

# **CONSTITUTION**

*(Formulated by the 1956 AGM; last amended by the 2020 AGM)*

## **1. Name**

The name of the Association shall be Napo – the trade union and professional association for family court and probation staff.

## **2. Objects**

As a professional association and independent trade union, the objects of the Association shall be:

- (a) To protect and promote the interests of members.
- (b) To combat racism, oppression and discrimination and to actively oppose 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.
- (c) To promote full equality of opportunity for all including through:
  - (i) collective bargaining, publicity material and campaigning, representation, union organisation and structures, education and training, organising and recruitment, the provision of all other services and benefits and all other activities;
  - (ii) the union's own employment practices.
- (d) To ensure collective action on matters affecting the interests of members; to improve their salaries, conditions of service and superannuation.
- (e) To formulate and execute policies which improve the work and development of the Probation Service and the Children and Family Court Advisory and Support Service (Cafcass) and which address issues of criminal justice and social welfare;
- (f) To co-operate with others in pursuit of the objects of the Association.
- (g) To collect, maintain and administer funds for all or any of the above purposes.

## **3. Political Fund**

- (a) This Association shall establish and maintain a political fund to finance such activities in pursuit of the objectives of the Association which are deemed political under the Trade Union and Labour Relations (Consolidation) Act 1992.
- (b) The political fund shall be administered in accordance with such rules as shall be established by a General Meeting or the NEC and approved by the Certification Officer.

#### 4. Membership

(a) The following persons in England, Wales and Northern Ireland shall be eligible to be full members of the Association:

- (i) *Persons paid on a salary scale drawn from those which the Association is involved in negotiating and employed by an organisation delivering probation, rehabilitative or family court services’.*
- (ii) *Those intending to seek employment as defined in clause 4(a)(i) and undertaking a course of training leading to an appropriate qualification for such an appointment.*
- (iii) *Those who have been made redundant from employment as defined in clause 4(a)(i) and wish to return to such employment.*
- (iv) *Those unemployed persons who have been employed as defined in clause 4(a)(i) who are seeking to return to such employment following resignation within the previous year or such longer period as the NEC may allow in individual cases.*
- (v) *Those who wish to find employment as defined in clause 4(a)(i) and have obtained an appropriate qualification but who have never found such employment.*
- (vi) *Persons from time to time designated by the NEC.*
- (vii) *Those employed by agencies though working in an organisation delivering probation or family court services.*

(b) Professional Associate Members shall be:

- (i) *Former probation or family court staff who become teachers making a substantial contribution to the training of future probation or family court officers.*
- (ii) *Social workers in Scotland working with offenders.*
- (iii) *Social work staff in Wales employed by Cafcass Cymru.*
- (iv) *Probation and other relevant staff working on the Isle of Man or the Channel Islands.*
- (v) *Social work staff of approved probation hostels.*
- (vi) *Other staff employed in community rehabilitation or Cafcass who share the professional aims of the Association but who are not eligible for full membership under clause 4(a).*
- (vii) *Retired full members.*

(c) Associate members shall be:

- (i) *Retired full members.*
- (ii) *Other persons not eligible for membership under clause 4(a) who are in sympathy with the objects of the Association.*

(d) Corporate associate membership may be granted by the NEC to groups or societies on such conditions as it may determine from time to time.

- (e) The NEC may at its discretion confer honorary life membership on a retired full member who is considered to have made an outstanding contribution to the work of the Association. Honorary life members shall enjoy all the benefits of associate membership but shall not pay subscriptions.
- (f) Applications for membership shall be made on an approved form issued by the Association and such applications shall be endorsed on behalf of the appropriate branch as defined in clause 21(b). The NEC shall consider ratification at the first meeting immediately after the date of the application. If ratified membership shall be counted as of the date of the application.
- (g) An applicant for membership refused endorsement under the foregoing clause may appeal to the NEC, which, having heard any representation from the branch concerned, shall be empowered to accept such an applicant into membership.
- (h) On being accepted into membership of the Association, each member shall be provided with a copy of the constitution and any appendices thereto.
- (i) Only full members shall be eligible for election as an Officer of the Association, an Officer of a Branch, a Branch NEC Representative or to any committee negotiating salaries or conditions of service.
- (j) Where this constitution refers to the number of full members, this shall be the number of full members on the 31 December of the preceding year except that until that number is certified by the General Secretary, the number certified for the previous year shall continue to apply. The General Secretary shall certify the number of full members not later than the 31 March in each year.

## **5. Subscriptions**

- (a) Subscriptions of members shall be determined, or revised, by a General Meeting after consideration of any recommendation of the NEC or the Officers. Until subscription rates are revised the existing rates shall remain in effect.
- (b) Subscriptions of full and professional associate members shall fall due on the last day of each calendar month and shall be paid in accordance with rules laid down by the NEC. In other cases the arrangement for payment shall be subject to the General Secretary's agreement. Membership will lapse if at any time a member is more than three months in arrears. Lapsed members will be reinstated when these arrears are paid.
- (c) Subscriptions of associate members shall fall due on the annual anniversary of the start of the Associate Membership and shall be paid annually except on application to the General Secretary whereby a member will be provided with the facility to pay these on a monthly basis.
- (d) Full members who are unemployed or on maternity leave shall be exempted from payment of subscriptions.

## **6. Conduct of Meetings**

- (a) Minutes shall be kept of all General Meetings, committee meetings, sub-committee meetings and meetings of branches and their committees.
- (b) A formal monitoring process shall apply to all General Meetings, Committee Meetings, Sub-Committee Meetings and meetings of branches and their committees.
- (c) General Meetings shall be conducted in accordance with the Standing Orders set out in Appendix A of this constitution.
- (d) NEC meetings shall be conducted in accordance with standing orders determined by the NEC.
- (e) With the permission of the Chair associate members may speak at any meeting of the Association.
- (f) Professional Associate Members may speak and vote at any meeting of the Association, except on a motion relating to salaries or conditions of service.

