



**RULES AND CONSTITUTION**

**of the**

**PRISON GOVERNORS' ASSOCIATION**

Last reviewed at Conference October 2021

## PRISON GOVERNORS' ASSOCIATION

### RULES AND CONSTITUTION

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**PRISON GOVERNORS' ASSOCIATION**  
**(REPRESENTING H.M. PRISON SERVICE / HMPPS MANAGEMENT GRADES)**

OCTOBER 2021

**RULES AND CONSTITUTION**

These rules and constitution were originally approved at the First Annual Delegate Conference held at Prison Service College, Newbold Revel on Tuesday 8th March 1988. They were amended by subsequent conferences, most recently at the 33<sup>rd</sup> Annual Conference in October 2021.

**RULE 1            TITLE**

The title of the organisation shall be the Prison Governors' Association.

**RULE 2            REGISTERED OFFICE**

The registered office of the Prison Governors' Association is:

Room LG.27  
 Ministry of Justice HQ  
 102 Petty France,  
 London  
 SW1H 9AJ  
 Telephone:        020 3334 0456

**RULE 3            OBJECTIVES**

The objectives of the Association shall be: -

- (a) To act as the negotiating body on all questions affecting pay and conditions of employment and the relations between members and the employers;
- (b) To protect and promote the interests and status of members in respect of their careers and matters of common concern;
- (c) To represent and support members during investigation, grievance and disciplinary processes;
- (d) To provide and maintain the organisational structure approved by National Conference;
- (e) To establish, maintain and represent the professional views and standards of members;
- (f) To speak on professional matters, maintain contacts with both Parliament, Press and other relevant organisations;
- (g) To provide benefits payable on the death of members;
- (h) To provide legal assistance to members in appropriate cases determined by the NEC in respect of matters relating to their employment in the Prison Service;
- (i) To maintain such other services for the benefit of the members as Annual Conference and which the National Executive Committee deem desirable and practicable;
- (j) To collect, maintain and administer funds for all the above objects;
- (k) To manage, maintain and develop two-way formal and informal communication with members;
- (l) The Association is committed to the promotion of equality for all and actively opposes all forms of harassment, prejudice and unfair discrimination.

**RULE 4 MEMBERSHIP**

- (a) The Finance Officer will provide details of the membership of the Prison Governors' Association annually, on Certification Returns AR21 and AR(NI)21, to the Trades Union Certification Officer and the Trades Union Certification Officer (Northern Ireland) in accordance with the Trades Union and Labour Relations Act 1974. These contain records of the Association, and financial information;
- (b) Full membership is open to public sector Prison Service governors as follows:

**England & Wales**

Management bands 7 to 11 who qualify by virtue of being in one of the following groups:

- Full or part time role holders as operational managers;
- Managers with a previous operational background who currently work within HMPPS in a non-operational post;
- Those promoted beyond these grades while remaining in a role within HMPPS;

Members of the IDS and similar schemes aimed at fast tracking and accelerated promotion for potential governors;

Band 5 Custodial Managers who have passed the Operational Manager JSAC and are seeking a posting as a Band 7.

**Scotland**

Management grade Fs or above who qualify by virtue of being in one of the following groups:

- Full or part time role holders as operational managers;
- Managers with a previous operational background who currently work in establishments or in HQ in a non-operational post;
- Non-operational managers who work in an establishment and support the delivery of the operational business or participate in the on-call or duty manager rota or hold a current role in the Incident Command Team (ICT).

**Jersey, Guernsey & Isle of Man**

Management grades A-F and specialist grades A-F who have been promoted from the Principal Officer grade.

**Northern Ireland**

Governor grades and those promoted beyond the governor grades.

- (c) Distinguished Life Membership may be awarded to those full members past and present whose service to the Association merits such an award. Nominations must be forwarded to the National Executive Committee for consideration prior to submission for ratification at Annual Conference. Distinguished Life Members shall have the right to attend Annual Conference at the Association's expense but will not have voting rights. They may only speak to conference by invitation of the chair. They will not be eligible for PGA insurance or death benefits;
- (d) Any manager within a prison contracted to the private sector, who is at an equivalent grade to a Public Sector Manager F or above and is carrying out a role directly comparable to that of an operational manager within public sector prisons, will be entitled to membership of the PGA. In addition, any member who is transferred under the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) will be entitled to retain full membership and associated rights.

**RULE 5 SUBSCRIPTIONS**

- (a) The annual subscription shall be decided by a conference resolution;
- (b) Any member whose subscription falls three or more calendar months in arrears will initially be

notified by e-mail of the need to clear those arrears and subsequently by writing to their last registered address if contact is not established. Unless the arrears are cleared within three calendar months of the first e-mail contact, membership of the Association will be suspended along with the right to vote in any PGA election or ballot. At the next monthly NEC meeting the Membership Secretary will provide a report of any such suspensions and seek confirmation that the member's name should be erased from the membership list leading to the loss of any rights, privileges or protection offered by the Association;

- (c) Any member on sick leave, maternity leave or special leave shall not be required to pay subscriptions in respect of any month for which half pay or less is received.

## **RULE 6                   MANAGEMENT OF THE ASSOCIATION**

The management of the Association shall be vested in Annual Conference, the National Executive Committee and the Officers in that order.

## **RULE 7                   ANNUAL CONFERENCE**

Annual Conference shall determine the principles and policies of the Association. Decisions taken at Conference will be binding on all members.

### **(1) Attendance at Conference**

- (a) A conference shall be held annually at a date and place arranged by a Conference Committee in consultation with the NEC of the Association. The National Officers will inform branches of the dates at least four months in advance;
- (b) Representation at the Annual Conference shall be on the basis of one delegate from each Branch. The NEC has the authority to designate what constitutes a branch. The NEC shall issue a list no later than 2 months before conference each year identifying branches for the forthcoming year;
- (c) Members of the Executive Committee shall attend Annual Conference by virtue of their office only and shall be allowed to speak when so nominated to do so on behalf of the National Executive Committee but shall not be eligible to vote;
- (d) Trainee delegates may attend as agreed by the NEC. These will be in addition to the delegates at (b) above; however, they will not have voting rights;
- (e) Distinguished Life Members shall have the right to attend Annual Conference at the Association's expense. They will not, however, have voting rights and they may only speak at Conference by invitation;
- (f) Retired members may attend Conference at their own expense. Retired members attending Conference will have the status of observers without voting rights. They can be invited to speak at Conference at the invitation of the Conference Chairperson;
- (g) To assist conference discharge its business the NEC shall appoint a Conference Standing Orders' Committee consisting of a Chairperson and not less than two members.

