

D/31-37/18-19

Decision of the Certification Officer on an application made under Section 108A(1) of
the Trade Union and Labour Relations (Consolidation) Act 1992

Blackledge

v

University and College Union

Date of Decision

29 November 2018

Contents

Decision 3

Reasons 4

Findings of fact 7

The Relevant Statutory Provisions 8

The Relevant Rules of the Union 9

Considerations and Conclusions 9

Decision

Upon application by Mr Paul Blackledge (“the applicant”) under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”):

1. I refuse Mr Blackledge’s application for a declaration that on or around October 2016 the Union breached rule 13.7.2 by not conducting the disciplinary investigation and hearing into his conduct in a way which allowed him to see the details of the case against him and not sending him documents submitted by the complainant.
2. I refuse Mr Blackledge’s application for a declaration that on or around 29 March 2017, the Union breached rule 13.11.5 of the Procedure for the Regulation of the Conduct of Members by refusing the attendance of witnesses at the NEC Panel Hearing when their evidence was not irrelevant, repetitive or otherwise unnecessary to the Panel’s deliberations.
3. I refuse Mr Blackledge’s application for a declaration that on or around March 2017, the Union breached rule 13.11.3 and 13.11.4 of the Procedure for the Regulation of the Conduct of Members by not providing Mr Blackledge as the Respondent with documents which were considered at the NEC Panel hearing.
4. I refuse Mr Blackledge’s application for a declaration that on or around 29 March 2017, the Union breached rule 13.12.3 of the Procedure for the Regulation of the Conduct of Members by allowing the Investigating Officer to question witnesses during the NEC Panel Hearing but not allowing Mr Blackledge, as the Respondent, to do the same
5. I refuse Mr Blackledge’s application for a declaration that on or around 29 March 2017 the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by not giving Mr Blackledge, as the Respondent, sufficient time to challenge allegations made against him during the NEC

panel hearing and in doing so the Union acted in a way that no reasonable union would act. I further reject the submission that, in denying the Respondent sufficient time to challenge allegations against him, the panel showed itself to be biased in its dealings with the Respondent and also effectively denied the Respondent the opportunity to be heard in answer to the charges made against him.

6. I refuse Mr Blackledge's application for a declaration that on or around 10 July 2017 the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by organising the appeal against the NEC panel decision for a date which the Union knew that Mr Blackledge, as Respondent, was out of the country and therefore unable to represent himself. I further reject the submission that, in arranging a hearing on a date that the Respondent was out of the country the panel demonstrated bias, and in its actions prevented the Respondent from being heard in his own appeal
7. I refuse Mr Blackledge's application for a declaration that on or around 29 March 2017 the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by not allowing Mr Blackledge, as Respondent to personally cross-examine the complainant or complaint's witnesses and by determining that one of his own witnesses would be required to act as a representative. I further reject the submission that the Union breached an obligation implied into this rule that the hearing should reflect basic judicial standards of fairness. I also do not accept that the Respondent was denied a reasonable opportunity to prepare and examine witnesses or that the panel demonstrated bias, and denied the Respondent an opportunity to properly prepare his case thereby denying him the right to be heard

Reasons

8. Mr Blackledge brought this application as a member of the University and College Union ("UCU" or "the Union") when the alleged breaches occurred. He did so by

a registration of complaint form received at the Certification Office on 7 February 2018.

9. Following correspondence with my office, Mr Blackledge confirmed his complaints as follows:-

Complaint 1

On or around October 2016 the union breached rule 13.7.2 by not conducting the disciplinary investigation and hearing into his conduct in a way which allowed him to see the details of the case against him and not sending documents submitted by the complainant as outlined in Appendix A¹.

Complaint 2

On or around 29 March 2017, the Union breached rule 13.11.5 of the Procedure for the Regulation of the Conduct of Members by refusing the attendance of witnesses at the NEC Panel Hearing when their evidence was not irrelevant, repetitive or otherwise unnecessary to the Panel's deliberations.

Complaint 3

On or around March 2017, the Union breached rule 13.11.3 and 13.11.4 of the Procedure for the Regulation of the Conduct of Members by not providing Mr Blackledge, as the Respondent, with documents as outlined in Appendix A¹ which were considered at the NEC Panel hearing

Complaint 4

¹ Not included as part of this decision

On or around 29 March 2017, the Union breached rule 13.12.3 of the Procedure for the Regulation of the Conduct of Members by allowing the Investigating Officer to question witnesses during the NEC Panel Hearing but not allowing Mr Blackledge as the respondent to do the same.

Complaint 5

On or around 29 March 2017, the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by not giving Mr Blackledge, as the Respondent, sufficient time to challenge allegations made against him during the NEC panel hearing. In doing so the Union acted in a way that no reasonable union would act. Furthermore, in denying the Respondent sufficient time to challenge allegations against him, the panel showed itself to be biased in its dealings with the Respondent and also effectively denied the Respondent the opportunity to be heard in answer to the charges made against him.

Complaint 6

On or around 10 July 2017, the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by organising the appeal against the NEC panel decision for a date which the Union know that Mr Blackledge, as Respondent, was out of the country and therefore unable to represent himself. Furthermore, in arranging a hearing on a date that the Respondent was out of the country demonstrated bias by the panel, and in its actions prevented the Respondent from being heard in his own appeal.

Complaint 7

On or around 29 March 2017 the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by not allowing Mr Blackledge as

respondent to personally cross-examine the complainant or complaint's witnesses and determining that one of his own witnesses would be required to act as a representative. In doing so the union breached an obligation implied into this rule that the hearing should be undertaken with regards to basic judicial standards of fairness. Furthermore, in denying the Respondent a reasonable opportunity to prepare and examine witnesses the panel demonstrated bias, and denied the Respondent an opportunity to properly prepare his case thereby denying him the right to be heard.

10. At a hearing before me on 13 November 2018, Mr Blackledge was represented by Mr Yunus Bakhsh. A written witness statement and oral evidence was given by Mr Blackledge. The Union was represented by Mr Caspar Glyn QC of Counsel. Written witness statements for the Union were given by Mr Paul Cottrell, Ms Pauline Collins, Ms Angie McConnell and Ms Vicky Knight. Mr Cottrell, Ms Collins and Ms McConnell also gave oral evidence. There was also in evidence a bundle of documents consisting of 612 pages containing correspondence and the rules of the Union. Both the Union and Mr Bakhsh provided skeleton arguments.

Findings of fact

11. Mr Blackledge was at all material times a member of the Leeds Beckett University branch of the UCU. On 8 July 2016, a member of UCU, referred to as the Complainant made a complaint to Sally Hunt, General Secretary of UCU, about the conduct of Mr Blackledge. The complaint was made under UCU's Rule 13 Procedure for the Regulation of the Conduct of Members
12. On receipt of the complaint, Ms Hunt appointed Vicky Knight, then Vice President of UCU, to act as Investigation Officer. Paul Cottrell, Head of Democratic Services at UCU, was appointed to administer the procedure. Ms Knight completed a preliminary investigation and determined that the complaint was set out in the correct form and fell within the scope of Rule 13. Mr Cottrell informed Mr Blackledge of the complaint and the investigation on 23 August 2016.

13. Ms Knight interviewed Mr Blackledge on 17 October 2016 and the complainant on 18 October 2016. Ms Knight completed her report on 18 November 2016. She found that there was, prima facie, a breach of Rule and a case to answer and that the matter should proceed to a disciplinary hearing. Mr Blackledge received the report on 21 November 2016.
14. Mr Blackledge appealed against Ms Knight's report on 30 November 2016. On 21 December 2016 Mr Cottrell informed Mr Blackledge that the President had rejected his appeal. The disciplinary hearing was held on 29 March 2017. The Panel found that Mr Blackledge had breached the Union's Rules and decided to expel him from the Union. The panel's decision is dated 2 May 2017.
15. Mr Blackledge submitted an appeal which was received by the Union on 15 May 2017. The appeal was heard on 8 August 2017 and the decision is dated 22 August 2017. Mr Blackledge was abroad at the time of the hearing and did not attend.

The Relevant Statutory Provisions

16. The provisions of the 1992 Act which are relevant for the purposes of this application are as follows:-

108A Right to apply to Certification Officer

(1) A person who claims that there has been a breach or threatened breach of the rules of a trade union relating to any of the matters mentioned in subsection (2) may apply to the Certification Officer for a declaration to that effect, subject to subsections (3) to (7).

(2) The matters are –

(a) the appointment or election of a person to, or the removal of a person from, any office;

(b) disciplinary proceedings by the union (including expulsion);

(c) the balloting of members on any issue other than industrial action;

(d) the constitution or proceedings of any executive committee or of any decision-making meeting;

(e) such other matters as may be specified in an order made by the Secretary of State.

The Relevant Rules of the Union

17. The rules of the union which are relevant for the purposes of this application are:-

Rule 13: Procedure for the Regulation of the Conduct of Members (see Annex 1).

Considerations and Conclusions

Jurisdiction

18. The Union's disciplinary process, which it followed when considering the complaint against Mr Blackledge, is known as the Rule 13 Procedure. In responding to Mr Blackledge's complaint to me, the Union's initial position was that this procedure did not form part of the Union's Rules and was, therefore, not within the scope of my jurisdiction under s108A of the 1992 Act. The Union's representatives informed me, ahead of the hearing that, for the purposes of this hearing only, the Union accepted that the Rule 13 procedure did qualify as the Rules of the Union. I have proceeded on that basis.

19. Mr Blackledge was Branch Secretary of the Leeds Beckett University Branch of the UCU. Another member of that branch (the complainant) made a complaint about Mr Blackledge's conduct to the General Secretary of the Union on 8 July 2016. That complaint included a number of serious allegations about Mr Blackledge's conduct including allegations that he had engaged in sexual harassment, bullying and excluded her from Branch

activities. Mr Blackledge's complaint to me is about the Union's conduct of its disciplinary procedures arising from the complaint. It is not my role to look at the underlying issues which led to the complaint to the Union.