## **7. Voting**

- (a) All full members, and professional associate members, subject to clause 6(f), shall be entitled to one vote each in every division of any General Meeting at which they are present.
- (b) All full members, and professional associate members subject to clause 6(f), shall be entitled to one vote each in every division of any meeting of their branches at which they are present.
- (c) Except as provided for in clause 7(d) all full members shall be entitled to one vote each in every ballot of the Association or of their branches.
- (d) In all ballots under Section 28 on disputes any members who will be called on to act in the industrial action in question shall be entitled to one vote, but no other members shall be entitled to vote.
- (e) Except as provided for in clauses 6(f), 16(e), 16(f), 28(m) and 28(p), all elected members of a committee of the Association shall be entitled to one vote each in every division of any meeting at which they are present.
- (f) Except as provided for in clause 29(e) associate members shall not be entitled to vote.
- (g) Ex-officio members of committees shall not be entitled to vote.
- (h) Except as provided elsewhere in this constitution, decisions of meetings shall be by a majority vote.

- (i) In the event of a tie in any division of a meeting or committee, the chair shall have a casting vote.
- (j) In the event of a tie at the end of the agreed voting procedure in any election for an office, the decision shall be made by the casting of lots.
- (k) The NEC shall make rules for the conduct of ballots specified in clauses 9(b), 9(d), 12(c), 16(c), 21(g), 21(k), 27(a), 27(b), 30(e) and 31(a). Such rules shall be binding on the Association and all branches.

## **8. President and Vice-Presidents**

- (a) A President and Vice-Presidents may be appointed annually.
- (b) A candidate for President or Vice-President shall be proposed and seconded by full members of the Association with the written consent of the candidate and shall be appointed by a majority decision of an AGM.
- (c) A President or Vice-President shall take no part in the Association's decision-making processes.

## **9. Officers**

- (a) The officers of the Association shall be full members of the Association as per Clause 4(a)(i) and consist of the Chair and five Vice-Chairs; of the five Vice-Chairs one will be an employee of Cafcass.
- (b) The officers shall be elected by a secret ballot of full members, to be held at a convenient time prior to the AGM. They shall take office at the AGM following the election. They shall hold office until the AGM two years after they took office. They shall be eligible for re-election. The Chair and Vice-Chairs may serve a maximum of two terms (four years) successively in the same office.
- (c) Candidates for election as an officer shall be nominated in writing by branches with the consent of the nominee. Nominations shall be delivered to the General Secretary not less than three calendar months before the date of the AGM.
- (d) Should an officer for any reason cease to hold the office to which she or he has been elected before the period of office expires, the NEC shall be empowered to fill the vacancy by:
  - (i) the appointment of an acting Chair or Vice-Chair,
  - or;
  - (ii) inviting nominations for the vacant post and conducting an election by secret ballot of all full members.
- (e) An officer acting or elected in accordance with clause 9(d) shall serve until the completion of the term originally to be served by the officer they have replaced.

The period of office shall be deemed to be a full term if it exceeds twelve months; any shorter period shall be disregarded for the purposes of clause 9(b).

- (f) The Chair shall preside at General Meetings and NEC meetings at which she or he is present. The Chair shall have discretion to invite a Vice-Chair to preside.
- (g) The officers shall have the power to act between meetings of the NEC in the interests of the Association. They shall report to the next meeting of the NEC on all such actions and decisions taken.
- (h) The officers shall act as employers on behalf of the NEC. They shall report to the next NEC on all such actions and decisions taken.
- (i) The officers shall act as trustees on behalf of the Association in accordance with Section 10. They shall report to the next NEC on all such actions and decisions taken.

## **10. Trustees**

- (a) The trustees of any property owned or leased by the Association shall be the officers of the Association.
- (b) The trustees shall not be:
  - (i) liable for any involuntary loss suffered by them nor for any damage done by any other person to the property;
  - (ii) accountable for more money than comes to their hands; or
  - (iii) responsible for the repair and upkeep of the property, except to the extent of funds available or supplied to them for that purpose.

## **11. Officials and Administrative Staff**

- (a) The officials shall be the General Secretary, the Assistant General Secretaries, National Officials and such other posts as the NEC shall decide. All other employees shall be the administrative staff. All staff shall be employed by the NEC.
- (b) The General Secretary shall manage the affairs of the Association and act as chief negotiator as directed by the NEC. The General Secretary shall be responsible for the officials and the administrative staff.
- (c) Officials and administrative staff shall be responsible to the General Secretary.
- (d) Except in special circumstances the General Secretary shall be present at each General Meeting and each meeting of the NEC.
- (e) Except in special circumstances the other officials shall be present at each General Meeting. They may be required to attend particular meetings of the NEC for the purpose of providing factual information or technical or professional advice in respect of matters which the NEC needs to take into account in carrying out its functions.

- (f) The General Secretary shall have the right to speak on any business at all meetings and committees.
- (g) The officials shall not be entitled to vote.
- (h) The General Secretary shall arrange for a report on any actions taken on behalf of the Association to be presented to the next NEC.
- (i) It shall be the responsibility of the General Secretary to arrange that minutes are taken of each General Meeting and of meetings of the NEC.
- (j) Except as specified in clauses 11(b), (c) and (d), any reference to the General Secretary in this constitution includes an Assistant General Secretary acting on her or his behalf.

## **12. Appointment of Employees**

- (a) The NEC shall be responsible for the appointment of all employees and shall have the power to delegate under clause 12(b) the authority to appoint employees. All appointments shall be in accordance with the Association's equal opportunities policy.
- (b) If it is necessary to appoint an official other than the General Secretary, the NEC shall convene a staffing sub-committee consisting of no less than four and no more than five members of the NEC, usually including the Chair and a Vice-Chair. The General Secretary may be appointed to the staffing sub-committee ex-officio.
- (c) The General Secretary shall be elected by secret ballot of full members every five years. The election shall be held at a convenient time prior to the five year period elapsing. She or he shall be eligible for re-election.
- (d) Nominations to the election for the post of General Secretary shall be governed by procedures agreed from time to time by the NEC. Applicants for election will be considered by a staffing subcommittee of the NEC, consisting of no less than four and no more than five members of the NEC, usually including the Chair and a Vice-Chair and a co-opted member of the recognised trade union for Napo staff (in line with 12(f) below). Only applicants deemed 'electable' by the staffing sub-committee shall then go forward for nomination in writing by branches/sections or the NEC, with the consent of the nominee.
- (e) Should the General Secretary for any reason cease to hold the office to which she or he has been elected before the period of office expires, the NEC shall be empowered to fill the vacancy by:
  - (j) The appointment of an acting General Secretary who may be an Assistant General Secretary. Such an appointment shall not be for longer than one year.