### **(2) Preparations**

- (a) The Standing Orders' Committee is the keeper of the Rules and the liberty of Conference. It is the arbiter, is answerable to Conference and not the NEC. The Standing Orders' Committee will issue guidance to the membership on the composition of resolutions. They will decide the agenda and the suitability of resolutions, e.g. where two branches submit identical or almost identical resolutions the Standing Orders' Committee will decide how to resolve the issue and determine if one resolution proposed by a Branch is superseded by another. This will be communicated to the Branch which may challenge the decision either before Conference in writing or at Conference as a "Point of Order" or as a motion to "Suspend Standing Orders";
- (b) Only motions proposed by the NEC or a Branch will be debated at Conference. Those proposed by a Branch must have been passed at a meeting of Branch members and submitted, in writing,

to the Conference Committee at least one month prior to the start of Conference unless a shorter period is agreed by the NEC. Anything submitted after this later date would have to be considered by the Standing Orders' Committee as a motion of urgency and may be rejected by them;

- (c) At least two weeks prior to Conference the Conference Committee will circulate a Conference agenda, any proposed Standing Orders and the Finance Report, including prepared accounts. However, the fully audited accounts may, on occasions, not be available just prior to Conference;

### (3) Conference Proceedings

- (a) Delegates should attend Conference with a mandate from their Branch following a meeting of Branch members to discuss and vote upon matters to be discussed at Conference. The delegate may not speak in contravention of the Branch mandate;
- (b) A motion placed on the agenda by a Branch not represented by a delegate at Conference will not be discussed and will "Fall";
- (c) Conference will adopt the Standing Orders proposed by the NEC subject to any amendment Conference agrees;
- (d) The Conference Committee will be appointed by the NEC. He or she will not speak for or against any motion nor will he or she vote; unless there are an equal number of votes on each side when the Chairperson will have the casting vote. He or she will make rulings on procedure or points of order which are binding unless challenged and may allow invited guests to address Conference;
- (e) The NEC will nominate a Conference Vice-chair to manage proceedings in the event of the Chair having to leave the floor of Conference for any reason;
- (f) The Conference Chair may exclude any delegate who causes a disturbance until that delegate makes a suitable apology;
- (g) A ruling by the Conference Chair may only be challenged by a motion, supported by at least 10 Branches that "The Chair vacates the chair". Such a motion requires a two-thirds majority of those voting to be passed, in which event the Chair's ruling will be reversed. The Chair, however, will continue to preside;
- (h) Unless the Conference Chair agrees otherwise, the mover of the motion may speak for not more than 5 minutes. No other delegate may speak for more than 3 minutes. The mover may reply to the debate for no more than 5 minutes. No other delegate may speak more than once on any motion. Timing will be carried out by the Standing Orders' Committee.
- (i) A "Point of Order" may be raised by a delegate. This must relate to an infringement of these Rules, Standing Orders or general custom and practice in the conduct of the debate or in respect of the content of any speech. The Chair will either rule upon this or refer to the Standing Orders' Committee, moving to "Next Business" and returning to the "Point of Order" when the Standing Orders' Committee reports back;
- (j) Voting at Annual Conference will normally be by show of hands. However, delegates may call for a card vote providing at least twelve delegates stand to their feet immediately the result of a show of hands has been declared by the Chair and call "Card Vote". At this point the doors to the Conference will be 'locked' The Chair shall be the sole arbiter of whether the requirement has been met. Two tellers will be appointed by the NEC from non-voting persons attending Conference, e.g., trainee delegates, retired governors or members of the NEC.
- (k) Once a motion has been voted on it is deemed to have been disposed of. It may not be considered again by that Conference unless agreed by a two-thirds majority;
- (l) The Standing Orders' Committee Chairperson will address Conference at the start of proceedings and may from time to time submit reports on the order of business, on motions of urgency which may be submitted during Conference, on points of order. The Conference Chair

will rule on adjustments to the running order of resolutions on the basis of time or appropriateness;

- (m) The Chair may seek suspension of Standing Orders in order to debate a point which would seek clarification of an issue;
- (n) The Finance Officer will present the audited Statement of Accounts for the previous financial year at Conference and answer any relevant questions on any matters dealt with by the finance report;
- (o) A confidential report-back on personal cases will form part of the Conference Agenda. It will be given by the National Officers or a nominated member of the NEC;

#### **(4) Report on Conference**

- (a) A contemporaneous note of the main issues of conference proceedings will be taken and will be published in a bulletin as soon as possible after Conference. It should include the results of all resolutions put to Conference the previous year; a synopsis of any speeches given at Conference. The bulletin will be reissued at the following Conference.

### **RULE 8 NATIONAL EXECUTIVE COMMITTEE**

The National Executive Committee shall be elected and consist of ten elected members and 5.5 officers who hold full membership. These shall be:

- President
- Vice-President
- Finance Officer
- National Officer (2)
- Health & Safety Officer (0.5)
- 8 Representatives elected from the whole membership of England and Wales
- 1 Representative Northern Ireland
- 1 Representative Scotland

The Northern Ireland and Scotland representatives must be Northern Ireland and Scottish Governor grades or above and must be proposed and seconded by Northern Ireland or Scottish members as appropriate. Only members of their own branch may vote for them.