Complaint 1

On or around October 2016 the Union breached rule 13.7.2 by not conducting the disciplinary investigation and hearing into his conduct in a way which allowed him to see the details of the case against him and not sending to him documents submitted by the Complainant as outlined in Appendix A.

20. Mr Blackledge's complaint to me is that he was not provided with all of the information he was entitled to receive under Rule 13.7.2. He told me that Mr Cottrell sent him a copy of the complaint, together with supporting documents and a copy of the Rule 13 procedure, on 23 August 2016. He was given until 19 September 2016 to provide a written response to the complaint.
21. He explained that, following receipt of Mr Cottrell's letter, he understood that he could only provide supporting witness statements if the matter proceeded to a disciplinary panel. Mr Blackledge provided his written response to the complaint and was invited to an interview with the Investigating officer (IO), Vicky Knight which took place on 17 October 2016. During his evidence, Mr Blackledge told me that he was offered various dates for the interview and gave his availability as 17 October 2016.
22. The interview went ahead on 17 October 2016. After the interview, and at the request of the IO, Mr Blackledge submitted some emails and minutes to substantiate some of the points which he had made. At the hearing Mr Blackledge told me that he expected that these would be shared with the Complainant at some point but that he had no expectation of when that would be.
23. Mr Blackledge received the IO's report on 21 November 2016 together with the appendices and told me that the Report mentioned a series of witness

statements and new evidence, provided by the Complainant at her interview, which the IO had taken into account but which he had not seen prior to his interview with Ms Knight. The Report recommended that the complaint against Mr Blackledge should proceed to a disciplinary panel.

24. The Complaint proceeded to a disciplinary hearing on 29 March 2017. The papers for the hearing had been provided to Mr Blackledge on 21 November 2016. Mr Cottrell agreed that the Complainant brought documents to the hearing which were passed to the Panel. Mr Blackledge did not receive a copy of those documents; he did, however, submit his own evidence to the panel which was not provided to the Complainant. I will deal with the way in which the Panel handled this evidence under Complaint 3 below. For clarity and ease of reference, it is worth identifying now that one of those documents was an email exchange between Mr Blackledge and the Complainant dated 11 September 2015. There was agreement, between the parties at the Hearing that this email had been provided to the IO by the Complainant at their meeting on 18 October 2016.
25. There is no dispute as to the facts here. The Union agree that the Complainant provided additional information at her interview with the IO on 18 October 2016. The IO explained that she took some of those documents into account when producing her Report, and annexed those documents to the report which she sent to Mr Blackledge on 21 November 2016. As she had not relied on the 11 September email exchange she did not share or annexe it to her Report and it was not shared with Mr Blackledge at that time.
26. Mr Blackledge would not have been aware that the Complainant had supplied additional documents to the IO until he received the Report. Mr Blackledge raised this point with Mr Cottrell by email on 23 November 2016. Mr Cottrell replied on 23 November 2016 noting the point and explaining that Mr Blackledge was free to raise this point should he appeal the outcome of the IO's Report.

27. Mr Blackledge appealed the findings of the IO's Report on 30 November 2016. Amongst other matters, he raised the question of the non-disclosure of evidence provided by the Complainant at her meeting on 18 October 2016 with the IO. The Appeal was considered by Rob Goodfellow, President of the UCU at the time, who found that Rule 13.7.2 had been complied with. He was satisfied that Mr Blackledge had been provided with a copy of the complaint and accompanying documents submitted by the Complainant as part of her original complaint and with a copy of the Rule 13 Procedure. He also noted the approach to the submission of additional documentation by both parties and was satisfied that neither party was disadvantaged.
28. Mr Bakhsh told me that Rule 13.7.2 required the Union to provide all documents, which formed part of the complaint, to Mr Blackledge. He said that it was not for the IO, or the Union itself, to decide what should be disclosed and that Rule 13.7.2 requires all documents to be shared. Mr Glyn's contends that Rule 13.7.2 relates only to the early part of the substantive investigation process when the initial complaint is shared with the member whose conduct is the subject of the complaint. He told me that this is clear because Rule 13 must be read sequentially and the Rule requires the complaint to be sent to the Respondent with a copy of the Rule 13 Procedure. If the Rule had been intended to have a wider application to disclose additional documents there would be no need for a requirement to send a copy of the Rule 13 Procedure each time.
29. Mr Cottrell told me, when giving his evidence, that the Rules should be read in sequence and that each Rule addresses different stages of the disciplinary process. His view was that Rule 13.7.2 related only to the initial disclosure of the complaint to the Union member who was the subject of the disciplinary process. Once that disclosure had been made Rule 13.7.2 had no further relevance.
30. My reading of Rule 13.7.2 is consistent with the Union's view. The Rule relates to the initial disclosure of the complaint to the Respondent. Disclosure

at a later stage is dealt with elsewhere within the Rules. Rule 13.8.2 deals with disclosure of the Investigation Report and Rule 13.11.3 deals with disclosure of relevant documents to the Hearing Panel.

31. I do not agree with Mr Bakhsh that Rule 13.7.2 should be read in a way which requires that every document, which is considered at any stage of the proceedings, must be shared with the Respondent under Rule 13.7.2. In my experience, it is not unusual for new evidence or information to be produced, during disciplinary procedures, after the initial complaint has been made and shared with the Respondent. As reflected above, the Rule 13 Procedure makes provision for disclosure of documents after the initial complaint has been made.
32. There is no disagreement between Mr Blackledge and the Union that the initial complaint, together with the Rule 13 Procedure was provided to Mr Blackledge on 23 August 2016. Consequently, I find that there was no breach of Rule 13.7.2.
33. Mr Blackledge also made a wider point here about the sequence in which the interviews took place. He was interviewed before the Complainant. Both provided documents during or following their interviews. Mr Blackledge believes that this resulted in the Complainant being able to comment on his responses and documentation without him being given an opportunity to comment on hers during the investigation process. In his statement, Mr Blackledge records that this enabled the Complainant to make new claims and to change her narrative. He also explains that the IO took into account documents which he did not have access to.
34. Mr Cottrell explained to me in evidence that his preference, when advising the IO, was to interview the Complainant before Mr Blackledge. He offered both a range of dates; both replied offering only one day on which they were available and so the only way forward was to interview Mr Blackledge before the Complainant. The initial disclosure under Rule 13.7.2 had already taken

place and so those documents, from both parties, on which the IO relied were annexed to her Report and provided to Mr Blackledge on 21 November 2016. I cannot see that the decision to interview the Complainant after Mr Blackledge led to a breach of Rule 13.7.2. The Union had already complied with Rule 13.7.2 by providing Mr Blackledge with a copy of the complaint and supporting documents disclosure of those additional documents provided by the Complainant would consequently fall to be considered under Rule 13.8.2 or Rule 13.11.3.

35. I refuse Mr Blackledge's application for a declaration that on or around October 2016 the Union breached rule 13.7.2 by not conducting the disciplinary investigation and hearing into his behaviour in a way which allowed him to see the details of the case against him and omitting to send him copies of the documents submitted by the Complainant, as outlined in Appendix A.

Complaint 2

On or around 29 March 2017, the Union breached rule 13.11.5 of the Procedure for the Regulation of the Conduct of Members by refusing the attendance of witnesses at the NEC Panel Hearing when their evidence was not irrelevant, repetitive or otherwise unnecessary to the Panel's deliberations.

36. In preparing for the Disciplinary Hearing, Mr Blackledge obtained 53 statements from people willing to act as witnesses in his case. He told me that he understood that it would not be possible to call all 53 people to the Hearing and so he identified 13 people whose evidence he wished to call in person. He explained that this was intended to assist the Disciplinary Panel.

37. Mr Cottrell set out the procedure for the disciplinary hearing in an email to Mr Blackledge on 7 March 2017. He explained that witness statements should be exchanged 8 days ahead of the planned hearing and so must be exchanged by 16 March 2017. Mr Blackledge provided his witness statements to Mr Cottrell on 16 March 2016.

38. Mr Cottrell emailed Mr Blackledge on 20 March 2017 and told him that the Panel had considered both his and the Complainant's request to call witnesses under Rule 13.11.5. In respect of Mr Blackledge's witness statements, the Panel found that there was a considerable overlap between some of these statements in relation to the incidents that they described or the evidence of the character that they offered. The Panel also considered the submissions from the Complainant in the same way.
39. The Panel decided that the number of witnesses to be called at the Disciplinary Hearing should be limited to three for each party. The Panel did not limit the number of written witness statements which could be submitted and considered; the limitation they imposed was in respect of the number of witnesses who would be called on the day to give oral evidence. The Union did not offer any advice as to which three witnesses Mr Blackledge should call.
40. At the hearing, Mr Bakhsh told me that the decision to allow three witnesses for each party was clearly arbitrary and took no account of the breadth of evidence submitted by Mr Blackledge. He told me that there must be an obligation on the Panel to share its thinking with Mr Blackledge so that he could identify which witnesses would be most helpful to the Panel. He argued that Mr Blackledge may have identified a witness whose evidence had already been considered irrelevant by the Panel which would not have been helpful to him on the day. He said that Mr Blackledge was "all at sea" when identifying which witnesses to call and that it was not good enough for the Panel to tell him to choose three witnesses, offer no advice as to why they believed three would be sufficient or whose evidence was most relevant, and then say after the hearing that the evidence offered by his three witnesses was not helpful to Mr Blackledge.
41. When giving evidence, Mr Blackledge could not explain to me how he had chosen his three witnesses nor what criteria he had used in choosing them. He said that it was obvious that Anne-Marie Piso should be a witness as she

was already accompanying him to the hearing but that he had not known how to choose the other two. I invited him to elaborate as to why it was obvious that Ms Piso should be a witness but his only reason was that she would be available as she was already accompanying him. He told me that, at that time, he had not realised that he would need to be represented by Ms Piso and so the question as to whether there would be a conflict of interest did not arise.

