

Conference Arrangements Committee
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By email only: cac@labour.org.uk; team@labour.org.uk

Dear Conference Arrangements Committee, National Executive Committee

Re: Constitutional amendment submitted on behalf of Compass UK and CLPs High Peak, Colne Valley, Scarborough and Whitby, and Richmond, Yorkshire.

Introduction

1. We write in relation to the motion submitted by CLPs High Peak, Colne Valley, Richmond Yorkshire, and Scarborough and Whitby (the “**Four CLPs**”) on 31st May 2022, 31st May 2022, 15th June 2022, and 16th June 2022 (the “**Motion**”). [This letter is signed by the individuals who prepared and submitted that motion.]
2. We consider that the Conference Arrangements Committee’s (“**CAC**”) decision on **4th July** to rule out the proposed amendment to the Labour Party Rules 2022 (“**the Rules**”) included within the Motion relies on an incorrect interpretation of the Rules and/or ought to be reconsidered on the basis that our clients’ motion is of immediate importance.

Background to previous motions submitted to the Conference Arrangements Committee

3. In 2017, Richmond Park CLP submitted the following constitutional amendment to the CAC referencing chapter 5, Clause IV, Selection of Westminster Parliamentary Candidates, Point 5, page 28¹ (the “**2018 motion**”):

“CLPs have the right to decide whether or not to field a candidate to contest a Westminster parliamentary seat. Such a vote, if moved from the floor and seconded, is to be taken at the beginning of a selection meeting. Should the vote be passed, the selection meeting is concluded. This decision would be endorsed by the NEC, such endorsements would not be reasonably withheld. Should the vote fall, the meeting proceeds to the selection of candidates.”

4. The resolution was debated and subsequently opposed during the conference on 25 September 2018.²
5. Four years later, in 2022, the Four CLPs submitted the following constitutional amendment to Chapter 5, Clause 4, Article 7, for consideration at the 2022 Annual Conference (the “**2022 motion**”):

“CLPs have the right to decide not to field a candidate to contest a Westminster parliamentary seat. Such a vote, if moved from the floor and

¹ <https://labour.org.uk/wp-content/uploads/2021/04/CAC-3-2018.pdf>, page 27.

² <https://labour.org.uk/wp-content/uploads/2021/04/CAC-4-2018.pdf>, page 11.

seconded, is to be taken at the beginning of a selection meeting. Should the vote be passed, the selection meeting is concluded. The decision would be endorsed by the NEC- such endorsements would not be reasonably withheld. Should the vote fall, the meeting proceeds to the selection of a candidate. The selection of a candidate shall consist of a vote, by eliminating ballot, of all eligible members of the constituency on the basis of one member one vote.”

6. The CAC met to discuss the Motion and the Four CLP’s Motion was ruled out on the basis that it was not eligible to go forward for the Conference agenda because it was said that a constitutional amendment with “*the same or similar primary objective was submitted to at least one session of the last three Annual Conferences.*” The CAC therefore decided that the amendment could not proceed in accordance with Chapter 3; Clause III; 2; H of the Labour Party Rule Book 2022 (the “**Rule Book**”).

The proper approach the Labour Party rules

7. The Labour Party is an unincorporated association.³ It is governed by the Rule Book.⁴
8. It is widely accepted that the relationship between an unincorporated association, such as the Labour Party and its members, is governed by the law of contract.⁵ The contract is to be found within the association’s rules and the proper approach to the construction of the rules is, like any issue as to the construction of contract, ultimately a matter for the court.⁶
9. The usual principles of contractual construction as to the interpretation of the terms therefore apply equally in the case of the rules of an unincorporated association.⁷
10. When interpreting an express term in a contract, the starting point for the court is to identify the intention of the contracting parties. This is an objective test; the court is concerned to identify the intention of the parties by reference to “*what a reasonable person having all the background knowledge which would have been available to the parties would have understood them to be using the language in the contract to mean*”.⁸ In doing so, it is necessary to consider factors such as the natural and ordinary meaning of the clause and any other relevant provisions of the contract.
11. The court will not take into account any subjective evidence of either party’s intentions.⁹

³ <https://www.cloisters.com/wp-content/uploads/2019/10/Williamson-MP-v-Formby-2019-EWHC-2639-QB.pdf>

⁴ <https://labour.org.uk/wp-content/uploads/2022/03/Rule-Book-2022-a.pdf>

⁵ Evangelou v. McNicol [2016] EWCA Civ 817, at [19], <https://www.cloisters.com/wp-content/uploads/2019/10/Williamson-MP-v-Formby-2019-EWHC-2639-QB.pdf> para 23.1

⁶ Evangelou v. McNicol [2016] EWCA Civ 817, at [20], <https://www.cloisters.com/wp-content/uploads/2019/10/Williamson-MP-v-Formby-2019-EWHC-2639-QB.pdf> para 23.3

⁷ Evangelou v. McNicol [2016] EWCA Civ 817, at [20], <https://www.cloisters.com/wp-content/uploads/2019/10/Williamson-MP-v-Formby-2019-EWHC-2639-QB.pdf> para 23.4

⁸ Lord Hoffman in *Chartbrook Ltd v Persimmon Homes Ltd* [2009] UKHL 38, para 14.