The National Executive Committee:

- (a) Shall conduct the business of the Association in conformity with the policies laid down by Annual Conference;
- (b) Shall deal with all business arising between annual conferences;
- (c) Shall be responsible, through the Finance Officer and Trustees, for the proper administration of funds; which may only be used to further the objectives of the Association;
- (d) Will exercise, through the National Officers, control of staff of the Association;
- (e) May suspend or expel members; subject to Rule 27;
- (f) Shall have the power to indemnify any member of the National Executive Committee, staff of the Association or any branch official out of the funds and property of the Association from, and against, all costs, charges, losses, damages and expenses sustained or incurred, by reason of accepting office or acting in the execution of duties, powers or discretions imposed upon or given by these rules; unless the same shall happen through lack of good faith, wilful neglect or default;
- (g) Will have the power to co-opt additional members in any advisory capacity and to appoint sub-committees as may be deemed necessary;
- (h) Will have the power to appoint a Disciplinary Panel and a Disciplinary Appeals Panel with delegated authority;

- (i) Shall appoint a Conference Committee who will undertake to make all arrangements for Annual Conference;
- (j) A quorum of any meeting of the National Executive Committee shall consist of a majority of those eligible to attend the meeting and entitled to vote, i.e. a minimum of eight elected members;
- (j) Shall normally meet monthly but in any event no fewer than ten times per year;
- (k) Any member absent from a National Executive Committee meeting shall furnish an explanation for such absence. Any member absent for three meetings in any one year without adequate reason (as determined by the Officers of the Association) shall be considered to have resigned from office;
- (l) In the event of a vacancy occurring within a period of six months after the election has been held the person with the second highest number of votes in the election will be deemed to have been elected, also see Rule 13 (Elections) below.

#### **RULE 9 ELECTION OF NATIONAL EXECUTIVE COMMITTEE**

- (a) The National Executive Committee shall satisfy itself that any person nominated for the position of President, Vice President, Finance Officer, National Officers, and National Executive Committee member will be capable of fulfilling the office for which he or she is nominated;
- (b) In the event of any of these offices falling vacant, the National Executive Committee shall within six months of the vacancy occurring hold an election in accordance with this Rule;
- (c) Candidates for election to the National Executive Committee must, at the time of nomination and election, be fully paid-up members;
- (d) Members of the National Executive Committee shall hold office for three years;
- (e) One third of the committee shall be elected every year, and the newly elected officers will assume office at the conclusion of the Annual Conference immediately following the elections. Election procedures shall be instituted three months prior to retirement of National Executive Committee members;
- (f) Serving members of the National Executive Committee shall, if properly nominated and seconded, be eligible for re-election;
- (g) The National Executive Committee shall devise and promulgate regulations for the conduct of elections, including the timetable, consistent with the legislation in operation at the time;
- (h) No serving member of the National Executive Committee may propose or second a candidate for election to the National Executive Committee;
- (i) If a vacancy occurs between elections the members will elect a replacement; and the person elected will serve the balance of the term of the person replaced;
- (j) If the vacancy occurs within six months before the normal date, the National Executive Committee may postpone the election until the normal date;
- (k) Election for Executive Office will be decided by ballot vote of all members holding full membership, or those appropriate to the grade post when applicable – see Rule 4 (b). Such elections shall be conducted by secret postal ballot (see Rule 14) in accordance with the TULR Act.

#### **RULE 10 ELECTION OF THE PRESIDENT AND VICE PRESIDENT**

The President and Vice-President shall be elected every three years in accordance with the procedures laid down in Rule 9 (e). Candidates at the time of nomination and election must be fully paid-up members and have at least three years' continuous membership. Current holders of office shall be eligible for re-election.



**RULE 11 ELECTION OF THE FINANCE OFFICER**

The Finance Officer shall be elected every three years in accordance with the procedures laid down. In Rule 11. Candidates at the time of nomination and election must be fully paid-up members and have at least three years continuous membership. Holders of the office shall be eligible for re-election.

The Finance Officer:

- (a) Shall be responsible for administering the finances of the Association in the best interests of the Association in accordance with policies laid down by National Conference and the National Executive Committee;
- (b) Shall ensure all monies paid to the Association are banked the same to the credit of the Association in the Association's bank;
- (c) Shall present a financial statement to every ordinary meeting of the National Executive Committee;
- (d) Shall, every twelve months, have drawn up a full report of the income and expenditure of the Association for the past financial year, which shall be audited by incorporated auditors, approved by Annual Conference and engaged by the National Executive Committee;
- (e) Shall render such assistance to the auditors as they deem necessary – see Rules 23 and 24;
- (f) Shall present to Annual Conference the audited financial statement and respond to any questions posed by delegates and seek their acceptance of the accounts;
- (g) Shall allow any member who submits a written request, access to the Association's accounts and supporting documentation in order to carry out an examination of those accounts. At least five working day's notice must be given by the person making the request;

**RULE 12 NATIONAL OFFICERS**

The National Officers: -

- (a) Shall conduct the business of the Association in accordance with these Rules and act under the instructions of the National Executive Committee, devoting 50% of their whole working time to the service of the Association, unless the National Executive Committee and HMPPS determine otherwise;
- (b) Shall attend all meetings of the National Executive Committee and shall take, or cause to be taken, minutes of the business there transacted, the resolutions proposed and the votes given;
- (c) Shall keep a register of members, enter therein their names, dates of admission, addresses and shall keep the same in good order;
- (d) Shall present to the National Executive Committee, prior to Annual Conference, a report of the work of the Association and of the attendance of members of the Executive Committee since the previous Annual Conference, for approval by the Executive Committee. After such approval the report shall be presented to Annual Conference as the report of the National Executive Committee.

**RULE 13 ELECTION OF NATIONAL OFFICERS****(1) National Executive Committee**

Each year one National Officer or the President will be elected on a continuing three-year cycle. Those holding office in these positions shall therefore do so for three years, after which period they shall be eligible for re-election. This period can be reduced to a minimum of two years or maximum of four years to maintain the three-year election cycle if the candidate's predecessor leaves office early. Candidates shall, at the time of nomination and election, be fully paid-up members. Elections for these positions shall be in accordance with the Rules laid out in this Constitution.