42. Mr Cottrell told me that the Panel carefully considered the witnesses proposed by both parties separately. His recollection was that the Complainant had asked to call six witnesses and Mr Blackledge had proposed thirteen. In both cases, the Panel considered that three witnesses would be sufficient and Mr Cottrell explained this to each party. Mr Cottrell told me that the decision was made for each party separately rather than imposing an arbitrary restriction of three for each party. He told me that his advice was not to give a steer as to which witnesses to call as the decision as to how to present the case must rest with the Complainant and Respondent respectively. He considered it dangerous to give such a steer as it may have led to accusations that the Panel had pre-determined the case and reached a decision on the evidence submitted in writing.

43. Mr Glyn told me, and Mr Bakhsh agreed, that the Panel had a discretion under Rule 13.11.5 to limit the number of witnesses. Where they disagree is whether the Panel had taken an arbitrary decision to limit the number of witnesses to three for each party and whether there was a wider obligation to give Mr Blackledge detailed reasons for their decision and/or a steer as to which witnesses to call.

44. Mr Cottrell's evidence was clear that the Panel considered the witness statements presented by both Mr Blackledge and the Complainant separately by applying the criteria in Rule 13.11.5. Ms Collins, in her witness statement, explained that the Panel took the view that three witnesses would be sufficient to cover the scope of key evidence to be presented by both parties.

I have seen no documentary evidence, such as minutes of the meeting to evidence how the Panel made its decision. It would, of course, be difficult for Mr Blackledge to refute the Union's oral evidence; however, Ms Collins and Mr Cottrell's evidence is consistent and is also supported by Mr Cottrell's email to Mr Blackledge of 20 March which conveyed the decision. On that basis, I find that the necessary analysis was undertaken and the Panel were exercising their discretion under Rule 13.11.5.

45. There is no explicit requirement under Rule 13.11.5 for the Panel to explain the reasons for their decision to either the Complainant or the Respondent. It is clear to me, however, that they did so as Mr Cottrell's letter of 7 March explained that the Panel found there to be a considerable overlap between some of these statements in relation to the incidents that they describe or the evidence of character that they offer. In my view, this should have given Mr Blackledge a steer as to why they had limited the number of witnesses he would be able to call, and what he should take into account when identifying who he wished to call. Mr Blackledge's evidence to me was that he did not know what criteria to take into account and chose one witness based purely on her availability. I find this surprising and, if this were the case, I would have expected him to have sought clarification from Mr Cottrell; I have seen no evidence that he did so.

46. Consequently, I find that there was no breach of Rule 13.11.5.

47. I refuse Mr Blackledge's application for a declaration that on or around 29 March 2017, the Union breached Rule 13.11.5 of the Procedure for the Regulation of the Conduct of Members by refusing the attendance of witnesses at the NEC Panel Hearing when their evidence was not irrelevant, repetitive or otherwise unnecessary to the Panel's deliberations.

Complaint 3

On or around March 2017, the Union breached rule 13.11.3 and 13.11.4 of the Procedure for the Regulation of the Conduct of Members by not providing Mr

Blackledge as the Respondent with documents as outlined in Appendix A which were considered at the NEC Panel hearing

48. Mr Cottrell's email to Mr Blackledge of 7 March confirmed that the Disciplinary Hearing would go ahead on 29 March. It explained that the documents to be considered by the Panel at this stage consisted of the IO's Report and appendices which had been sent by Mr Cottrell on 21 November 2016. Witness statements and any other documents on which the parties wished to rely were then exchanged between the parties as described under Complaint 2.

49. It is agreed by the Union and Mr Blackledge that, during the hearing the Complainant passed at least one document to the Panel. Recollections differed, however, about whether this was one or more documents. Mr Blackledge believed that there was a text exchange which may have been between the Complainant and one of Mr Blackledge's witnesses, and the email exchange between the Complainant and himself on 11 September 2015. This is the email referred to in Complaint 1 above which the Complainant had provided to the IO but which had not been annexed to the IO report as the IO had not relied on it in producing her Report. Mr Cottrell and Ms Collins agreed that the email exchange had been provided to the panel; neither could recall whether a text exchange had also been passed to the Panel.

50. Mr Blackledge told me that he requested a copy of both documents at the Panel and was told that these would be provided. He also requested a copy of the email exchange following the Panel Hearing. Mr Cottrell replied to his email explaining that the Hearing had been completed and that it would not be appropriate for the Panel to exchange any further correspondence with the parties about any matters that arose at the Hearing. Mr Cottrell explained that Mr Blackledge would have to await the Panel's Report and that he had written to the Complainant in exactly the same terms. Mr Blackledge replied asking

- why the email had not been provided and stating that it was a matter of natural justice that he had sight of all the evidence used against him.
51. It is difficult to reach a conclusion as to the apparent text exchange. Neither of the Union's witnesses recalled it but Mr Blackledge was clear that it existed. I have not seen a copy of it and it is not mentioned in the Panel Report.
52. The 11 September email exchange was considered by the Panel. The Panel considered an alleged incident, which formed part of the allegations against Mr Blackledge, and had apparently taken place on 14 September 2015. Mr Blackledge denied that the incident had taken place and maintained that he had no contact with the Complainant at the relevant time.
53. The Panel Report records that the Complainant passed a copy of the email to the Panel as evidence that the meeting had been arranged. It is implicit from the Panel's Report that Mr Blackledge had not seen the email as the Report records him reflecting that, if it existed, it raised the question as to why the Complainant wanted to invite him to meet when she was complaining that he had been sexually harassing her.
54. The Panel Report reflects that the email exchange presents evidence of the probability that the Complainant and Mr Blackledge met on 14 September 2015 and supports other evidence she had given that she did not have a mobile phone at that time. The Report goes on to conclude that, on the balance of probabilities, the alleged incident did take place on 14 September 2015. It records the Panel's view that they would have reached this conclusion solely on the basis of the credibility of the Complainant's evidence, contrasted with Mr Blackledge's response, and in the light of its earlier findings, even without the email exchange presented by the Complainant at the Hearing.
55. It is important to note here that Mr Blackledge also provided evidence to the Panel at the Hearing in the form of a video of the room in which the alleged

incident was said to have taken place. The Report explains that it considered this evidence at the Hearing and references it in the Report.

56. Mr Blackledge's complaint is that he should have been given a copy of the email evidence presented by the Complainant at the Hearing under Rule 13.11.3. Mr Cottrell told me that the Union disclosed everything the IO intended to rely on. This included the IO's Report and appendices which had been sent to Mr Blackledge on 21 November 2016 and referred to again in his email to Mr Blackledge on 7 March 2017. The 11 September 2015 email and the text exchange cited by Mr Blackledge were provided by the Complainant to the Panel on the day of hearing. Mr Cottrell believed that this was out of the Union's control and was not subject to Rule 13.11.3 or Rule 13.11.4. Mr Cottrell also told me that the evidence which Mr Blackledge had provided to the Panel at the Hearing was treated in the same way as the evidence provided by the Complainant.

57. Mr Bakhsh told me that the Panel had relied on a document which had not been made available to Mr Blackledge and that this must constitute a breach of Rule 13.11.3. He also made the point that the email of 11 September 2015 was a significant piece of evidence and that Mr Blackledge had been prevented from responding to this document when presenting his case. Mr Blackledge gave evidence on this point. He explained that the email was significant because it demonstrated that the Complainant had contacted him, of her own volition, in September 2015. He told me that, had he seen the email, he would have questioned whether someone who was making allegations of sexual harassment against him would have sought to meet him in this way. It is clear to me, however, that he made this point to the Panel as this is recorded in the Report (see paragraph 53 above).

58. Mr Glyn's view was that the Rule 13 Procedure should be read in sequence and that Rule 13.11.3 referred only to the initial provision of information to the Respondent, prior to the Panel Hearing, with Rule 13.11.4 dealing with the disclosure of additional documents and witness statements. The email of 11th

September 2015, and any other information provided by the Complainant or Mr Blackledge on the day of the Hearing, was not part of the Union's evidence and had not been produced by the Union. There could not, therefore, have been a breach of Rule 13.11.3 or Rule 13.11.4. He added that Rule 13.12 sets out the procedure for the Panel Hearing. Mr Glyn told me that there was no complaint about a breach of Rule 13.12 which was, in any event, silent as to the disclosure of new documents on the day of the Hearing by either party

59. I agree with Mr Glyn that the Union complied with Rule 13.11.3 and 13.11.4 by providing all of the information on which the IO sought to rely in presenting her case to the Panel; however, I would normally expect all documentation submitted to a disciplinary panel to be shared with the Respondent. The Rule 13 Procedure includes a provision for additional documents to be served with the witness statements eight days before the Hearing but it does not currently include any provision for documents to be provided on the day of the Hearing.

60. Mr Cottrell told me that he had not expected documents to be provided at the Hearing. He also told me, and Mr Blackledge agreed, that both Mr Blackledge and the Complainant provided evidence on the day. The Panel treated the evidence submitted by both parties in the same way. It was considered by the Panel in their deliberations after the Hearing. If the Panel chose to take it into account, as was the case for the 11 September 2015 email exchange and the video evidence, it was referred to in the Panel Report and disclosed with the Panel Report. Taken with the fact that Mr Blackledge was given an opportunity to explain his position in relation to the e-mail of 11 September 2015 on the day of the hearing I find that the Union complied with Rule 13.11.3 and 13.11.4 when disclosing documents.

61. Whilst I am satisfied that there was no breach of Rule 13.11.3 or Rule 13.11.4 I would encourage the Union to consider whether Rule 13.11 or 13.12 should include a procedure for dealing with any requests to submit evidence within 8 days of, or at, the hearing.

62. I refuse Mr Blackledge's application for a declaration that on or around March 2017, the Union breached rule 13.11.3 and 13.11.4 of the Procedure for the Regulation of the Conduct of Members by not providing Mr Blackledge, as the Respondent, with documents as outlined in Appendix A which were considered at the NEC Panel hearing.

Complaint 4

On or around 29 March 2017, the Union breached rule 13.12.3 of the Procedure for the Regulation of the Conduct of Members by allowing the Investigating Officer to question witnesses during the NEC Panel Hearing but not allowing Mr Blackledge as the Respondent to do the same.