- (ii) Inviting nominations for the vacant post and conducting an election by secret ballot of all full members.
- (f) A staffing sub-committee appointed under clause 12(b) shall co-opt without power to vote an employee who is a member of the recognised trade union if requested to do so by the representative of that trade union.
- (g) If it is necessary to appoint an administrative employee, there shall be a staffing panel comprising not less than one officer, the General Secretary and an employee who is a member of the recognised trade union.
- (h) A staffing sub-committee or panel shall report to the next meeting of the NEC on all actions and decisions taken.
- (i) There shall be a union recognition agreement between the Association and the employees. The NEC shall have the power to delegate to the officers the authority to act on its behalf in negotiations with the union. The officers shall report to the next meeting of the NEC on all such actions and decisions taken.
- (j) All employees shall be entitled to be members of and to take part in the affairs of the recognised trade union.
- (k) The terms and conditions of service for all employees shall be determined by agreement between the NEC and the recognised trade union.

### **13. General Meetings**

- (a) A General Meeting shall be the supreme policy making body of the Association.
- (b) All members may attend General Meetings. Only full and professional associate members may take part in debate except by permission of the chair.
- (c) General Meeting shall be quorate when 150 full and professional associate members and representation from at least 15 branches are registered not later than a date fixed by the NEC. Sessions of General Meetings shall be quorate when 150 full and professional associate members are present.
- (d) There shall be a Steering Committee for General Meetings comprising six members who shall serve for three years, two retiring each year. Vacancies shall be filled annually from branch nominees elected by a secret ballot of full members. Retiring members of the committee shall be eligible for re-election. A maximum of three men may be elected to the committee. The NEC shall fill any casual vacancies by appointment for the remainder of that term. The General Secretary, the Chair and the immediate past Chair shall be members of the Steering Committee ex-officio. The immediate past Chair shall remain a member until the AGM following that at which she or he ceases to hold office.



- (e) The press shall be invited to all sessions of the General Meetings but may be excluded at the ruling of the chair of the meeting during discussion of confidential matters.

#### **14. Annual General Meetings (AGM)**

- (a) There shall be an AGM in each year.
- (b) Notice of the AGM, giving the proposed date and the particulars of the nature of the business to be transacted, shall be circulated to all members entitled to attend not less than six calendar months before the proposed date of the meeting.
- (c) The Annual Report and the audited statement of accounts shall be presented for approval to the AGM.
- (d) An auditor or auditors shall be appointed by the AGM, shall serve until the next AGM and shall be eligible for re-appointment.
- (e) The AGM shall consider any motion of which notice has been given in writing to the General Secretary by the NEC or any of its committees, a branch, The Forum, or two full or professional associate members, not less than eight weeks before the date of the AGM. The General Secretary shall circulate to the NEC, its committees, branches and full and professional associate members details of all such motions not less than six weeks before the date of the AGM.
- (f) Notice of proposed amendments to motions shall be given in writing to the General Secretary by the NEC, any of its committees, a branch, The Forum, or two full or professional associate members not less than two weeks before the date of the AGM. Details of the proposed amendments shall be available at the AGM.
- (g) In exceptional circumstances if it is deemed necessary in the interests of the furtherance of the objects of the Association, the NEC, or the Officers acting between meetings of the NEC, may vary the deadlines in clauses (b), (e) and (f) above.
- (h) Subject to Standing Order 7 the AGM shall also consider any emergency motion of which notice has been given in writing to the General Secretary, or at the AGM to the chair of the Steering Committee acting on behalf of the General Secretary, by the NEC, any of its committees, a branch or two full or professional associate members.
- (i) The Steering Committee shall arrange the order of business and the detailed arrangements, including the timetable, for each session of the AGM.
- (j) Visitors invited by the NEC may attend such parts of the AGM as shall be determined by the NEC, subject to the ruling of the chair of the meeting.

## **15. Special General Meetings (SGM)**

- (a) A Special General Meeting shall be held either:
  - (i) as determined by the NEC; or
  - (ii) within eight weeks of the receipt by the General Secretary of a call for such a meeting, stating the purpose and signed by not less than 10% of full members representing not less than 10 branches.
- (b) Where more than one SGM has been called, they shall be held in the order in which the calls were received by the General Secretary. For the purpose of this clause a call by the NEC for an SGM shall be deemed to have been received on the date of the NEC meeting.
- (c) Notice of an SGM, giving the date and place of the meeting and particulars of the business to be transacted, shall be sent to all members entitled to attend not less than two weeks before the date of the meeting.
- (d) The Steering Committee shall have duties at an SGM similar to those at an AGM.

## **16. National Executive Committee**

- (a) The National Executive Committee shall have responsibility for the furtherance of the objects of the Association. It shall carry out the policy of the Association as determined by General Meetings. It shall also have power to act on behalf of the Association and to formulate interim policy between General Meetings. It shall transact and oversee the general business of the Association and have responsibility for its financial affairs. It shall report to the next AGM upon all actions and decisions taken during the year.
- (b) The NEC shall consist of the Chair, Vice-Chairs, a representative of each branch of the Association and two black members elected in accordance with clause 16(c).
- (c) The Association will elect biennially by secret ballot two black representatives to the NEC. Where two people are elected at least one shall be a woman. Neither may hold the post for more than four years in succession. Candidates for election as a black representative to the NEC shall be nominated in writing by branches with the consent of the nominee. Nominations shall be delivered to the General Secretary not less than three calendar months before the date of the AGM.
- (d) The immediate past Chair of the Association shall be an ex-officio member of the NEC until the AGM following that at which she or he ceased to hold office as Chair.
- (e) Except as otherwise provided for in this constitution every member of the NEC shall have power to vote at its meetings as follows: the Chair, Vice-Chairs and black representatives elected in accordance with clause 16(c) shall each have

one vote; each branch representative shall have one vote for each 50 full members or part thereof in the branch.