**(2) Election Procedure**

- (a) A bulletin announcing an election and giving details of the post and inviting nominations will be issued by the National Officers;
- (b) The closing date and time for receipt of nomination papers shall be clearly shown;
- (c) Nominations shall be entered on the nomination paper provided by the National Officers;
- (d) Completed nomination papers in respect of elections for the posts of President, Vice-President, Finance Officer, National Officers, or National Executive Committee shall be sent direct to the Returning Officer;
- (e) Any nomination paper not completed in accordance with these Rules or not completed in accordance with the instructions thereon or received after the closing date and time shall be rejected and declared void;
- (f) Eligible candidates who have accepted nomination shall be entitled to submit to the National Officers for onward transmission to the scrutineers an election statement not exceeding 250 words in length, which may for example, set out the background of the candidate and the work he or she has performed or proposes to perform on behalf of the Association. Election statements received by the National Officers after the agreed date will not be circulated.

**RULE 14 SECRET POSTAL BALLOTS**

This Rule applies to secret postal ballots for the election of National Executive Committee members and Officers of the Association.

- (a) Ballot papers will be distributed to all Branches clearly stating the closing date and time of voting which will not be less than 2 weeks after receipt;
- (b) A list of candidates produced as a ballot paper together with the election statements referred to above shall be issued to each member entitled to vote in the election in accordance with the procedure given below;
- (c) The ballot paper shall state each candidate's full name. It will also bear its own unique serial number, specify the name of the Scrutineer and set out the address to which and the date by which it is to be returned;
- (d) Members must not pressurise other members to vote for a particular candidate;
- (e) Each member shall record his or her vote by marking an "X" in the box opposite the name of the candidate he or she desires to be elected and shall then return the completed voting paper in the envelope provided for this purpose, to be received by the date and time of close of voting by the scrutineers;
- (f) A ballot paper on which the votes are not recorded in accordance with the instructions contained thereon or 'spoilt' in any other way shall not be counted as a valid vote;
- (g) The counting and scrutinising of votes and the declaring of returns in elections provided for in this Rule shall be undertaken by independent Scrutineers. The Scrutineers nominated will meet the criteria specified by statute and shall conduct the election in accordance with all procedures required by statute;
- (h) Ballot papers received by the Scrutineers later than the time and date notified for receipt of ballot papers shall not be counted as valid votes in the election whatever the reason for any delayed receipt;
- (i) The Scrutineers shall decide whether any ballot papers shall be rejected or counted in accordance with these Rules and shall determine all disputes concerning the conduct of elections under this Rule. Their decision shall be final. The Scrutineers shall prepare a Scrutineers' Report setting out the number of ballot papers distributed and returned, the total number of votes given for any candidate and the total number of votes rejected;
- (j) A notice declaring the result of the election as stated in the Scrutineers' Report, together with a

copy of that report shall be sent by bulletin to all members as soon as practicable after the Association receives the Scrutineers' Report.

#### **RULE 15 LOCAL BRANCH ORGANISATION**

- (a) Branches should elect one of its members to act on their behalf as representative;
- (b) Local Branches may be formed in England, Wales, Scotland, Northern Ireland, the Channel Islands and the Isle of Man;
- (c) Where there is a singleton post or a branch with less than three members exists and where thought prudent, close proximity work areas/establishments may unite;
- (d) The Branch representative will be responsible for acting as agent between local branch members and the Association's NEC;
- (e) The Branch representative will be further charged with being responsible for looking after his or her members' personal professional interests and accompanying local members at interview;
- (f) Branches may submit motions to Conference through their representative when invited to do so by the National Officers;
- (g) The Branch representative will represent his or her members at Annual Conference and any other such meetings as appropriate to the representative's position;
- (h) Prior to attending Annual Conference, the Branch representative will host a local meeting at which he or she will seek a mandate on how the branch wishes him or her to vote at Conference;
- (i) The National Executive Committee will finance the travelling and overnight lodging costs where appropriate of each representative's attendance at Annual Conference and any other meetings they require delegates to attend.

#### **RULE 16 REGIONAL ORGANISATION**

Members may meet periodically, in line with the Association's facilities agreement, through a regional organisation to consider national issues. A National Executive Committee member will liaise with the group arranging the meeting and will endeavour to attend.

Travel costs and the provision of light refreshments will be funded.

#### **RULE 17 CANVASSING**

- (a) Canvassing for nomination to any executive position within the Association, for votes by a candidate for election, or by a third party on behalf of a candidate for election under this Rule, whether in person, by letter, circular or any other means of written communication is not permitted;
- (b) Should it be proven that canvassing for an election has occurred and the result of that election has not been announced, that election will be declared by the Association's National Officers as suspended, and arrangements made for a new election to take place;
- (c) If it is proven that a candidate has breached the rules in section (a) above then that candidate may not put his or her name forward or have anyone put his or her name forward in the new election;
- (d) Should it be discovered that a candidate had breached the rules on canvassing after the result of an election has been declared he or she will be removed from office. The National Officers will at the earliest opportunity arrange for a new election to take place;
- (e) Any candidate removed from office in (d) above may not put his or her name forward or have anyone put his or her name forward in the new election.

**RULE 18 FINANCE**

- (a) The financial year of the Association shall be from 1<sup>st</sup> January to 31<sup>st</sup> December;
- (b) The Association shall maintain a General Fund and such other funds as may from time to time be deemed necessary;
- (c) In respect of arrears of subscriptions and relief from paying subscriptions also see Rule 5;
- (d) The Association shall participate in the Direct Debiting Scheme as an Originator for the purpose of collecting subscriptions for any class of membership and/or any other amounts due to the Association. In furtherance of this object the Association may enter in to any indemnity required by banks upon whom Direct Debits are to be originated. Such an indemnity may be executed on behalf of the Association by officials nominated in an appropriate resolution;
- (e) In respect of the auditing of the accounts see Rules 23 and 24;
- (f) In respect of the appointment of Managing Trustees and their responsibilities see Rule 22 below;
- (g) Cheques drawn on the Association's banking account will require two signatories, one of whom must be the Finance Officer and the other must be the President or the National Officers;
- (h) The Finance Officer is permitted to pay expenses and other invoices by electronic transfer, providing he or she follows procedures agreed with the appointed auditors for this very purpose;
- (i) The Finance Officer must arrange for the finances of the Association to be audited annually, by the Association's accountants;
- (j) The Treasurer of the Retired Governors' National Committee will present a Statement of Accounts annually to the Finance Officer in sufficient time for the accounts of the Association to be audited in accordance with Rules 23 and 24.