⁹ <https://www.supremecourt.uk/cases/docs/uksc-2013-0193-judgment.pdf>, para 15

Incorrect interpretation of the Labour Party Rules

12. Under Chapter 3, Clause III, 2, H, of the Rule Book: *"When Party conference has made a decision on a constitutional amendment, no resolution to amend the constitution or rules of the Party having the same or a similar primary objective shall appear on the agenda of the three following annual party conferences, except such resolutions to amend the constitution and rules that are in the opinion of the NEC of immediate importance" (the "three year rule")* (emphasis added).¹⁰
13. Our client submits that objectively, the intention of the contracting parties when creating the three-year rule was to restrict conference from debating rule change proposals for the next three years, or some lesser period where there was to be more than one Party Conference in any particular year.
14. This is because the Rules expressly provide that Party Conference shall take place at least once per year - hence the repeated reference in the rules to the "annual conference" - or even more regularly. There is no provision or expectation within the Rules for there to be no Party Conference within any given year.
15. For example, under Chapter 1, Clause 6, Labour Party conference is defined as:

"1. The work of the Party shall be under the direction and control of Party conference, which shall itself be subject to the constitution and standing orders of the Party. Party conference shall meet regularly once in every year and also at such other times as it may be convened by the NEC" (emphasis added).
16. Clause III.1.A of Chapter 3 further provides:

"The NEC shall (whenever practicable) convene an annual session of Party conference during September/ October in each year, in accordance with the conditions laid down in the constitution and these rules. It may also convene special sessions of Party conference when it deems necessary."
17. Given the rule-makers clearly envisaged a party conference at least once a year, the intention of the three-year rule must have been to restrict equivalent or similar motions from being debated for, at most, four years.
18. Indeed, the Campaign for Labour Party Democracy similarly interpret the rule as referring to 'three years', rather than 'three conferences' in its proposed rule change to the three-year rule.¹¹
19. The importance of adopting the correct interpretation of the three-year rule cannot be understated. In light of the cancellation of the 2020 annual conference (technically in breach of the Rule Book, but for entirely understandable reasons), this year's conference cannot discuss proposals having the same or similar purpose as a proposal that was voted on in 2018, despite the passage of four years since that conference. This expands the three-year rule to well beyond what was originally envisaged and thereby departs from its natural and ordinary meaning.

¹⁰ <https://labour.org.uk/wp-content/uploads/2022/03/Rule-Book-2022-a.pdf>

¹¹ <https://www.clpd.org.uk/campaign/clpd-suggested-rule-changes-conference-2022/>

20. It would be unfair for the National Executive Committee (“NEC”) and CAC to rely on the cancellation of Party conference for reasons relating to COVID-19 to stifle and delay important and popular rule change proposals and we would invite the CAC to allow the motion on this basis.

Immediate importance

21. Alternatively, we submit that the NEC of the Labour Party ought to set aside the CAC’s decision as our clients’ amendment to the Rules is of immediate importance. We interpret immediate importance to mean of immediate and important relevance to the conduct of the Labour Party during the next 12 months until the next Labour Party conference. Any other interpretation would clearly undermine the purpose of the rule.

22. First, there has been a significant change in the political, economic, socio-cultural and environmental climate since 2018 (when our clients’ first amendment was submitted) which makes our client’s 2022 amendment of immediate importance.

23. Over the last four years, the UK has witnessed a general degradation of the power and legitimacy of our democratic processes. The leaders of both the Labour and Conservative party have changed. There has been a shift in the mindset of many commentators and, we believe, many Labour Party members, as to how elections should be fought with a view to providing the greatest chance of the Labour Party taking office, either in its own right or in a coalition of the left.

24. Secondly, many Labour Party candidate selections for the next General Election will be taking place over the next 12 months. Indeed, a number of selection processes have already begun, and we believe that the vast majority of, if not all candidates are likely to have been decided by September next year.

25. Our clients’ motion directly affects the candidate selection process, in that the CLP’s decision as to whether or not to field a candidate to contest a Westminster parliamentary seat, is proposed to take place *prior* to the selection of candidates. It therefore should be considered of immediate importance as, if it has the support of conference, failure to consider this motion will undermine the decisions of CLPs as to whether they wish to stand a candidate (particularly in seats where despite jointly holding a majority of the votes, progressive parties lose the seat to a Conservative candidate). If the motion does not have the support of Conference, then nothing will need to change.

26. Should the motion be delayed until the next Labour Party conference, it is likely to be too late as general election candidates will have already been selected in the remaining CLPs where they have not yet been selected, and the motion will thereby have rendered futile.

Conclusion

27. We request your response within 7 days, i.e. by 16th August 2022. In the absence of any response, the members of our client may consider sending formal pre-action correspondence in advance of a legal challenge.

28. Please do not hesitate to contact those in the header of this letter should it be helpful to discuss this matter.

Yours faithfully

Fiona Sloman, Chair of High Peak CLP

Moira Cunningham, Chair of Scarborough and Whitby CLP

High Peak CLP Executive Committee

Peter Allen, Policy Officer of High Peak CLP

Celine Barry, member of Richmond, Yorkshire CLP

David Parker, member of Colne Valley CLP