- (f) The NEC shall, with the assent of a quarter of the representatives present, decide any question by a card vote. A card vote shall be determined on the basis of one vote for each full member of the branch.
- (g) A quorum of the NEC shall consist of 15 voting members.
- (h) Notice of any matters to be included in the agenda for any meeting of the NEC shall be received in writing by the General Secretary not less than 28 days before the date of the meeting.
- (i) The General Secretary shall cause to be sent to each member of the NEC and each Branch Secretary a copy of the notice of any meeting of that committee together with the agenda of the business to come before it, not less than 21 days before such meeting is to be held.
- (j) A copy of any rules made by the NEC under the provisions of this constitution shall be sent to all members.
- (k) In exceptional circumstances the officers of the Association may call a special meeting of the NEC. A special meeting of the NEC shall be held within 14 days if requested by one quarter of NEC representatives in writing to the General Secretary.
- (l) All officials and administrative staff of the Association shall be employed by the NEC. It shall have the power to delegate any actions or decisions to the officers in accordance with clauses 9(g) and 9(h).
- (m) Matters relating to the employment of individuals by the Association shall be treated as confidential to NEC members only, unless designated otherwise by the Chair.
- (n) The NEC shall elect a Grievance Panel of six NEC branch representative members each year. In dealing with a grievance from one of the Association's employees, the panel shall act with the full authority of the NEC. It shall have the power to give instructions to the officers, staff and committees of the NEC. It shall report to the next NEC after it meets on any actions or decisions taken.

## **17. Committees of the NEC**

- (a) The NEC shall have the power to appoint committees and form networks and determine their terms of reference. Except as provided for in Section 19 on anti-racism or by specific resolution of a General Meeting the NEC shall determine the composition, size and method of election of each committee.
- (b) No member of a committee shall be elected as a full member for more than five years in succession.

- (c) The NEC may give any committee power to co-opt additional members of the Association with or without powers to vote, but may at the same time limit the number of additional members who may be so co-opted.
- (d) The Chair of the Association shall be a member of all committees ex-officio. She or he shall have discretion to delegate a Vice-Chair to attend instead.
- (e) Every committee and the officers of the Association shall submit business reports to such meetings of the NEC as the NEC shall determine. The NEC may invite a representative of each of its committees to attend particular meetings of the NEC in order to present such reports and for the purpose of providing factual information or technical or professional advice in respect of matters which the NEC needs to take into account in carrying out its functions.
- (f) The NEC shall delegate the election of a Family Court Committee, which shall have responsibility for all professional, campaigning and training issues that are relevant to the Family Court Section, to the Family Court Section AGM.
- (g) Where the business of a committee concerns the interests of all members as defined in Section 4(a)(i), one place shall be reserved for a member of the Family Court Section.

## **18. Equal Rights Committee**

The NEC shall elect annually an Equal Rights Committee which shall have responsibility for implementation and monitoring of all equal rights policies including Anti-Racism.

## **19. Anti-Racism**

- (a) The NEC shall ensure that there is at all times a National Committee which monitors the implementation of the Anti-Racism Policy.
- (b) Branches shall elect annually to the Branch Executive Committee an Anti-Racism Officer who shall be an officer of the branch and who shall seek to ensure that the Association's commitment to combat racism is pursued at branch level. She or he shall liaise with the Anti-Racism Monitoring Committee and report to it on the implementation of the Anti-Racism Policy Statement.
- (c) Racist behaviour shall be deemed to be in breach of the objects of the Association; a member who displays such behaviour shall be liable to disciplinary action in accordance with the procedures in Section 28.
- (d) Branch Officers shall inform the Anti-Racism Monitoring Committee of any complaints from members concerning racism specifying the nature of the complaint, the action being taken and the eventual outcome.

- (e) The NEC shall ensure that black members are able to participate fully at all levels of activity within the Association.

## **20. Negotiating Committees**

### **(a) Probation Negotiating Committee**

- (i) The NEC shall have power to appoint a Negotiating Committee which shall elect the Napo members of the Trade Union Side of the National Negotiating Council of the Probation Service. No member of the Committee shall be elected as a full member for more than five years in succession. The NEC shall ensure that each grade of employee for which the Association negotiates is adequately represented.
- (ii) The Chair of the Association shall preside at meetings of the Negotiating Committee but shall have a casting vote only.
- (iii) Each elected member of the Negotiating Committee shall have one vote in divisions within the Committee, and decisions within the Committee shall be taken on the basis of a simple majority vote. Should the Committee thus take a decision which a majority of the representatives of any grade represented considers to be seriously prejudicial to the interests of that grade, an objection may be recorded to that decision. Where such an objection is recorded the decision shall be referred to the NEC. No action shall be taken on that decision until the NEC has decided the issue after considering the majority view of the Negotiating Committee and the view of the grade representatives who recorded an objection. The decision of the NEC shall be binding on the Negotiating Committee.
- (iv) The Negotiating Committee is a sub-committee of the NEC and shall act within the policy of the Association. In annual salary negotiations the claim to be submitted to the employers shall first be presented to the NEC for ratification. The Negotiating Committee shall report regularly and in detail to members of the NEC and to branches on the progress of negotiations. At any point during the negotiations a special meeting of the NEC shall be held within 14 days if requested by the Negotiating Committee or by one quarter of the NEC representatives in writing to the General Secretary.
- (v) Any provisional agreement made by representatives of the Association about salaries shall be referred to branches for ratification. The Negotiating Committee shall also have the discretion to refer any offer on national salary scales to branches for a decision.
- (vi) When a referral is made under clause 20(a) (v) each branch, with assistance via Napo Head Office, will hold an e-ballot of all full members of the branch within twenty-eight days to consider the question referred. Meetings should be convened during that time to debate any pay offer. The agreement or offer

shall be ratified if a majority of full members supports it. The General Secretary shall inform Branch Secretaries in writing of the details of the voting.