**RULE 19 ASSISTANCE TO MEMBERS**

- a) Any member requiring legal advice on any matter whether or not it arises from their employment within the Prison Service may seek such advice from within the terms of a Group Insurance Policy arranged by the National Executive Committee, providing they have been a fully paid-up member in excess of three months and the perceived problem on which advice is being sought occurred during or after that three-month period;
- b) The premiums for the Group Insurance Policy will be met from the Association's funds. A member, having taken initial legal advice who wishes to progress to taking legal action under the terms of the Group Insurance Policy, must contact the PGA office in London. They will provide a form on which the member must then register an outline of the situation faced and the proposed legal course of action to be pursued.  
  
This will be forwarded to the legal aid panel for consideration.  
  
The panel will consist of the Finance Officer and the PGA Solicitor, and will be chaired by a retired member.  
  
The panel will assess the probability of any action being successful, and therefore whether the PGA will fund the action under the Group Insurance Policy. If funding is approved, the member will be notified and the PGA's solicitor will manage the process from that point on. All legal matters will be treated by the panel and NEC as privileged and dealt with in confidence;
- c) Any member who becomes the subject of a disciplinary enquiry brought by his or her employers may seek advice and assistance from the National Executive Committee and/or their local branch official;
- d) Any member who feels he or she has been subject to victimisation and/or bullying by his or her employers may seek advice and/or assistance from the National Executive Committee and/or their local branch official;
- e) Any member who feels they have been discriminated against by their employer on the

grounds of race, age, or sexual orientation may seek advice and or assistance from the National Executive Committee and/or their local branch official;

- f) Any member wishing to progress a grievance against their employer may seek assistance from the NEC;
- g) All members who are provided legal support in both preparation for and representation at an Employment Tribunal will agree to a repayment to the Association of an amount equal to 10% of any compensation awarded by the tribunal. This will be agreed in writing by the legal committee prior to the funding of any legal support.

## **RULE 20 DEATH BENEFIT**

- (a) The general funds of the Association shall be used to provide the payment of a death benefit of £5,000 as hereafter described;
- (b) A death benefit approved by the National Executive Committee shall be paid as a lump sum to a member's next of kin, or any other person nominated in writing, on his or her death, providing that the conditions prescribed hereinafter are satisfied: -
  - i) That the member had no arrears of subscriptions at the last day of the month preceding that in which death occurred, or except with the approval of the NEC;
  - ii) That in the case of approved arrears in respect of periods of sick leave, these should be disregarded;

Provided always that benefit shall not be payable:

- iii) To an ex-member of the Association whose death occurs after the date of retirement;
- iv) In the event of the death of a member occasioned by or happening through, war, invasion, act of foreign enemy, or hostilities civil or otherwise (whether war be declared or not), but if a member during war, invasion, act of foreign enemy or hostilities as aforesaid is engaged in service connected therewith and subsequently and after the termination of such service would by virtue of having returned to or entered the Prison Service be entitled to benefit save for this paragraph, his/her death shall not be deemed occasioned by or happening through any of the eventualities mentioned in this paragraph. All cases of doubt arising out of provision made in this paragraph shall be reviewed by the National Executive Committee having regard to all circumstances, to decide whether benefit either in whole or in part, should be made.
- (c) Application for benefit
  - i) On the death of a member, the local representative of the branch or section where the deceased was serving or a colleague should notify the National Officers of the Association;
  - ii) The National Officers and/or Finance Officer will satisfy him or herself that the deceased member qualified under the conditions laid down and thereafter make necessary claim;
  - iii) The Association will not become involved in any dispute concerning the member's estate. If there is any dispute about the appropriate identity of the beneficiary, the National Executive Committee (after consultation with the local Branch) will decide and its decision will be final;
  - iv) Death benefit will be paid by cheque where possible within 24 hours. The cheque or cash must be handed to the beneficiary and a signed receipt obtained by a member of the local Branch or a colleague.

## **RULE 21 EXPENSES**

When on approved Association business, officers and members shall be entitled to travelling expenses and subsistence allowances, subject to a maximum from time to time laid down by the National Executive Committee and approved by Annual Conference. An approved Claim Form must be submitted to the Finance Officer showing all items claimed in respect of the business carried out and must be supported by receipts for all monies claimed.

## **RULE 22 THE TRUSTEES**

The National President together with two additional members shall be the Managing Trustees of the Association. These additional Trustees will be appointed by Annual Conference for a three-year term of office. They shall perform such functions diligently and prudently, assume such responsibilities in connection with their office as are assigned to them under the Trade Union Act and will not derive any profit or benefit from their positions as Managing Trustees.

All three Trustees will meet the Finance Officer on a half yearly basis to consider the Association's financial position and projected future expenditure. Their role will be to ensure proper accounts are kept of all financial dealings and transactions, provide advice and guidance on financial planning and they will have the power to authorise investments, having taken advice on any risk(s) involved with the proposed investment – also see sub paragraph (e) below.

The Trustees have the same rights as other members to inspect the books of the Finance Officer and supporting documentation but without requiring to give prior notice. Such inspection will be in the presence of the Finance Officer.

The Trustees will receive copies of the Finance Officer's monthly reports in order to maintain an overview of the accounts and balances.

They will meet with the Finance Officer twice a year, prior to conference and in June/July, to discuss the implications of the twice-yearly reports and the audit and to consider investment of the Association's funds. These decisions must then be ratified at Annual Conference.

In the event that between Annual Conferences one or more of the Trustees wishes to retire or, in the opinion of the Executive Committee, is unfit to continue acting as a Trustee whether for medical or other reasons, those Trustees may be retired by the Executive Committee who shall then appoint replacements. Such replacements shall serve until the next Annual Conference when their continuation or replacement shall be determined by Conference.

The Trustees are precluded from signing cheques under Rule 18 (g).