63. When giving evidence Mr Blackledge clarified that this complaint was in respect of his own witnesses only. He had accepted that, bearing in mind the nature of the allegations, it would not be appropriate for him to question the Complainant. This is reflected in his email of 21 March to Mr Cottrell where he states that he agrees that given the nature of the allegations it would probably be unwise for him to ask questions.

64. Mr Blackledge told me that he understood, from Mr Cottrell's letter of 7 March that he would be able to ask questions of his own witnesses. He only discovered that he could not do so when he tried to ask a question of his own witness and was prevented from doing so by Ms Collins, as Chair of the Panel.

65. In preparing his case, Mr Blackledge had asked a number of people to provide statements for him. He told me that he had not primed them as to what to include in those statements leaving it to them to decide what was relevant. He, therefore, believed that some of them had additional evidence which he could have probed them about had he been able to ask questions of them himself at the hearing. Preventing him from doing so deprived him of the ability to present his case properly. By way of an example, he told me that one of his witnesses, Terry Thomas, had only told him about a relevant

incident which Mr Thomas had witnessed after his statement had been prepared. He had not been able to ask Mr Thomas about this at the Hearing and consequently the Panel were not aware of it and he was not able to draw out relevant evidence and refer the Panel to details of his case which were important and may have had impact on the Panel's decision.

66. During his evidence I pressed Mr Blackledge to explain to me exactly what information he may have drawn out from his witnesses, including Mr Thomas, but he did not give me any detail. Nor did Mr Bakhsh offer any examples when he made submissions on behalf of Mr Blackledge.

67. Mr Cottrell told me that the Union disciplinary Panel was not intended to be run as a court or formal tribunal. Whilst it clearly needed to have a formal framework the disciplinary hearing was intended to be relatively informal. He explained said that the Union's position was that witnesses should not be subject to cross examination. Instead, they were asked to talk to their statement and to answer questions from the other party and the Panel. This was the procedure provided for in the Rules and the procedure which had been followed in other disciplinary hearings. It is also the procedure that was followed by the Panel at Mr Blackledge's disciplinary hearing. It was applied consistently to both parties; Ms Piso, on behalf of Mr Blackledge, was able to ask questions of the IO, the Complainant and her witnesses. The IO was able to ask questions of Mr Blackledge and his witnesses. The Panel was able to ask questions of all of the witnesses.

68. Mr Bakhsh told me that Mr Blackledge's inability to question his own witnesses put Mr Blackledge at a real disadvantage. Time constraints on the day significantly reduced the time allocated for Mr Blackledge's witnesses to give their evidence. His witnesses felt under pressure and were not treated with respect; they all reflected that they not been given the opportunity to put their views forward properly.

69. Mr Blackledge did not accept that the note of Disciplinary Hearing prepared by Mr Cottrell reflected what actually happened. He also said that whilst his witness, Ann Foley had been given the opportunity to add any information she wanted, she was unable to do so because she felt “discombobulated” by the Panel’s treatment of her. Each of his witnesses had made a formal complaint, under Rule 13, to the Union about the Panel Members’ treatment of them as witnesses. Those complaints were not been taken forward by the Union as they were considered to be outside the scope of Rule 13.

70. For the purposes of Rule 13.12.3, it is clear that the IO and the Respondent may only question witnesses with the approval of the Panel. The Panel exercised this discretion in the way in which other Union Panels have done so. They permitted the IO to ask questions of Mr Blackledge’s witnesses and Ms Piso, on behalf of Mr Blackledge, to ask questions of the IO’s witnesses. My view is that their approach is within the scope of Rule 13.12.3 and I find that there has been no breach of the Rules in this respect.

71. It is also important to record that neither Mr Blackledge nor Bakhsh offered any examples of what evidence Mr Blackledge or Ms Piso would have been able to produce had they been permitted to ask questions of their own witnesses nor of how this would have an impact on Mr Blackledge’s case. I have also carefully considered the information provided to Mr Blackledge ahead of the Hearing to consider whether it could be misleading. The information was contained in Mr Cottrell’s email of 7 March 2017. I do not consider this to be misleading; however, it does not explicitly state that Mr Blackledge would not be able to ask questions of his own witnesses. It may be better for this to be made clearer in any future cases. Notwithstanding this, I do not consider that this represents a breach of Rule 13.12.3 for the reasons set out above.

72. I refuse Mr Blackledge’s application for a declaration that on or around 29 March 2017, the Union breached rule 13.12.3 of the Procedure for the Regulation of the Conduct of Members by allowing the Investigating Officer to

question witnesses during the NEC Panel Hearing but not allowing Mr Blackledge, as the Respondent to do the same.

Complaint 5

On or around 29 March 2017 the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by not giving Mr Blackledge as the Respondent sufficient time to challenge allegations made against him during the NEC panel hearing. In doing so the Union acted in a way that no reasonable union would act. Furthermore, in denying the Respondent sufficient time to challenge allegations against him, the Panel showed itself to be biased in its dealings with the Respondent and also effectively denied the Respondent the opportunity to be heard in answer to the charges made against him.

73. Mr Blackledge told me that the complaint against him was complex and raised three different and serious types of allegations. A finding against him would have a significant impact on his reputation. The Union had insisted on the complaint being heard over one day even though he had raised the question of timing in his email of 3 March 2017 to Mr Cottrell. Mr Blackledge told me that he received no reply to his comment about the length of time he needed for the Hearing.

74. Mr Blackledge explained to me that he felt under pressure during the day; he can remember being told by Ms Collins, as Chair, to hurry up several times and consequently was unable to put his case forward coherently. As discussed above, his witnesses were not, in his view, given sufficient time to give their evidence and treated so poorly that they each made complaints about how they had been treated after the Hearing.

75. Mr Blackledge told me that the Panel had informed him that there would be an equality of time for both him and the IO during the Hearing but this did not turn out to be the case. Mr Bakhsh told me that, on time alone, the IO had three hours and forty minutes to put her case forward whilst Mr Blackledge had only two hours and five minutes.

76. Mr Cottrell told me that the Panel had carefully planned the time available for the Hearing. He had advised them, based on his experience of other Hearings at UCU and elsewhere, that the case could be heard in one day with careful time management. Ms. Collins's evidence was consistent with this. She told me that she believed that it was possible to complete the Hearing within one day and that remained her view throughout the Hearing. She ensured that the Panel extended the time available to them so that Mr Blackledge could complete his submissions at the end of the Hearing. She told me that neither of the other Panel Members raised concerns with her about whether there was sufficient time available for a proper hearing of the issues.
77. Ms Collins told me that she felt that Mr Blackledge was using delaying tactics, including raising procedural points, to ensure that there was insufficient time to complete the Hearing on the day. She understood that Mr Cottrell had advised him to raise these at the hearing and that it was proper for him to do so. She felt, however, that he raised a number of points which had already been dealt with and concluded that Mr Blackledge was "going around in circles" on some points.
78. Mr Bakhsh asked me to take into account the time which both parties were given, on the day, for witness evidence and submissions. He suggested that the IO had been given significantly more time than Mr Blackledge. Mr Glyn reflected that there are different ways of addressing the time allocation. He looked at the number of paragraphs recorded in Mr Cottrell's note of the meeting and told me that this demonstrated that Mr Blackledge and Ms Piso had spoken for significantly longer than the IO or her witnesses.
79. In my view, the relevant question in respect of the time allocation is whether both parties had the time they needed to make their case effectively so that the Panel had the necessary arguments and evidence from both sides to enable them to reach a reasoned conclusion. The key issue for me to decide

is whether Mr Blackledge had sufficient time to make his case. He clearly believes that he did not.

80. I probed Mr Blackledge as to what points he would have been able to make had he been given more time. He told me that he would have been able to present his case in more detail and would have had a greater opportunity to explain his points. I asked what preparation he had done for the Hearing and if he had prepared a document to use when presenting his case. He told me that he had done so and had completed it the night before the hearing. He used that on the day but the time pressure precluded him from advancing his case in sufficient detail. The document was not ready for him to send to Mr Cottrell when he exchanged witness statements ahead of the Hearing. He did not offer a copy of this document to the Panel on the day.

81. It is difficult for those of us who were not present at the Disciplinary Hearing to know whether the Panel should have set aside more than a day to hear the case. Mr Cottrell and Ms Collins agreed that there had been careful consideration given to the timing and that Ms Collins was satisfied, as Chair, that this was possible. The note of the hearing demonstrates that Mr Blackledge was able to raise his procedural points and that Ms Piso was able to ask questions of the IO and her witnesses. The timing of the meeting was also extended to enable Mr Blackledge to complete his submissions. Perhaps more importantly, Mr Blackledge was unable to tell me exactly what points he would have made had more time been allocated to him. This was also the case when I asked him what evidence his witness would have put forward had he, or his representative, had an opportunity to ask questions of them.

82. I have read carefully the note of the Disciplinary Panel on 29 March 2017 and the Report produced by the Panel. It is clear to me that there was a significant amount of evidence put forward and that there was full discussion of the allegations made against Mr Blackledge. It is also clear that both he and Ms Piso were able to ask questions and to make points on his behalf. It may have

been a challenge to complete the Hearing in a day and there may have been more discussion had the Hearing been listed for two days; however, I have seen no evidence in these documents which suggest that Mr Blackledge was not given appropriate time to make his points. Nor has Mr Blackledge given me, in his written evidence submitted as part of this Complaint or in his oral evidence, any examples of the points he was unable to make because of the time constraints.

83. On that basis, I find that the Panel provided sufficient time for Mr Blackledge to make his case and to challenge the allegations against him. There were, of course, time constraints but the evidence I have seen demonstrates that Mr Blackledge and Ms Piso were able to make their points and to ask questions of the Complainant's witnesses. Similarly, Ms Blackledge's witnesses were offered time to make their points before being asked questions. Both parties' evidence is referred to in the Report which includes detailed explanations of the Panel's decisions.