#### **(b) Cafcass Negotiating Committee**

- (i) The NEC shall have the power to appoint a Negotiating Committee which shall elect the Napo members of the Trade Union Side of the Cafcass National Partnership Committee. The NEC shall delegate the election of a Negotiating Committee to the Family Court Section AGM. No member of the Committee shall be elected as a full member for more than five years in succession. The Family Court Section AGM shall ensure that each grade of employee for which the Association negotiates is adequately represented.
- (ii) The Vice-Chair (Cafcass) shall preside at meetings of the Cafcass Negotiating Committee but shall have a casting vote only.
- (iii) The composition, procedures and standing orders of the Cafcass Negotiating Committee shall be set out in the constitution of the Family Court Section.
- (iv) The Negotiating Committee is a sub-committee of the NEC and shall act within the policy of the Association. In annual salary negotiations the claim to be submitted to the employers shall first be presented to the NEC for ratification. The Negotiating Committee shall report regularly and in detail to members of the NEC and to the Section on the progress of negotiations. At any point during the negotiations a special meeting of the NEC shall be held within 14 days if requested by the Negotiating Committee or by one quarter of the NEC representatives in writing to the General Secretary.
- (v) Any provisional agreement made by representatives of the Association about salaries shall be referred to the Section for ratification. The Negotiating Committee shall also have the discretion to refer any offer on national salary scales to the Section for a decision.
- (vi) When a referral is made under clause 20(b)(v) the Section shall be instructed to hold an e-ballot of all members of the Section within twenty-eight days to consider the question referred. The agreement or offer shall be ratified if a majority of full members supports it. The General Secretary shall confirm with the Section the details of the voting.

#### **21. Branches**

- (a) Branches of the Association are constituted by warrant and listed in Appendix B to this constitution. The NEC shall have the power to create additional branches.
- (b) Except as provided in clause 21(c) branches shall consist of:

- (i) All members as defined under 4(a)(i) employed in the area of the branch;
  - (ii) Any member as defined under 4(a)(ii), who may choose which branch to join;
  - (iii) All other members who reside in the area of the branch. Where a member's normal place of residence falls outside all branch areas, that member shall be a member of the branch of her or his choice.
- (c) In exceptional circumstances the NEC may allow a member to belong to the branch of her or his choice.
- (d) The objects of the Association shall be the objects of each branch.
- (e) The constitution of each branch and any alteration thereto shall be subject to approval by the NEC which may delegate authority for approval to the Chair. The Chair shall report any decisions to the next meeting of the NEC. Any amendment to the national constitution which consequentially amends the branch constitution shall do so immediately.
- (f) Each branch shall bear the expenses of its own business. Branches are entitled to grants from funds of the Association proportionate to branch membership at levels to be determined by the NEC.
- (g) Each branch shall elect its own officers and committees. Branch officers (as determined by the branch constitution can be elected by a secret ballot of full members of the branch, to be held at a convenient time prior to the branch AGM or by show of hands at the branch AGM. They shall hold office until the branch AGM two years after they took office. They shall be eligible for re-election. Such branch officers may serve a maximum of two terms (four years) successively in the same office. The branch Vice-Chair (Finance) may serve a maximum of three terms (six years) successively in that office.
- (h) Candidates for election as a branch officer shall be nominated in writing with the consent of the nominee. Nominations shall be delivered to the branch secretary by a date agreed by the branch executive before the date of the branch AGM.
- (i) Should a branch officer for any reason cease to hold the office to which she or he has been elected before the period of office expires, the branch executive shall be empowered to fill the vacancy by:
- (i) inviting nominations for the vacant post and conducting an election by secret ballot of all full members.
  - or;
  - (ii) the appointment of an acting branch officer to the vacant post
- (j) An officer acting or elected in accordance with clause 21(i) shall serve until the completion of the term originally to be served by the branch officer they have replaced. The period of office shall be deemed to be a full term if it exceeds twelve months; any shorter period shall be disregarded for the purposes of clause 21(g).

- (k) Each branch shall elect biennially by secret ballot two representatives to the NEC. Where two people are elected, at least one shall be a woman. Neither may hold the post for more than four years in succession. Only one representative per branch can attend, speak and vote at any meeting of the NEC. Observers may attend, with prior permission of the Chair, at the expense of the branch.
- (l) Each branch, with the exception of the Family Court Section, will hold an AGM not later than the last day of July in each calendar year. There shall be a Family Court Section AGM in each calendar year.
- (m) At the AGM of the branch, the branch executive committee shall present a report and the branch treasurer shall present an audited statement of branch accounts to the members of the branch. A copy of the report shall be forwarded to the General Secretary within seven days of such meetings.
- (n) Except as laid down under clause 21(p) no branch of the Association shall be dissolved except by the decision of a General Meeting of the Association held in accordance with the following procedure:
  - (i) The NEC must discuss allegations that a branch of the Association has acted outside the objects of the Association in a manner which seriously prejudices the interests of the Association and must pass a resolution that such allegations require further investigation.
  - (ii) Within 30 days of such a resolution the NEC shall meet to allow the officers and NEC representative of that branch an opportunity to answer the allegations made against the branch.
  - (iii) The NEC shall then discuss and vote on a motion to suspend all activities of the branch.
  - (iv) A General Meeting held within 90 days of the date of suspension shall discuss and decide upon dissolution of the branch by a vote of all full members present and entitled to vote.
  - (v) Any decision made under any of these sub-clauses must be supported by a two-thirds majority of those voting at each meeting.
- (o) Should a branch be dissolved under clause 21(p), all branch assets shall be returned to the NEC. The NEC shall ensure that members of the former branch shall be allocated membership of another branch or other branches. At a later date it may consider an application from full members of the former branch to create a new branch in that area under clause 21(a).
- (p) A branch wishing to dissolve may do so with the consent of the NEC. In the case of such voluntary dissolution all branch assets shall be returned to the NEC. The NEC shall ensure that members of the former branch shall be allocated membership of another branch or other branches.