## **RULE 23 ROLE OF THE AUDITORS**

- (a) The accounts of the Association shall be audited annually by qualified accountants chosen by the National Executive Committee and approved by Annual Conference and a Statement of Account published;
- (b) They shall have access to all books and papers necessary for the fulfilment of their duties and shall be provided with such assistance from the Officers and National Executive Committee as they require;
- (c) The auditors may obtain, use, process and disclose personal data about the Association in order that they may discharge the service agreed under the terms of engagement and for other related purposes specified in those terms of engagement;
- (d) The auditors will report to the members whether, in their opinion, the financial statements provided by the Finance Officer gives a true and fair view reporting on any of the following matters which may not be to their satisfaction:
  - i) whether proper accounting records have been kept by the Association;
  - ii) whether the Association's balance sheet and income and expenditure account are in agreement with the accounting records;
  - iii) whether the auditors have obtained all the information and explanations considered necessary for the purposes of the audit;
  - iv) whether the Association has maintained a satisfactory system of control.

- (e) The auditor's report will be made solely to the Association's members in accordance with the rules of the Association and, to the fullest extent permitted by law, do not accept or assume responsibility to anyone other than the Association for the audit report or for the opinions formed;
- (f) The auditor has the professional responsibility to report if the financial statements do not comply with applicable accounting standards, unless non-compliance is justified in the circumstances. Included within the report will be a description of the National Executive Committee's responsibilities for the financial statements where the financial statements or accompanying information does not include such a description;
- (g) The provision of audit services is a business in the regulated sector under the Proceeds of Crime Act 2002 and therefore the auditors may request from the Association, and retain, whatever information and documentation is required to identify the requirements placed upon the auditor by United Kingdom anti-money laundering legislation.

#### **RULE 24 SCOPE OF THE AUDIT**

- (a) The audit of the accounts will be conducted in accordance with the International Standards on Auditing (UK and Ireland). It is not designed to identify all significant weaknesses in the Association's systems but, if such weaknesses are discovered which should be brought to the attention of the National Executive Committee, they will be reported to the committee;
- (b) The auditors will request sight of all documents or statements which would be issued with the financial statements and are also entitled to attend all general meetings of the Association and to receive notice of all such meetings;
- (c) The responsibility for safeguarding the assets of the Association and for the prevention and detection of fraud, error and non-compliance rests with the National Executive Committee and whilst the audit will be planned to have a reasonable expectation of detecting material misstatements in the financial statements or accounting records the examination should not be relied upon to disclose all such material misstatements on frauds, errors or instances of non-compliance as may exist;
- (d) Once the audit report has been issued the auditors will have no further direct responsibility in relation to the financial statements for that financial year;
- (e) The accounts will be prepared, based on accounting records maintained by the auditors who will be responsible for:
  - i keeping the record of receipts and payments;
  - ii reconciling the balances monthly with the bank statements;
  - iii keeping the income and expenditure posted and balanced;
  - iv preparing the monthly returns there-from;
- (f) The auditors will investigate irregularities and fraud on the receipt of specific instructions to do so from the Trustees.

#### **RULE 25 MAINTAINING THE PAYROLL**

- (a) The auditors will maintain the payroll for the Association's employee(s) with the appropriate computation of PAYE and National Insurance. They shall also prepare the appropriate return forms and subsidiary forms required by HM Revenue & Customs which will be sent to the National Executive Committee for approval and signature prior to submission to HMRC;
- (b) Should the Association be selected for enquiry by HM Revenue & Customs the auditors will agree separate terms of engagement requiring a supplementary engagement letter to include responsibilities and fees as appropriate.

**RULE 26 ACCESS TO BOOKS**

It shall be open to any member who submits a written request, access to the Association accounts and supporting documentation in order to carry out an examination of those accounts. At least five working days notice must be given by the person making the request see Rule 11 (h).

**RULE 27 INTERNAL DISCIPLINE**

Any person who wishes to complain about any matter concerning an Association member must do so, in writing, to the National Officers setting out the basis of the complaint. On receipt of the letter the National Officers will consider the essence of the complaint and, if considered necessary, seek further information, including the names etc. of any witnesses and copies of any witness statements. Following consideration of the information the complaint will be referred back to the complainant, in writing, if it is considered to be an issue where further action under the Association's disciplinary procedure is not considered appropriate.

Where further action is considered appropriate, or where an element of doubt remains, the National Officers will meet with the President and one other NEC member to examine the complaint and decide what further action is to be taken. This could result in the complaint being formally rejected, in writing, or formal action being taken as in (1), (2), (3) and (4) below.

**(1) Disciplinary Proceedings**

- (a) The National Executive Committee may resolve to investigate the conduct of any member (which for the purposes of this rule includes members of the Retired Prison Governors' Association) who appears to have contravened these rules by, for example: -
  - i misusing the funds of the Association;
  - ii purporting to represent the views of the Association without express authority;
  - or
  - iii acting in a manner prejudicial to the interests of the Association.
- (b) The disciplinary powers of the National Executive Committee will be exercised by a Disciplinary Panel comprising a Distinguished Life Member as Chair and two members of the NEC who come to the proceedings *de novo*. One or both of the last two may be replaced by co-opted additional members to the NEC, under Rule 8 (g), if that is necessary to ensure adherence to the *de novo* principle;
- (c) Any charge must be laid by the relevant PGA Branch Representative or the individual member who alleges misconduct has taken place;
- (d) Each side must bear their own costs arising out of the Hearing and any subsequent appeal. The Association's Legal Insurance Scheme does not cover legal advice or representation before the Disciplinary Panel or the Disciplinary Appeals Panel and, should this arise, the member must meet any incurred expenses themselves;
- (e) If the member, his or her legal representative or any witness has a disability or particular need, the National Officers of the Association should be informed ahead of the Hearing so that necessary arrangements can be put in place;
- (f) The National Officers of the Association will arrange for a written note of the Hearing and any subsequent appeal to be taken and retained for a period of ten years. If the National Executive Committee resolves there is a case to answer the National Officers will take the following action:

**(2) Before the Hearing**

- (a) The member against whom misconduct is alleged must, in all but exceptional circumstances, be given notice by Recorded Post or by special next-day delivery of the charge or charges against him or her as soon as possible after the alleged misconduct comes to light;
- (b) The charge must specify exactly how the alleged misconduct is in contravention of Rule 27 (1) (a) and the member must be told the names of any witnesses who may be heard in support of the charge. The member must inform the National Executive Committee of any witnesses he or she wishes to attend any hearing to support his or her defence or mitigation;