84. I have been provided with no evidence that the Panel was biased. Indeed, the evidence I have seen suggests that it followed similar processes for each party and it is clear that its Report took into account evidence from both of them and explained its reasoning for reaching its decisions. On that basis, I find that there has been no breach of the Rule 13 Procedure in relation to this complaint. I also find that the Union acted reasonably in its conduct of Disciplinary Hearing, enabling both parties to make their case.

85. I refuse Mr Blackledge's application for a declaration that on or around 29 March 2017 the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by not giving Mr Blackledge, as the Respondent sufficient time to challenge allegations made against him during the NEC panel hearing. I further reject the contention that in doing so the Union acted in a way that no reasonable union would act or that the Respondent was denied sufficient time to challenge allegations against him and that the panel showed itself to be biased in its dealings with the Respondent and also

effectively denied the Respondent the opportunity to be heard in answer to the charges made against him.

Complaint 6

On or around 10 July 2017 the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by organising the appeal against the NEC panel decision for a date which the Union knew that Mr Blackledge, as Respondent, was out of the country and therefore unable to represent himself. Furthermore, in arranging a hearing on a date that the Respondent was out of the country demonstrated bias by the Panel, and in its actions prevented the Respondent from being heard in his own appeal.

86. The Union received Mr Blackledge's appeal against the Panel's decision on 15 May 2017. Mr Cottrell wrote to Mr Blackledge offering dates for an appeal hearing on 3, 4, or 6 July 2017. Mr Blackledge told him that he was unable to attend on any of those dates but did not give a reason why; Mr Cottrell then offered to hold the meeting on any day in the week beginning 24 July. Mr Blackledge replied that he would be out of the country, on a family holiday, on those dates.

87. It is agreed by both parties that Mr Cottrell did not seek Mr Blackledge's availability for a Hearing at any stage. Nor did Mr Blackledge offer his availability at any stage. Mr Blackledge also informed the Union that he believed that his Appeal should not be heard until the complaints which his witnesses had made about their treatment at his Disciplinary Hearing and an issue he had raised with the General Secretary had been concluded.

88. Mr Cottrell sent an email on 4 July 2017 to Mr Blackledge advising him that the Hearing would go ahead on 8 August 2017 and inviting Mr Blackledge to address the Panel by telephone or Skype if he could not attend in person.

89. When giving evidence, Mr Cottrell told me that he wanted to arrange the hearing to bring the complaint to a conclusion. He took into account Mr

Blackledge's position as Respondent, as well as the Complainant's position. The case had been stressful for everyone and had taken a year to reach the appeal stage. On 7 July 2017, Mr Blackledge had suggested, by email to Mr Cottrell, that the case be heard in September, at the earliest.

90. Mr Cottrell told me that he did not try to find a suitable date in September as he believed Mr Blackledge was attempting to delay the hearing. Mr Cottrell explained that he believed that Mr Blackledge had sought to defer the Disciplinary Hearing and that this was a similar tactic. Mr Cottrell was also aware of the difficulties in arranging a hearing once the academic year had begun. Consequently, he made arrangements to ensure that Mr Blackledge could address the Panel by Skype or telephone. Mr Cottrell told me that Skype had not been available at the disciplinary Panel in March; however, the Union by the appeal stage had the facility to use Skype and so this was a realistic possibility.

91. Mr Cottrell and Ms McConnell both told me that Ms McConnell had taken the decision to go ahead with the hearing in Mr Blackledge's absence. They had discussed the reasons for doing this and had taken legal advice that they should offer Mr Blackledge the opportunity to address the Panel by other means if he could not attend in person. They were both clear that Mr Blackledge had a right, under Rule 13.16.2 to address the Appeals Panel and that the Panel Members could ask him questions.

92. Both Mr Bakhsh and I questioned Ms McConnell about the comment made in her witness statement that she had been involved in a previous Appeals Panel and her view that the verbal submissions made by the Appellant in that case did not add much at all to the appeal process. Ms McConnell explained that this was a reference to a previous UCU Rule 13 appeal which she had heard. She said that it was a statement of fact and had not played a part in her decision as to whether the Appeal Hearing should be delayed until such time as Mr Blackledge could attend. She did not take it into account and had not shared this view with Mr Cottrell.

93. Ms McConnell told me that she had expected Mr Blackledge to address the Hearing at the time which had been set aside. The Panel had agreed a time which was convenient to him as they knew that he was on the East Coast of the United States. He had not told them whether he would not do so, and he had clearly been in email contact with his Representative the day before. He did not call into the Hearing and so did not address the Appeal Panel. The Panel did not consider whether they should adjourn until he returned home; they did consider whether they had any questions for him but decided that they did not.
94. Mr Bakhsh told me that it was manifestly wrong of the Panel to go ahead without Mr Blackledge. He had a right to address the Panel and most people would prefer to do so in person. This was particularly the case for someone in Mr Blackledge's position who faced the prospect of expulsion from his Union on such serious charges. The Union should have known that Mr Blackledge was likely to be on holiday with his family during the academic break and should have taken this into account when arranging the date. This was particularly the case because the Union had taken the academic break into account at the start of the process and that, in other circumstances, the Union Rules provided for the Academic Holiday to be discounted when calculating time periods.
95. Mr Bakhsh told me that the Union had expressed the view that Mr Blackledge had sought to delay the proceedings throughout the Union's consideration of the case; however, the delays had all been on the part of the Union. For instance, Mr Blackledge had lodged his Appeal on 15 May 2016 but no attempt was made to offer dates for a hearing until 15 June 2016.
96. Mr Bakhsh also questioned the Union's use of Skype as it had not been available at the hearing in March but appeared to be available by the time of the appeal. Nor had the Union taken into account the fact that Mr Blackledge might not himself have access to Skype. On 8 August 2016, he was in the wilderness in New York State. It was a ten mile drive to an internet connection

at a post office without any private facilities. To make a telephone call, Mr Blackledge explained that he would have had to drive twenty miles and again would have no access to private facilities. It was unreasonable to expect him to address the Panel, in such a serious case, in this way at a time when the Union could reasonably have predicted he would be on holiday. Mr Bakhsh said that at this stage it was Mr Blackledge's right to address the Panel in person that should have been paramount. Whilst the Complainant's need for a swift resolution was an important factor greater consideration should have been given to Mr Blackledge's reputation and Union Membership that was at risk if his appeal was unsuccessful..

97. Finally, Mr Bakhsh's view was that the failure to give Mr Blackledge an opportunity to address the appeal Panel demonstrated that the decision as to whether to uphold his appeal was effectively made before the hearing. The Union did not at any stage seek Mr Blackledge's availability and nor did they give any reasons for not arranging the hearing in September as Mr Blackledge had requested. The Union took no account of the fact that he was on a family holiday in a remote location without internet access. They did not consider what plans he would have for his children on that day. Mr Bakhsh submitted that the failure to accommodate Mr Blackledge's availability suggested that it did not matter to the Union whether Mr Blackledge attended or not.

98. Mr Glyn's view was that the Union had offered Mr Blackledge several dates. Initially, and in response to the first set of dates, Mr Blackledge had simply responded that he could not attend and had not offered any availability. Once a date had been set and it was clear that Mr Blackledge could not attend, the Union offered alternative ways for him to address the Panel. It was not unreasonable for Mr Blackledge to drive twenty minutes to make a call or connect by Skype. Travelling to a hearing in London from his home in Leeds was surely more inconvenient than a short drive of twenty miles. Mr Glyn also

suggested that Mr Blackledge could have made a call from his car which would have given him the benefit of privacy.

99. Mr Glyn relied on evidence by Mr Cottrell and Ms McConnell that, Mr Blackledge had no right to attend the Appeal Hearing. Rule 13.6.2 confers a right to address the Appeal Hearing and to answer any questions from the Panel and stipulates a maximum of an hour should be set aside for this purpose. Rule 13.6.2 does not confer a right to attend the Hearing but a right to address the Panel

100. Even with the benefit of hindsight, it is impossible for me to know whether Mr Blackledge's request for the meeting to be deferred until at least September was simply a delaying tactic. I note, however, the use of the phrase "September at the earliest" in Mr Blackledge's email of 7 July 2016 and can understand why this, taken together, with the fact that Mr Blackledge did not offer any dates on which he would be available, led Mr Cottrell to conclude that, if the hearing on 8 August 2017, did not go ahead then it may be deferred until after September.

101. I am clear that Rule 13.16.2 afforded Mr Blackledge a right to address the Appeal Hearing rather than a right to attend the Appeal Hearing. I agree with Mr Bakhsh, however, that it should be assumed that most people, especially when facing such serious allegations and expulsion from a Union in which they had been very active, would wish to make those representations in person. I would also reflect that the Union were aware that Mr Blackledge wished to attend in person and should have made every effort to enable him to do so. The question for me, however, bearing in mind that Rule 13.16.2 confers a right to address rather than attend an Appeal Hearing, is whether the Union's decision to continue with the Hearing in the knowledge that Mr Blackledge would be out of the country and did not have easy, or private, access to the internet or telephone was so unreasonable that no reasonable Appeal Panel could have acted in that way and whether there was bias in their decision making.