## **22. Workplace Meetings**

- (a) A Branch may decide to hold member meetings in a variety of formats as appropriate to facilitate and maximise participation in the business of the branch and to promote inclusivity. These shall include workplace meetings, remote meetings and hybrid (a combination of remote and physical) meetings.
- (b) The Branch Chair shall chair each meeting, save that he/she may delegate this responsibility to another member of the Branch Executive Committee in respect of any meeting.
- (c) The Branch Secretary shall take all reasonable steps to ensure that a register is kept of those attending a workplace meeting and that a note is taken of any decision reached and vote taken at each meeting. He/she shall retain these records in the usual way.
- (d) Members may attend and speak at any meeting of their branch. but where multiple meetings are held on the same topic and a vote is taken, members may vote only once on the same issue.
- (e) The results of any votes cast at workplace meetings on the same subject matter shall be aggregated to produce the decision of the members of the Branch. The Branch Secretary shall communicate the aggregate result to all members of the Branch as soon as possible following the last meeting.
- (f) A Branch shall be quorate for the purpose of voting when the aggregate number of members attending workplace meetings is not less than the quorum (if any) established by the Branch constitution.

## **23. Sections**

- (a) Sections of members may be established by the NEC. A section may be composed of all those members within a sphere of employment designated by the NEC.
- (b) The constitution of any section and any alteration thereto will be subject to approval by the NEC. Any amendment to the national constitution which consequentially amends the section constitution shall do so immediately.
- (c) References in this constitution to 'branch' will also apply to 'section'.

## **24. Expenses**

Expenses reasonably incurred on official duties on behalf of the Association shall be met from its funds. The NEC shall issue guidelines for claiming expenses.

## **25. Representation of Members**

- (a) Any member seeking Napo representation on any grievance or disciplinary matter should make the initial request to a locally elected branch representative.
- (b) Unless it would appear to the National Officers to be unjust in the circumstances, Head Office staff are only to consider representing members when the referral comes through the relevant local representative.
- (c) When considered appropriate, representation may be by solicitor appointed under Section 25.
- (d) In order to be granted representation by Head Office or by solicitors appointed or approved by the Association a member must have been in continuous full membership for at least three months immediately prior to any incident requiring representation. Exceptions could be made in the interests of justice or the Association.

## **26. Legal Assistance**

- (a) The NEC shall maintain a Legal and Representation Fund. The fund shall be financed by the transfer from the general funds of the Association based on a maximum limit of an average of the previous 5 years spend. The NEC shall in exceptional circumstances reserve the right to transfer additional funds in excess of this limit.
- (b) The fund may be used for granting legal assistance to members in accordance with this section or for any other purpose that the NEC may from time to time determine.
- (c) Subject to the terms in clause 26(d) the General Secretary may advance or pay to or for any full or retired full members such sums of money as she or he thinks fit to provide the beneficiary with legal assistance in any matters or proceedings arising:
  - (i) Out of or in the course of the member's employment, or
  - (ii) Out of any personal injury occurring in the course of the member's travel to or from such employment, or
  - (iii) While the member is engaged on Association business.
- (d) The terms are that:
  - (i) The General Secretary must be satisfied that the prosecution or defence of any legal proceedings by the beneficiary is reasonable;
  - (ii) The beneficiary must be willing to accept and act upon the advice of the General Secretary at all stages of any case or proceedings;
  - (iii) Unless it would be unjust in the circumstances, the member must have been in continuous full membership for at least three months prior to any incident giving rise to the application for legal assistance;

- (iv) The member must have no arrears of subscription at the time of application and must continue to pay subscriptions during the legal case unless she or he ceases to be eligible for full membership or payment has been remitted by the General Secretary under clause 5(d).
- (e) The beneficiary shall be the member or a financial dependant of a member who dies while her or his legal case is proceeding or whose death is caused by an incident in connection with which legal assistance could have been granted.
- (f) Any full or retired full member denied legal assistance may appeal to a panel of three full members elected by the NEC to hear such appeals.

## **27. Benevolent Funds**

- (a) The NEC shall maintain the Edridge Benevolent Fund of Napo. The fund shall be managed and administered by independent trustees in accordance with the Trust Deed executed on 20 June 1977 as it may from time to time be amended. Provided that the trustees, with the agreement of the NEC, may decide to dissolve the trust provided they are satisfied that its purposes will be met fully by any new trust fund which may be set up under clause 27(d) herein.
- (b) The power of appointment of new trustees shall be vested in the NEC of the Association for the time being so long as the Association shall exist and thereafter shall vest in the surviving trustee or trustees of the fund.
- (c) In exercising its power under the preceding clause the NEC shall specify such terms of appointment as it may consider to be appropriate having due regard for the interests of the beneficiaries of the fund.
- (d) The NEC shall have the power to set up and maintain other benevolent funds to assist those in need who are present or former probation staff or their dependants or those eligible for membership of the Association or their dependants.

## **28. Disputes Procedure**

- (a) NATIONAL
  - (i) A General Meeting or the NEC may resolve that the Association is in dispute with the employers nationally and shall decide what action is appropriate. The General Secretary shall send to every branch and every full member written details of the dispute and conduct a secret ballot in accordance with rules made under clause 7(k).
  - (ii) The Association shall not be committed to national industrial action unless this is supported by a majority of those members voting who are entitled to vote in accordance with clause 7(d).

(b) LOCAL

- (i) In any dispute which arises between a branch and a local employer in connection with any employment practice or condition of service and which the branch has failed to settle by representation or negotiation, the branch chair shall convene a meeting of the branch to consider the matter within 15 working days.
  - (ii) If representation or negotiation has failed and the branch decides that industrial action should be considered, the branch chair shall report the whole facts to the General Secretary who shall endeavour to secure a settlement of the dispute. If the General Secretary fails to settle the dispute, she or he shall report the whole facts to the officers who shall if necessary submit the matter to the next meeting of the NEC.
  - (iii) The NEC, or the officers, having satisfied themselves that the action proposed is not contrary to Association policy or prejudicial to the interests of the Association, shall instruct the branch chair to conduct a secret ballot in accordance with the rules made under clause 7(k) of this constitution. The Association shall not be committed to supporting such action unless this is supported by a majority of those branch members voting who are entitled to vote in accordance with clause 7(d).
- (c) Members of the Association will be expected to take part in industrial action taken by the Association in accordance with the Disputes Procedure.