- (c) A member who has been charged cannot be compelled to attend the Hearing but if he or she refuses to attend or fails to respond to the notice of the charge, he or she must be informed that it will go ahead without them and be decided on the basis of the evidence available;
- (d) The National Executive Committee does not have the power to compel the attendance of witnesses;
- (e) The date for the Hearing before the Disciplinary Panel must be set at a time reasonably proximate to the issue of the notice of the charges but not so close as to inhibit the member's right to take legal advice;
- (f) The member may ask to be represented at the hearing by a lawyer of his or her choice or be assisted by a friend. The Disciplinary Panel will consider the request in the light of all circumstances including the nature or complexity of the charge, the severity of any likely penalty and the capacity of the member to represent his or her own case.

### **(3) At the Hearing**

- (a) The Chair of the Disciplinary Panel will identify the parties at the Hearing, will read the charge and satisfy him or herself that the member understands the nature of the misconduct alleged. If there have been exceptional circumstances leading to a delay detail must be explained to the member and noted on the record of the Hearing;
- (b) The Chair will invite the person who laid the charge to present their case and call any witnesses. The Disciplinary Panel and the member or his or her legal representative or friend, (if any), may question the person who laid the charge(s) and any witnesses;
- (c) The Chair will invite the member or his or her legal representative or friend (if any) to state the defence to the charge and call any witnesses. The Disciplinary Panel and the person who laid the charge may question the member and the witnesses;
- (d) Notwithstanding the above, the Chair may ask questions at any time;
- (e) If a party to the proceedings submits a written witness statement but the witness does not attend the Hearing to be questioned, less weight may well be given to the witness statement;
- (f) Having heard all the evidence, the Chair will invite, first, the member or his or her legal representative or friend (if any), and then the person laying the charge, to sum up;
- (g) The Disciplinary Panel may then adjourn the proceedings to consider whether, on a balance of probabilities, the charge against the member has been proved. A two-thirds majority is sufficient. If not proved, the charge must be dismissed;
- (h) If the charge has been proved the Disciplinary Panel must announce this and allow the member or his or her legal representative or friend (if any) to present arguments in mitigation;
- (i) The Disciplinary Panel may then adjourn again to consider the penalty to be imposed;
- (j) The member must be informed of the penalty to be imposed. If the Hearing has taken place without the member present, he or she will be informed of the outcome by Recorded Post or next day delivery letter to his or her last known home address. He or she will, at the same time, be advised of the appeals procedure;
- (k) Should the Branch Representative not be present at the Hearing the National Officers of the Association will arrange for him or her to be informed of its outcome.

### **(4) Penalties**

The only penalties which may be imposed following a charge being laid are as follows:

- (a) reprimand;
- (b) suspension from the rights and benefits of membership of the Association for a stated period during which the member shall remain a member liable to pay contributions, but shall not for the period of suspension be entitled to participate in the affairs of the Association. The member shall in addition not be entitled to the assistance or support of the union or any

of its officials in respect of any matter;

- (c) expulsion from membership, such expulsion to take effect on the expiry of 28 days after the date upon which the Disciplinary Committee's decision is sent to the member or on completion of any subsequent appeal as in (5) below.

**(5) Rights of Appeal**

- (a) There shall be a right of appeal against the decision of the Disciplinary Panel provided notice of appeal is given to the National Officers by registered post within 28 days of the date of the Hearing or the posting of the decision(s) taken by the Disciplinary Panel if the member was not present at the Hearing. Grounds of appeal must be provided;
- (b) The effect of a Notice of Appeal served in accordance with this sub-rule will be to suspend automatically the implementation of the decision of the Disciplinary Panel until after the appeal has been heard;
- (c) The appeal will be heard, as soon as practicable, by a Disciplinary Appeals Panel comprising three Distinguished Life Members. Should three Distinguished Life Members not be available a member or retired member may be co-opted as per Rule 8 (g) above;
- (d) The National Officers will ensure that all documentation presented at the Disciplinary Hearing, the record of the Hearing and any subsequent correspondence or documentation arising from the Hearing is made available to the Disciplinary Appeals Panel and the appellant;
- (e) The member will be invited to state his or her grounds of appeal and present any supporting evidence, either in person or in writing, to the Disciplinary Appeals Panel;
- (f) The member may ask to be represented at the appeal hearing by a lawyer of his or her choice or be assisted by a friend;
- (g) The same principles informing the conduct of a hearing before the Disciplinary Panel will inform the conduct of the appeal;
- (h) The Disciplinary Appeals Panel may, by a simple majority, resolve to reject or accept the appeal in whole or in part or to vary the award imposed. In doing so it acts with the delegated authority of the National Executive Committee under Rule 8 (g);
- (i) The decision of the Disciplinary Appeals Panel shall be final.

**RULE 28 MOTION OF NO CONFIDENCE**

A Motion of No Confidence may be brought against any person(s) elected to serve at national level. Any person wishing to bring a Motion of No Confidence against any serving elected official must:

- (a) A Motion of No Confidence may be brought by any Branch of the Association against any member of the National Executive Committee;
- (b) Any Branch wishing to bring such a Motion against a member of the National Executive Committee must hold a local meeting at which the Motion of No Confidence must be presented and debated once a seconder has been confirmed;
- (c) If the vote is in favour of the Motion the representative for that branch will inform the NEC within 28 days of the motion being passed clearly stating the Motion presented and by whom, the name of the person who seconded the Motion, the number of members present and the voting figures;
- (d) Upon receipt of the information from Branch level the NEC will, if the vote has been carried out within the Rules, cause a postal ballot of all members to take place, as soon as is practicable;
- (e) The returning officers and scrutineers of the ballot will be three selected Distinguished Life Members of the Prison Governors' Association;
- (f) To be successful the Motion must receive a five-sixths majority of those who vote;
- (g) If the motion is successful the named official will immediately resign his or her post within the

National Executive Committee;

- (h) An election will take place to fill the created vacancy in accordance with Rule 9.