102. On the face of it the Union appears to have taken appropriate steps to ensure that Mr Blackledge could attend the Appeal Hearing. It offered 8 dates in July before setting the Appeal Hearing date of 8 August. Although these were over a period of two separate weeks, the first three dates fell outside the Academic Holiday. Mr Blackledge simply responded that he could not attend those dates; he did not offer any other availability and only explained at a later date that he was out of the country at a conference. The next block of dates all fell within one week and were all within the Academic Holiday. Mr Blackledge replied that he would be abroad on a family holiday at that time. He gave no indication of when he would return from holiday or be available.
103. The date of the Appeal hearing was subsequently set for 8 August 2017; Mr Blackledge was informed of the date on 4 July 2017. By this stage, the Union appears to have been aware that Mr Blackledge may not be able to attend the Hearing and has taken steps to ensure that he can address it by Skype or telephone. Mr Cottrell's email of 4 July to Mr Blackledge reflects that he had already discussed this possibility (by email) with Mr Blackledge and had not received a reply. I have not seen any evidence as to whether Mr Blackledge told the Union that he would (or would not) do so but there is significant correspondence which demonstrates that he wished to attend.
104. Mr Cottrell gave Mr Blackledge more than one month's notice of the Hearing. The Rule 13 procedure is silent as to what notice should be given but, in my view, one month should have been sufficient to enable Mr Blackledge to take appropriate steps to access the internet or a telephone whilst on holiday even if it was not available at his holiday destination. It is also clear that on occasion he was able to do so as he accessed the internet to contact his Representative and was able to tell me how far he would have to drive to access a telephone connection.
105. This may not have been the ideal situation but it is not clear to me why someone who expressed such a strong willingness to put their case forward could not make such arrangements. Bearing in mind that Mr Blackledge was

able to communicate with his solicitors and to send documents to his representative whilst staying in a remote location it seems to me that he could have made such arrangements had he chosen to do so. Whilst driving 20 miles to make a telephone call from his car may not have been the ideal way to advance his case the fact that he appears not to have made any attempt to do so does not support his complaint. I understand that he was on holiday during this time but he has not demonstrated to me that he could not have made the necessary arrangements to address the Hearing by Skype or telephone given that he had a month's notice to make those arrangements.

106. I do, however, have some concerns about the way the Union's approached the Appeal Hearing. The first relates to the fact that the Appeal hearing was arranged during the Academic Holiday without first seeking availability over this period from Mr Blackledge. It would have been reasonable for the Union to have anticipated that Mr Blackledge would not be available during at least part of that period. I note, however, that the first dates offered were at the beginning of July (which is more than six weeks before the bank holiday in August which appears to be the period considered to be the Academic holiday by the Union).

107. My second, and more significant, concern is the comment in Ms McConnell's witness statement that she had not considered that the verbal submissions offered by the Appellant in an earlier Appeal to be of material use. When giving evidence, she told me that this was merely a statement of fact and had played no part in her decision making. She also told me that she did not share that view with Mr Cottrell when they discussed whether the Appeal Hearing should go ahead. Overall, I found Ms McConnell to be a compelling and truthful witness who was measured and aware of Mr Blackledge's rights and her important role in the Appeals process. Her statement does, however, raise some doubt as to whether she was open to the fact that Mr Blackledge's submissions would have any bearing on the Appeal Panel's consideration of his Appeal.

108. There are, therefore, issues which cause me concern on both sides. On balance, however I am persuaded that the Union took reasonable steps to arrange an Appeal Hearing at which Mr Blackledge would be able to address the Appeal Panel even if he was required to do so by telephone or Skype. I am not satisfied that the adjustment as to the manner in which Mr Blackledge was invited to address the Appeal Panel was a decision that no reasonable Panel could have reached. Mr Blackledge failed to demonstrate to the Union at the time, or to myself at the Hearing before me, that he could not have arranged to access a telephone or Skype. In reaching this conclusion, I accept that he may have needed to drive a short distance away from his campsite. That does not seem unreasonable to me for someone who is keen to defend his reputation and maintain his Union membership.

109. I remain concerned about Ms McConnell's comment about the value of verbal submissions in her statement. On balance, however, I am satisfied, from her oral evidence at the Hearing before me, that she did not take her view of the previous case into account when reaching a decision about whether to rearrange the Hearing.

110. It is clear to me that Union could have taken more steps to identify when Mr Blackledge would be available to attend the Appeal Hearing in person and could have attempted to arrange that hearing outside of the Academic Holiday. Taking everything into account, however, I find that the steps Mr Cottrell and Ms McConnell took to ensure that Mr Blackledge could address the Panel were reasonable. I would add that, I have not seen any evidence to demonstrate that Mr Blackledge was unable to address the Panel; even his own evidence suggests that it may have been inconvenient or difficult for him to do so but not that it was impossible for him to make the necessary arrangements on the day. On that basis I am satisfied that the Union did not breach Rule 13.16.2.

111. Mr Blackledge's complaint is not limited to rule 13.16.2 and so I would add that I have considered whether the way in which the Panel arranged the

Appeal Hearing demonstrated bias against Mr Blackledge. The only evidence I have seen which suggests that there may have been bias is in Ms McConnell's statement. I have already reflected my concerns about this but, taking into account her oral evidence, I am satisfied that she took steps to ensure that Mr Blackledge could address the Panel.

112. I refuse Mr Blackledge's application for a declaration that on or around 10 July 2017 the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by organising the appeal against the NEC panel decision for a date which the Union knew that Mr Blackledge, as Respondent, was out of the country and therefore unable to represent himself. I further reject the claim that, in arranging a hearing on a date that the Respondent was out of the country, the Union, demonstrated bias by the Panel, and in its actions prevented the Respondent from being heard in his own appeal.

Complaint 7

On or around 29 March 2017 the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by not allowing Mr Blackledge, As Respondent to personally cross-examine the complainant or complaint's witnesses and determining that one of his own witnesses would be required to act as a representative. In doing so the Union breached an obligation implied into this rule that the hearing should be undertaken with regards to basic judicial standards of fairness. Furthermore, in denying the Respondent a reasonable opportunity to prepare and examine witnesses the panel demonstrated bias, and denied the Respondent an opportunity to properly prepare his case thereby denying him the right to be heard.

113. There are three parts to this complaint which, taken together, Mr Blackledge alleges breached the implied rule that the Union would conduct their disciplinary procedures in accordance with the principle of natural justice. The first is the fact that he could not personally ask questions of his own and the Complainant's witnesses. The second is that the Union

determined that one of his witnesses should act as his representative and the third is that he did not have a reasonable opportunity to prepare and examine witnesses.

114. During the Hearing, Mr Blackledge explained that he accepted, and always had throughout the process, that it would be inappropriate for him to ask questions of the Complainant. This is addressed under Complaint 1 above. I have also dealt with the issue as to whether Mr Blackledge should have been permitted to ask questions of his own witnesses under Complaint Four above. Similarly, I have dealt with the issues around the time available to him to examine witnesses under Complaint 5. I consider below whether the Union determined that one of Mr Blackledge's witnesses should act as his representative and, whether, taking all of these issues into account there was a breach of natural justice with the Union denying Mr Blackledge his right to be heard.

115. Dealing first with Mr Blackledge's Representative. Mr Blackledge told me that once he became aware, on 7 March 2016, that he would need a representative he sought to identify someone who could act on his behalf. He explained that Ms Piso had intended to accompany him only as a friend rather than as a representative. She felt uncomfortable in that role as she was also acting as a witness on the day and there was a conflict of interest because of the issues to be explored. Mr Blackledge told me that he identified someone who could act as his Representative, Jo McNeil, but that she was unable to attend on 29 March 2016. The Union refused to defer the Disciplinary Hearing to accommodate Ms McNeil's availability and this resulted in the Union effectively requiring Ms Piso to attend on his behalf.

116. Mr Cottrell told me that he had offered advice on the alternatives to Mr Blackledge. If Ms McNeil could not attend the Hearing and Ms Piso was not prepared to ask questions on his behalf then Mr Blackledge could submit questions to the Chair who would ask them on his behalf. Mr Blackledge told me that this was unacceptable as questions at a disciplinary hearing were

fluid and the person asking questions needed to be flexible and to ask follow up questions. Neither Ms Piso nor the Chair would be able to do that.

117. Mr Blackledge told me that Ms Piso did the best she could but that she was uncomfortable in the role. Mr Cottrell and Ms Collins told me that Ms Piso played a full and active role and was an effective representative. The issue for me is not, however, whether Ms Piso was an effective representative but whether Mr Blackledge was given an opportunity to be represented by the person of his choice.
118. Mr Bakhsh told me that the Union effectively made the choice on behalf of Mr Blackledge. They informed him that he would need a representative on 7 March 2017 and refused to adjourn the hearing once Mr Blackledge had identified a representative who was not available on that day. Mr Glyn was clear that three weeks was sufficient notice for Mr Blackledge to find an alternative representative and that, if he was unable to do so, the Union had made arrangements for the Chair to ask questions on his behalf.
119. It is clearly important that Respondents to such serious allegations are able to choose a representative in whom they have confidence. Mr Blackledge says that he was not aware that he needed a representative until three weeks ahead of the Disciplinary Hearing. At that point, he began his search for a Representative but, having identified one who was not available, the Union refused to adjourn the Hearing. Mr Blackledge told me that, as a consequence, he had no choice but to ask Ms Piso to act as his representative. This was unacceptable because Ms Piso had a conflict of interest in the case as she had been present at some of the incidents which were the subject of the complaint and because she was a witness.
120. I did not find Mr Blackledge to be a credible witness on this issue. When giving evidence as to how he identified those of his witnesses who would be giving evidence on the day he told me that he was not aware that Ms Piso may need to act as his representative. In fact at that stage he knew he

needed a representative, he knew that Ms McNeil was not available on the day and he knew that the Union were resisting his attempts to adjourn the hearing. Since his only reason for asking Ms Piso to give evidence was that she was already present he could have identified another witness and removed one of his concerns about Ms Piso representing him. I accept that this would not have been his preferred option but I find that he was not entirely forthcoming on this point when giving evidence to me. Having said that, there remains the point that Ms Piso was not Mr Blackledge's preferred Representative and that he believed that there was a conflict of interest.

121. Mr Glyn told me that even if Mr Blackledge did not realise he needed a Representative there remained three weeks from 7 March 2017 until 29 March 2017 for him to identify an available Representative. Mr Glyn's view was that this is not unusual for hearings and, in any event, Mr Cottrell had identified other options including the Chair asking questions on Mr Blackledge's behalf. Mr Glyn also referred me to the evidence given by Mr Cottrell and Ms Collins and the notes of the hearing which, in his view, show that Ms Piso played a full and active part in the Proceedings.

122. I have some sympathy with Mr Blackledge on this point. If he genuinely did not realise that he might need a representative then he only had 22 days to identify someone during what would have been a busy and stressful time for him. I agree with Mr Glyn, however, that this is not unusual and that other alternatives had been offered. On that basis I do not accept that it is correct to say, as Mr Blackledge does, that the Union required Ms Piso to act as his Representative.

