claim, but the second claim was turned over to another court of inquiry. The sewing machinists returned to work, the court of inquiry disappointed them, but once again too much time had passed to easily resume their strike. It wasn’t until after another strike in 1984 that sewing was recognised as skilled work.

Strikes were ended on the promise that grievances would be impartially investigated. But by the time results were known, appetite for a prolonged dispute had dissipated, even when the outcome was manifestly unfair. Moreover, bureaucratically minded full-time union officials tended to accept these independent judgements and usually discouraged their members from re-opening old wounds. After several incidents like these, Dagenham workers largely abandoned accepting independent inquiries as a means by which to obtain satisfaction.

The world of the 1960s car factory might be wildly different to universities in 2018, but no one should kid themselves that the UCU pension strikes, once abandoned, will be any easier to re-start. Dagenham at the time had 100% trade union density and the workers there were well-used to protracted disputes. The UCU can count on a far lower concentration of union membership and, given the joint make-up of the panel, likely even more public faith in the judgements of the independent arbiters.

Nor was Dagenham the only place where such tactics were effective. Throughout the 1960s and 1970s, across the private and public sector, neutral inquiries and joint panels were used as a means to end intractable disputes. Sometimes the outcome of arbitration was positive for workers, as it was in the 1972 miners’ strike, eventually concluded after the Wilberforce Inquiry recommended a massive pay increase. Yet when it wasn’t, workers were seldom able to re-muster their forces for a second round of collective action. Hospital workers who had taken action short of strike (ASOS) to force the end of the use of NHS facilities for the treatment of private patients in 1976 assumed the matter was in hand when the Labour government set up a Working Party in 1977. The Working Party even reported in their favour, but the government dragged their feet and their unions — NUPE (National Union of Public Employees) and COHSE (Confederation of Health Service Employees) — chose not to re-open the dispute. Over the years to follow, with hospital closures and cuts to services to deal with, hospital workers found they had less time to push their original demands.
If the recent past contains fewer examples of this sort of strike-breaking by procrastination, it is only because the decline of union strength has made it less necessary. The solutions of the past have perhaps reappeared because our sustained industrial action is a rare recall to older disputes. Nevertheless, the history of the UCU is still littered with promises to independently examine particular problems. These include not only the ‘Valuation Discussion Forum’ that emerged from the last pension dispute, but also panels formed over questions of gender inequality and casualisation. The UCU’s last two pay disputes produced unproductive joint forums on both issues, generating the JNCHES (Joint Negotiating Committee for Higher Education Staff) Hourly Paid and Casual Staff Working Group Report in 2015 and then a further promise of a joint meeting in 2017. Neither have made a dent in either problem, despite the sterling efforts of women and casualised staff in both strikes. Both served as an excuse to end industrial action that ostensibly incorporated demands on these issues, demands that were not to be resurrected even when then went entirely unfulfilled.

It is very rare then to see issues re-emerge after they’ve been turned over to a joint panel or a neutral inquiry. With momentum gone, attention dissipates and people move on to new problems. Getting everybody back together to fight again, when changes have been fought once to no avail and potentially after a joint panel denies their case, would require sustained militancy beyond that of most workers historically.

Advocates of saying ‘yes’ to press pause and fight another day, should think very carefully about just how difficult it will be to generate momentum for a second dispute on the exact same subject, especially in the wake of an expert panel report likely to enjoy considerable public legitimacy. Examples of workers successfully prosecuting disputes with a substantial pause in the middle are rare to non-existent. They should also consider that it will be the same leaders currently anxious to get us back to work who will have the final say on whether or not we ballot for further action in future.

Joint panels don’t always produce adverse results for workers, even if bureaucratic arguments over technical issues do tend to favour employers. Voting ‘yes’ is a sensible course if you think it likely the panel will produce a satisfactory result or because you have abandoned hope for better. However, voting ‘yes’ in hope of a ‘do over’ in the event of an unfavourable result would, in my estimation, be unwise.