At National Conference: -

- a) Any delegate attending the Annual Conference may bring a Motion of No Confidence against any member of the NEC or any member of the Standing Orders Committee;
- b) Once this procedure has taken place the conference doors will be locked and all other Conference business will be temporarily suspended to enable the Motion to be seconded and if seconded proceeded upon;
- c) Each voting delegate will carry the number of votes he or she holds for their respective branches;
- d) For a Motion of No Confidence to succeed it must attain a five-sixths majority, of those branches present in the Conference Hall;
- e) If the motion succeeds the official will immediately vacate their position and leave Conference;
- f) Following the removal of the official, another person, if required, may be temporarily voted to the NEC or to the Standing Orders Committee to enable Conference to complete its business;
- g) New elections will take place at the first available opportunity for the now vacant position(s);
- h) Appeals may be lodged by any member who has been subject to removal from office by this Rule;
- i) Appeals brought under this Rule will be carried out as per Rule (?).

#### **RULE 29            AFFILIATION**

- a) The Association shall not engage in any form of party-political affiliation nor promote a specific political party policy in a public pronouncement when speaking on behalf of the Association;
- b) The National Executive Committee may apply for membership of UK Trades Union Councils;
- c) The Association may not affiliate to any other organisation except by permission of Annual Conference.

#### **RULE 30            RETIRED MEMBERS**

- a) Retired membership should be open to all members of the Prison Governors' Association who have retired from the Service and such other persons as the National Executive Committee shall, from time to time, determine;
- b) Retired members will pay an annual subscription determined, from time to time, by the National Executive Committee;
- c) The Retired Prison Governors Association (RPGA) will have a Management Committee which will be elected at the RPGA Annual General meeting for a period of four years. Half of the committee will retire every second year, thus providing continuity. Retiring members may seek re-election. The management Committee shall then elect from within their own membership a Chair, a Secretary, a Treasurer and an editor for the newsletter. Any member seeking election to the Management Committee must, in other than exceptional circumstances, be in attendance at the RPGA AGM;
- d) There will be one RPGA Annual General Meeting each year. A quorum at the AGM will be the attending management committee members plus any other RPGA attendees. Members attending the AGM may be paid a car travel rate of 10p per mile and 2p per passenger rate mile. Travel by rail will be paid at the cheapest rate available;
- e) The Retired Members Committee shall keep copies of all meetings and copies of the meetings shall be forwarded to the National Officers;

- f) Retired members attending Annual Conference will have the status of observers without voting rights. They can be invited to speak at Conference by the invitation of the Conference Chairperson;
- g) The Management Committee will hold corporate financial stewardship and will report to the RPGA AGM. The Treasurer of the Retired Governors' National Committee will present a Statement of Accounts annually to the Finance Officer of the National Executive Committee in sufficient time for the accounts of the Association to be audited in accordance with Rule 23;
- h) The committee of the Retired Prison Governors' Association will manage a Benevolent Fund for the benefit of retired members or their dependants assessed to be in need of financial assistance. The committee may call upon other retired members to assist with the management of this scheme;
- i) The Treasurer of the retired group will present a Statement of Accounts in respect of the Benevolent Fund in accordance with paragraph h above;
- j) Retired members shall have no entitlement to the death benefit or legal advice schemes provided to full time members of the Association;
- k) The Management Committee may appoint from time-to-time other ad hoc sub-committees and functionaries e.g., Social Committee Secretary and Membership Secretary. Persons appointed to such committees and positions need not be members of the Management Committee.

#### **RULE 31 ANNUAL REPORTS**

- a) The National Officers will prepare an Annual Report outlining the Association's business activities over the preceding twelve-month period;
- b) The National Officers' Report will be enclosed and sent out to Branch representatives in their Conference Packs at least two weeks prior to Conference;
- c) The National Officers will present his or her report to Conference each year;
- d) The Finance Officer will prepare a full set of audited accounts in readiness for each Annual Conference;
- e) A copy the Finance Officer's annual accounts will be enclosed in each Conference pack sent out to Branch representatives;
- f) The Finance Officer will present the Association's accounts to Annual Conference;
- g) A Report of Proceedings of Annual Conference shall be published and circulated within six months of the end of Annual Conference.

#### **RULE 32 ALTERATION & INTERPRETATION OF RULES AND CONSTITUTION**

The Rules may only be altered or amended in one of three ways;

- A Motion put to Annual Conference with a two thirds majority of those voting required
- A Motion put to a Special Delegates Conference with a two thirds majority of those voting required
- A secret postal ballot of all serving members who shall be given not less than four weeks in which to cast their votes with a two third majority of all votes cast required.

#### **RULE 33 DISSOLUTION OF THE ASSOCIATION**

- (a) Dissolution of the Association may only take place via a postal ballot of the Association's fully paid-up members. The decision to hold such a ballot may be made by the National Executive Committee; alternatively, a request for such a ballot, supported by at least 10 per cent of the membership, may be made in writing to the National Officers at the registered office of the Association;

- (b) Voting on dissolution must be carried out in accordance with the Association's secret postal ballot procedures – see Rule 14;
- (c) A vote of five-sixths of the Association's membership voting in favour of dissolution is required before action can be commenced to dissolve the Association;
- (d) Should a vote for the dissolution of the Association be agreed by the required majority, the Association's Finance Officer will, from the Association's assets, discharge all debts and liabilities of the Association;
- (e) The Finance Officer will, upon the completion of discharging all of the debts and liabilities of the Association, and after consultation with the Association's appointed auditors, and arranging with the Association's bankers for a change of appropriate signatories, sign over to the Managing Trustees all of the Association's remaining assets;
- (f) Upon receipt of the former Association's assets the Managing Trustees will open discussion with the Charity Commission and after further discussion with the auditors, and final settling of any account with them, be responsible for distributing all remaining funds to voluntary or charitable organisation(s);
- (g) All documentation in respect of the Association held by all members of the National Executive Committee and the Managing Trustees at the time of dissolution will be collected and placed in safe and secure storage for a period not less than ten years;
- (h) None of the former assets of the Association may be given or transferred to any former member of the Association.