123. I have carefully reviewed Mr Cottrell's notes of the Hearing. It is clear to me that both Ms Piso and Mr Blackledge played a full part in the Hearing and that Ms Piso was able to question the Complainant's witnesses and to make points on Mr Blackledge's behalf during on other parts of the Hearing. I can understand that she may have felt a conflict of interest since she had been present at some of the meetings which were being discussed; however, had

she believed that this would have compromised the Disciplinary Hearing she could have told Mr Blackledge that she was unable to do so and the Chair could have asked questions on his behalf. Similarly, if she or Mr Blackledge felt that giving verbal evidence and representing Mr Blackledge was not appropriate he could have chosen another of his witnesses to give verbal evidence. It is important to note that Mr Blackledge told me that he chose her as a witness because she had agreed to attend the Disciplinary Hearing and not because of the particular nature of her evidence.

124. On this point, I find that the Union did not require Ms Piso to act as Mr Blackledge's representative; however, I recognise that she was not his first choice as representative. That leads me to consider whether the fact that the Hearing went ahead on that basis, is sufficient, when taken together with the fact that Mr Blackledge believed that there was insufficient time for him to prepare and ask questions of witnesses and to present his case and that he was deprived of an opportunity to ask questions of his own witnesses, was sufficient to deny him his right to be heard.

125. Mr Blackledge clearly feels this to be the case. I have, however, scrutinised the notes of the Hearing and at the Report of the Panel and it is clear to me that Mr Blackledge, and Ms Piso, contributed fully to the Disciplinary Hearing and that the Panel carefully considered and reported on his views and the issues he raised. Mr Blackledge told me in evidence that he disputed the note of the Disciplinary Hearing and that it did not reflect his recollection of the Disciplinary Hearing. He presented me with no evidence, however, to support that claim. Mr Bakhsh told me that one of the witnesses at the Disciplinary Hearing, Terry Thomas, Emeritus Professor of Criminology, referred to the Disciplinary Hearing as a "kangaroo court." This is supported by his and two other complaints from Mr Blackledge's witnesses, about their treatment at the Hearing. I have seen copies of those complaints but I have not been provided with witness evidence from any of them for the purposes of my consideration of this Complaint. On that basis, I give more weight to the

contemporaneous note of the Disciplinary Hearing prepared by Mr Cottrell. Consequently, I find that the Disciplinary Panel ensured that Mr Blackledge had the opportunity to properly make his case and took his points into account when reaching their conclusion.

126. It is helpful if I say something more here about natural justice and what Mr Blackledge describes as basic judicial standards of fairness. Generally, an implied rule of natural justice in the conduct of a Union's disciplinary procedures has many different elements including, but not exclusively, a member's right to properly present their case, for that case to be heard without bias or the appearance of bias and for the decision to be logical and explained with reference to the evidence. Mr Glyn reminded me in his arguments that natural justice is a flexible concept and that there is no hard and fast rule as to whether the principle is satisfied in a particular case. Mr Bakhsh explained that where the allegations against a member are sufficiently serious to impact on a person's reputation and, as in this case, to result in their expulsion from a Union in which they have been active, then the decision maker must comply with the principle to a high standard. I agree with both statements.

127. Mr Blackledge has alleged bias in the Union's handling of the complaint against him. The test for bias is high and, as I have explained under Complaints 5 and 6 above I am not satisfied that he has met this threshold. He has also alleged that the procedures followed by the Union prevented him from making his case effectively to the Hearing Panel. A careful reading of the note prepared by Mr Cottrell and the Report prepared by the Panel demonstrates that, whilst there were time constraints, Mr Blackledge and Ms Piso were able to make points in support of their case and that the Panel took those into account and explained the reasons, with reference to the evidence available to them, when reaching and explaining the decision.

128. Whilst I have found that the Union did not breach its Rule 13 Procedure, I agree with Mr Blackledge that it would have been preferable for the 11 September email exchange (and any other documents which were passed to

the Panel at the Disciplinary Hearing) to have been made available to Mr Blackledge at an earlier stage in the proceedings. Similarly, it would have been best practice for the Union to have arranged the Appeal Hearing at a time when Mr Blackledge was in the UK. As I have explained, however, elsewhere in this decision, I cannot agree that deficiencies such as these could result in a finding that the Union did not follow the principle of natural justice. Both the Disciplinary Panel and the Appeals Panel demonstrated in their Reports that they considered the case made by Mr Blackledge and explained their decisions with reference to the evidence presented to them.

129. I refuse to make a Declaration that on or around 29 March 2017 the Union breached the Rule 13 Procedure for the Regulation of the Conduct of Members by not allowing Mr Blackledge's Respondent, to personally cross-examine the complainant or complaint's witnesses and determining that one of his own witnesses would be required to act as a representative. I reject the contention that the Union breached an obligation implied into this rule that the Hearing should be undertaken with regards to basic judicial standards of fairness and that, in denying the Respondent a reasonable opportunity to prepare and examine witnesses the panel demonstrated bias, and denied the Respondent an opportunity to properly prepare his case thereby denying him the right to be heard.

A handwritten signature in black ink, appearing to read 'Sarah Bedwell', with a horizontal line underneath it.

Sarah Bedwell
The Certification Officer

UNIVERSITY AND COLLEGE UNION

Rule 13: Procedure for the Regulation of the Conduct of Members

Preamble

The Rules of the University and College Union require the National Executive Committee to establish a procedure to regulate the conduct of members:

The National Executive Committee shall (by the same procedure as it establishes its own Standing Orders) establish a procedure to censure or bar a member from holding any office for a specified period not exceeding three years or suspend from membership for a period not exceeding one year or expel a member from membership if it finds their conduct to be in breach of the Rules or is deemed to be a matter of significant detriment to the interests of the Union. The procedure, inter alia, shall include an appeals process. (Rule 13.1)

All members are required to abide by the Rules of the Union:

All members and student members have an obligation to abide by the Rules of the University and College Union, and shall refrain from conduct detrimental to the interests of the Union, from any breach of these Rules, Standing Orders or directions (properly made in accordance with these Rules or Standing Orders) and from all forms of harassment, prejudice and unfair discrimination whether on the grounds of sex, race, ethnic or national origin, religion, colour, class, caring responsibilities, marital status, sexuality, disability, age, or other status or personal characteristic. (Rule 6.1)

UCU will...expel from existing membership, any person who is a known member or activist of any extreme right wing political organisation, including the BNP and National Front, where the organisation's aims, objectives and principles are contrary to those of UCU as outlined in 6.1 above. (Rule 6.1.1)

The Procedure

1 Scope

1.1 Complaints under Rule 13.1 may be brought by any member or employee of UCU.

1.2 The Procedure does not apply to disagreements or disputes between members, unless there is evidence of conduct which comes under Rule 13.1, namely, conduct in breach of the Rules or of significant detriment to the interests of the Union.

1.3 The Procedure shall not be applied where the matters complained of concern members in capacities unrelated to their UCU membership.

1.4 The Procedure does not cover complaints about the provision of union services by UCU employees. Such complaints are covered by the Membership Complaints Procedure. This can be accessed by members on the UCU website (www.ucu.org.uk).

1.5 The Procedure deals with complaints against individual members. If the complainant believes that more than one member has infringed Rule 13.1, separate complaints must be lodged.

2 Lodging a Complaint

2.1 Complaints should be addressed to the General Secretary at UCU head office in the form set out in section 3 below.

2.2 No complaint shall be considered for investigation if it relates to an event occurring more than three months before the date on which it is received by the General Secretary. Where the issue relates to a series of events which are all part

of the same matter the three months period shall commence from the date of the last such event.

2.3 It is the responsibility of complainants to ensure that they have familiarised themselves with this Procedure.

3 Documentation

3.1 Documentation must be provided in support of the complaint and must include:

3.1.1 A clear statement of the complaint and how exactly it relates to misconduct under Rule 13.1.

3.1.2 Supporting evidence with a clear explanation of how each item of evidence relates to the complaint.

3.1.3 A chronology of the events associated with the complaint.

3.2 It is incumbent on the complainant to ensure that documentation is set out in an accessible and organised manner, with minimal repetition, and with clear cross-referencing to the substance of the complaint.

3.3 Documentation should not exceed 50 pages of A4 in total, of at least 10 point font.

4 Confidentiality

4.1 This is an internal UCU procedure and is strictly confidential. All members and employees must respect this. **No documents or information arising from the Procedure should under any circumstances be shared with third parties.**

4.2 Evidence that confidentiality has been breached by the complainant at any stage in the Procedure shall constitute sufficient grounds for the General Secretary to dismiss the complaint with no further action.

4.3 Breaches of confidentiality may be sufficient grounds to trigger the application of the Procedure to those responsible.

4.4 It should be noted that defamation is excluded from the areas of support available to members under the Union's Legal Scheme.

5 Appointment of Investigating Officer

5.1 When a complaint is received the General Secretary shall appoint a senior officer of the Union ("the Investigating Officer") to carry out a preliminary investigation. Suitable officers are: the Immediate Past President, the President-Elect, and the Vice-President. Should none of these be available, the General Secretary shall appoint an experienced member of the National Executive Committee (NEC), preferably with previous presidential experience.

5.2 The General Secretary may delegate the above duty to another senior official of the Union.

5.3 The General Secretary shall appoint an official to administer the application of this Procedure. The duties of the official shall be to provide administrative support to the Investigation, to act as secretary to the NEC Panel and Appeals Panel and to provide professional advice and guidance on the application of the Procedure. The official shall also ensure that the complainant is kept informed of the progress of the complaint through the various stages of the Procedure.

6 Preliminary investigation

6.1 The Investigating Officer shall, upon referral of the complaint, and normally within seven working days, first determine:

6.1.1 Whether it has been received in time.

6.1.2 Whether it is set out in the correct form.

6.1.3 Whether the subject matter is within the scope of Rule 13.1.

6.2 If the Investigating Officer determines that the complaint is not in time, or in the correct form, or outside the scope of Rule 13.1 s/he shall recommend to the General Secretary that the complaint be dismissed. If the General Secretary decides to accept this recommendation, the complainant shall be informed.