**29. Disciplinary Action**

- (a) A member shall be liable to disciplinary action for conduct which seriously prejudices the interests of the Association or is contrary to its objects.
- (b) All stages of the disciplinary process shall be conducted in accordance with the principles of natural justice and shall be governed by rules approved by the NEC. Complaints should be dealt with at the lowest possible level within these procedures.
- (c) Disciplinary action under 29(a) should only be taken where attempts at resolution have failed or are judged inappropriate by the Branch Officers of the complainant's Branch or the National Officers.
- (d) At every stage a member who is the subject of disciplinary proceedings shall have the right to be accompanied or represented at no cost to the Association and to be informed of any action taken. No member who is the subject of disciplinary action shall assume formal responsibilities within these procedures.
- (e) If, in the interests of the Association, it is deemed to be essential, the National Officers may suspend the member from participation in specified activities of the Association until the disciplinary matter is resolved.

(f) the full disciplinary procedure shall be determined by disciplinary rules agreed by the NEC but must consist of:

- (i) an investigation;*
- (ii) a hearing;*
- (iii) an appeal by the member concerned.*

(g) The following actions shall be available following a finding of conduct as defined in S29 (a)

- (i) impose a written warning as to future conduct;*
- (ii) disqualify from office in the Association for up to three years;*
- (iii) recommend to the NEC that the member be expelled from the Association.*

### **30. Amendments**

(a) This constitution may only be amended by an AGM in 1995 and every third year thereafter unless the amendment is proposed by the NEC.

(b) Notice of any proposed amendment to this constitution shall be given to the General Secretary by the NEC or by a branch of the Association not less than eight weeks before the date of the AGM at which it is to be considered. The General Secretary shall circulate to all branches and full members of the Association notice of any proposed amendment not less than six weeks before the meeting.

(c) Notice of any proposed amendment to a constitutional amendment so circulated shall be given to the General Secretary by the NEC or a branch of the Association not less than two weeks before the meeting. Details of the proposed amendments to the proposed constitutional amendment shall be available at the AGM.

(d) Subject to clause 30(e), this constitution shall be amended if any proposed amendment is supported by a majority of the votes cast.

(e) Any proposed amendment passed by an AGM which has the effect of setting up a political fund by the adoption of appropriate objects shall take effect only upon being confirmed by a simple majority in a secret ballot of all individual members of the Association as set out in clauses 4(a), 4(b) and 4(c).

### **31. Dissolution**

(a) The Association may be dissolved in the following manner:

- (i) By a motion passed at an AGM or SGM held in accordance with the provisions of Sections 13 to 15 that a secret ballot be taken for the purpose of clause 31(a)(ii). Provided that no such motion shall be considered, when proposed other than by the NEC, except on a signed request of ten percent of the full members of the Association;

AND

- (ii) By a resolution passed by at least two-thirds of the votes cast in a secret ballot of full members to the effect that the Association be dissolved.
- (b) The NEC shall be responsible for the arrangements governing the conduct of such ballot as aforesaid and the precise wording of the resolution and shall ensure that such ballot is held within three calendar months of the date of the AGM or SGM referred to in clause 31(a)(i).
- (c) A decision by ballot to dissolve the Association shall take effect after the discharge of the Association's just liabilities on such a date as the NEC shall determine but not being later than 12 months after the ballot. Any extension beyond this period shall only be by resolution of the NEC and each extension shall be limited to a period not exceeding four months.
- (d) In the event of the Association being dissolved as aforesaid the funds and assets of the Association other than the assets of the Edridge Benevolent Fund or other fund, set up under Section 27, shall after all just liabilities have been provided for:

EITHER

- (i) be realised and divided among all full and retired full members in proportion to their respective lengths of membership;

OR

- (ii) be given or transferred to some other institution or institutions having objects similar to the objects of the Association, such institutions to be determined by the NEC, or to the Edridge Benevolent Fund or other fund set up under Section 26. These institutions shall be stated on the ballot paper and the funds and assets shall be shared between them in proportion to the wishes of the members expressed on the ballot papers.
- (e) The choice between clauses 31(d)(i) and 31(d)(ii) shall be determined by a simple majority voting in the ballot.

## APPENDIX A

### STANDING ORDERS FOR THE CONDUCT OF GENERAL MEETINGS

#### 1. Order of Business

The first item of business in each session shall be the announcement of the timetable by the Steering Committee. This decision of the Steering Committee shall be final unless a challenge is made by at least four voting members and supported by a two-thirds majority.

#### 2. Chair - Maintenance of Order

- (a) Before speaking members must be recognised by the Chair, who shall decide the order of the speakers.
- (b) If the Chair calls a member to order, or for any other reason intervenes in the proceedings, no-one shall speak until the Chair permits.
- (c) If a member refuses to obey the Chair when called to order, the Chair may cause her or him to be expelled from the meeting. That member shall not be allowed to take any further part in the meeting until the meeting has been given a satisfactory apology.

#### 3. Chair's Ruling

- (a) The ruling of the Chair on any question under Standing Orders or on points of order shall be final unless a challenge is made by at least four voting members and supported by a two-thirds majority.
- (b) If a ruling by the Chair is successfully challenged but the Chair refuses to accept this challenge, the Steering Committee shall nominate someone else to Chair the remainder of that session.

#### 4. Motions and Amendments

- (a) Unless a majority of voting members present agree otherwise, a motion or amendment must be proposed and seconded in person by the two members who placed it on the agenda or by two full or professional associate members of the branch or committee which did so.
- (b) The motion on any particular subject is referred to as the '*original*' motion; all succeeding motions on that subject are referred to as '*amendments*'. If a motion is amended the resulting motion is known as the '*substantive*' motion.