6.3 The complainant may appeal the decision to the President. Appeals must be submitted within seven working days of the receipt of the General Secretary's decision. The President shall rule on the appeal within two working weeks of its receipt on the basis of the appeal and the documentation considered by the Investigating Officer. The decision of the President shall be final.

7 Substantive investigation

7.1 If a complaint proceeds to a full investigation, the Investigating Officer shall conduct such enquiries as s/he considers fit. Such investigation may include interviewing potential witnesses and the consideration of documents. The investigation shall normally take no longer than eight working weeks from the date the issue is first referred to the Investigating Officer (but excluding the period required for any appeal under paragraph 6.3).

7.2 The complainant and the member whose conduct is alleged to be in breach of Rule 13.1 ("the respondent") shall be notified at the start of the investigation by the Investigating Officer. Respondents shall be entitled to know details of the case against them, and shall be sent the documents submitted by the complainant, together with a copy of this Procedure.

7.3 The respondent shall be invited to submit a written response to the complaint, which must normally be submitted to the Investigating Officer within two working weeks of the receipt of the invitation. The Investigating Officer may allow a longer period for responses in exceptional circumstances

7.4 The Investigating Officer may invite either or both parties to meet separately with him/her for the purpose of clarifying any points in the complaint or response. A note of any such meetings shall be taken by a member of staff.

7.5 No audio recording of these meetings, or of any other meetings under this Procedure, shall be made (subject to requirements relating to disability).

7.6 Should meetings with the Investigating Officer take place, the complainant or the respondent may, if they wish, be accompanied by a friend who must be a member of the Union. Legal representation is not permitted at any stage of this Procedure.

7.7 Members attending meetings at the request of the Investigating Officer shall be entitled to receive payment of standard travelling, subsistence and child care costs incurred.

7.8 If the complainant or respondent acts at any point in the course of the investigation in a manner which in the opinion of the Investigating Officer will seriously inhibit the investigation, the Investigating Officer is empowered to proceed on the basis of the documentary evidence available.

8 Outcome of investigation

8.1 After the completion of the investigation, the Investigating Officer shall decide either:

8.1.1 That there is no case to answer and that the matter should therefore proceed no further; or

8.1.2 That there is *prima facie* a case of breach of rule and that the matter should proceed to the next stage of the Procedure.

8.2 In either case, the Investigating Officer shall send the decision and supporting reasons in writing to the complainant, respondent and General Secretary.

9 Appeal against decision of Investigating Officer

9.1 Either party may appeal against the decision of the Investigating Officer. An appeal must be lodged with the General Secretary within seven working days of receipt of the decision

9.2 In the event of an appeal, the General Secretary shall ask the President to review the Investigating Officer's decision. If the President is not available the General Secretary shall appoint one of those named in paragraph 5.1 who has not previously been involved in the case.

9.3 The General Secretary may delegate the above duty (paragraph 9.2) to another senior official of the Union.

9.4 The person considering the appeal shall be provided with the appeal, the original submission, the respondent's response, and the notes of any meetings carried out by the Investigating Officer, together with his/her decision and reasons.

9.5 S/he shall rule on the appeal within three working weeks of its receipt and on the basis of the above documentation.

9.6 His/her decision shall be final.

10 National Executive Committee Panel: appointment

10.1 If the matter is to proceed to the next stage, the Investigating Officer shall report accordingly to the Officers, who shall establish a panel of three ordinary members of the NEC to hear and decide upon the complaint. No member of the panel shall have played any previous part in the procedure.

10.2 The panel shall normally complete its work within six working weeks of its appointment.

11 Preparation for NEC Panel hearing

11.1 The parties will be consulted about dates for the hearing and their availability taken into consideration. The final decision on the date of the Panel hearing will be made by the Panel Chair.

11.2 The respondent shall be informed of the date, time and place of the Panel hearing at least three working weeks in advance.

11.3 At the same time, the respondent shall receive confirmation of the papers to be considered at the hearing, which at this stage shall normally consist of the original complaint and supporting documentation, the respondent's response to the complaint, the notes of any interviews conducted by the Investigating Officer and a copy of the Investigating Officer's report

11.4 If the respondent or the Investigating Officer wishes to call witnesses at the hearing, they must inform the Secretary to the Panel and submit witness statements at least 8 working days in advance of the hearing. Witness statements shall be exchanged between the parties by the Secretary to the Panel as soon as possible following their submission. The same deadline and procedure shall apply to any additional documents that the respondent or the Investigating Officer may wish to submit.

11.5 The Panel reserves the right to refuse attendance by witnesses where it is clear to the Panel from the witness statements that their evidence is irrelevant, repetitive or otherwise unnecessary to the Panel's deliberations.

11.6 All those attending a Panel hearing shall be entitled to receive payment of standard travelling, subsistence and child care costs incurred.

11.7 The panel hearing shall normally be concluded within one day. The Panel will expect the parties to have read the witness statements and supporting documents before the hearing. A note of the meeting shall be taken by a member of staff for the sole purpose of assisting the Panel in the preparation of its report. The Panel's report shall form the written record of the hearing.

11.8 In accordance with section 4 above, all proceedings before the Panel are confidential and no party or witness may repeat any matter or allegation outside of this Procedure or use for any other purpose any document produced for the investigation or hearing.

12 NEC Panel hearing

12.1 At the panel hearing the Investigating Officer shall present his/her report on behalf of the Union, and call agreed witnesses and refer to pre-submitted documentary evidence as necessary. This is the central feature of any hearing, to which the respondent and the witnesses, if any, shall be expected to address themselves.

12.2 The respondent shall also be entitled to call agreed witnesses and refer to pre-submitted documentary evidence as necessary in response to the charges against him/her. Neither the Investigating Officer nor the respondent shall be represented by a lawyer, but the respondent may call upon a member of the Union to assist him/her. The respondent may be present throughout the hearing

12.3 The Investigating Officer and the respondent, with the agreement of the Panel, may question the witnesses.

12.4 If the respondent acts at any point in the course of the preparation for the hearing or at the hearing in a manner which in the opinion of the Panel will seriously inhibit the hearing, the Panel is empowered to proceed on the basis of the documentary evidence available. The Panel may determine the matter in the absence of the respondent.

13 NEC Panel decision

13.1 At the conclusion of the hearing the Panel shall produce a written report of the hearing and its deliberations, setting out its reasoned decision and the relation of that decision to the evidence considered.

13.2 If on the balance of probabilities, a breach of Rule 13.1 is found to have occurred, the panel may impose a sanction as permitted by Rule 13.1. In deciding on an appropriate sanction the Panel may take into account any previous Rule 13.1 breaches by the member which remain on the member's record, but shall not consider any that have been expunged in accordance with paragraph 18.2 below.

13.3 The Panel's report shall be sent to the respondent, complainant, Investigating Officer, President and General Secretary within 21 working days of the Panel hearing.

13.4 The sanction shall not be put into effect until the period of notice for an appeal has elapsed without an appeal having been lodged or until an appeal has been lodged and the appeal process concluded.

14 Appeals: submission

14.1 The respondent may appeal against the decision of the Panel, and any sanction imposed on the following grounds:

14.1.1 Evidence of procedural irregularity or bias in the conduct of the Panel hearing.

14.1.2 That the decision of the Panel was so unreasonable that no reasonable panel would have reached such a decision.

14.1.3 That the level of any sanction imposed is disproportionate in relation to the conduct found.

14.2 Appeals must be received by the General Secretary within 10 working days of the date on which the written decision of the panel was sent to the parties and must set out clearly the grounds of the appeal and include any supporting evidence.

15 Appeals Panel

15.1 The membership of the Appeals Panel shall be drawn from a pool of 15 members of the Union elected for this purpose every three years by National Congress. Members so elected shall have been members of UCU for at least five years, with experience of elected office at branch, regional or national level. The Appeals Panel shall consist of three people selected from that pool by the President or, in the event that the President has ruled on an appeal at an earlier stage in the Procedure, by another national officer of the Union who has had no previous involvement with the case.

15.2 If there is an insufficient or no elected pool of members, the President or other officer may appoint to the Appeals Panel members of the NEC not previously involved with the case.

16 Appeals Panel procedure

16.1 The Appeals Panel shall not conduct a re-hearing of the original allegations. The Panel shall restrict itself to the review of the NEC Panel's decision in relation to the Appellant's grounds of appeal and supporting argument and evidence.

16.2 Appellants may address the Appeal Panel in support of their appeal statements and may be asked questions by the Panel. A maximum of one hour shall be allocated for this purpose.

16.3 Appellants attending an Appeal Panel hearing shall be entitled to receive payment of standard travelling, subsistence and child care costs incurred.

17 Appeals Panel decision

17.1 The Appeals Panel may uphold or overturn the decision of the NEC Panel that a member has been guilty of a breach of rule 13.1. If the Appeals Panel upholds the decision of the NEC Panel it may confirm the sanction imposed or substitute a lesser sanction or no sanction at all. The Appeals Panel may not under any circumstances increase the sanction imposed by the NEC Panel. The Appeals Panel shall give reasons for its decision

17.2 The decision of the Appeals Panel shall be sent to the complainant, respondent, President and General Secretary. The decision of the Appeals Panel shall be final.

17.3 The report of the Appeals Panel containing its decision shall remain strictly confidential to the parties, but any sanction shall be promulgated to the membership, as below.

18 Promulgation of sanctions

18.1 Any sanction imposed on a member under this Procedure shall be promulgated to the membership of the Union by being published in the Union's magazine, or other appropriate medium of membership communication, in the form:

Following the application of the Union's Procedure for the Regulation of the Conduct of Members the following sanction has been imposed on [name of member]: [sanction as expressed in Rule 13].

18.2 Expulsion from the Union is permanent. Other sanctions shall remain on the member's record for a period of five years, after which they shall be expunged.

19 Approval of Procedure

19.1 This Procedure was approved by the National Executive Committee on 30 March 2012.