- (c) Before beginning the proposal speech the mover of the original motion may indicate that she or he accepts one or more amendments. If a majority of the meeting agrees, the motion shall be amended without debate.
- (d) Any remaining amendments will be debated in turn after the original motion has been proposed and seconded. When an amendment has been proposed, no further amendment may be discussed until the current amendment has been dealt with.
- (e) If an amendment is carried, the original motion is amended accordingly and any further proposed amendments apply to that new substantive motion.
- (f) After all the proposed amendments have been dealt with, the resulting substantive motion is open to debate and becomes the resolution of the meeting if it is carried.
- (g) The proposer of a motion which has been omitted from the agenda may appeal through the Steering Committee for its inclusion. The meeting shall decide without discussion.

## **5. Compositing Motions and Amendments**

If the various proposers and seconders agree, motions or amendments may be composited according to rules determined by the Steering Committee. Where possible, the agreed wording should be given to the General Secretary (or the Chair of the Steering Committee acting on behalf of the General Secretary) before the day's business begins.

## **6. Withdrawal of a Motion or Amendment**

- (a) The proposer of a motion or amendment who wishes to withdraw it before it is put to the meeting must notify the Steering Committee as soon as possible after coming to that intention. The Steering Committee will advise her or him at what point in the meeting to inform the membership of her or his decision.
- (b) No motion or amendment which has been properly proposed and seconded shall be withdrawn unless a simple majority of the meeting agrees.

## **7. Emergency Motions**

- (a) Emergency motions shall be debated only in exceptional circumstances and must be submitted in writing to the General Secretary or Chair of the Steering Committee acting on behalf of the General Secretary. They must relate to urgent issues:
  - (i) which have arisen since the closing date for motions;
  - (ii) which cannot be dealt with in any other way, and
  - (iii) which are of such gravity as to justify rearrangement of business.



- (b)
  - (i) If the emergency nature of the motion is accepted by the Steering Committee and approved by the meeting, the motion shall be placed on the agenda.
  - (ii) If the emergency nature of the motion is not accepted by the Steering Committee, the proposer of the motion shall have the right to challenge the Steering Committee's ruling by explaining in not more than two minutes the emergency nature of the motion. The ruling shall then be put to the meeting for decision without debate.
  - (iii) It shall not be possible to amend emergency motions.

## 8. Time-keepers

Time-keepers shall be appointed by the Steering Committee.

## 9. Speeches

- (a) No-one shall speak more than once on any motion except as follows:-
  - (i) a proposer has a right of reply in accordance with Standing Order 11;
  - (ii) someone may raise a point of order or request information despite having spoken in the debate;
  - (iii) anyone may speak once on any amendment despite having already spoken on the original motion or previous amendments.
- (b) Someone may formally second a motion or amendment but reserve the right to speak until later in the debate.
- (c) The maximum time allowed for speeches shall take account of interruptions for points of order or seeking information and shall be:
  - (i) six minutes for the proposer of a motion;
  - (ii) three minutes for the seconder and subsequent speakers;
  - (iii) three minutes for any speaker on an amendment including the proposer;
  - (iv) three minutes for any right of reply.

## 10. Points of Order and Requests for Information

- (a) Members wishing to raise points of order or seek information must first obtain the permission of the Chair at an appropriate juncture.
- (b) A member raising **a point of order** should quote the Standing Order, or the section of the constitution under which the point of order is raised. All other business shall cease until the point of order is dealt with.
- (c) A member may, with the permission of the Chair, interrupt the debate in order to **seek information**, but will not be permitted to give information at this juncture.

## 11. Right of Reply

- (a) The 'right of reply' entitles the speaker to reply to the debate but no new matter may be introduced.
- (b) *If no amendment is passed*, the proposer of the original motion shall have the right to reply at the close of the debate on that motion.
- (c) *If an amendment is moved*, the proposer of the original motion may speak during the debate on the amendment, but may also reply to that debate at the end. The proposer of the amendment shall not have a right of reply.
- (d) *When an amendment is accepted by the proposer of the original motion*, she or he shall retain the right to reply to the debate on the substantive motion.
- (e) *When an amendment is not accepted by the proposer of the original motion, but is carried*, the right of reply to the debate on the substantive motion passes to the proposer of the amendment (unless she or he waives that right in favour of the proposer of the original motion).

## 12. Reports

- (a) A statement or report presented to the meeting shall be assumed to be on a motion that the meeting adopts the statement or report and Standing Orders 2 to 11 apply, except that a chair or deputy in presenting a main committee report for adoption shall be allowed a maximum of fifteen minutes to present that report.
- (b) Where it is proposed that a report or other statement be adopted by the meeting a speaker may move a procedural amendment that the report or statement or certain defined paragraphs of the report or statement be referred back or referred back for specific alterations to be made. Such a procedural amendment may be debated as though it were an amendment to a motion and Standing Orders 2 to 9 shall apply.
- (c) Following a resolution to refer back a report or statement, there shall be no further discussion or vote and the meeting shall move to next business. Resolutions to refer back a section of the report or statement shall have the effect of excluding that section.

## 13. Voting

- (a) All decisions shall be made by a simple majority except where the Constitution or Standing Orders require a two-thirds majority.
- (b) Where Voting takes place by show of hands, but that shall be followed by a ballot at the Chair's discretion or on a request supported by at least twenty voting members.

(c) Abstentions shall be disregarded in all votes.

#### **14. Closing the Debate**

- (a) A call for **'the closure'** or for **'next business'** may be proposed and seconded only by members who have not spoken at any time in the debate. No speeches are allowed on such calls.
- (b) If a call for **'the closure'** is carried the meeting shall move immediately to the right of reply followed by a vote.
- (c) If a call for **'next business'** is carried the meeting shall move immediately to the next item of business without any further speeches or a vote on the original motion or any amendments.

#### **15. Adjournment**

Any member who has not already spoken during the debate on the question before the meeting may move the adjournment of the question under discussion or of the meeting, but must confine her or his remarks to the reasons for and length of the adjournment and must not discuss any other matter. The mover of the motion on which the adjournment has been moved shall be allowed the right of reply on the question of the adjournment but such reply shall not prejudice her or his right of reply on her or his own motion.

#### **16. Rescinding a Resolution**

No resolution shall be rescinded or amended at the same meeting at which it has been passed.

#### **17. Suspension of Standing Orders**

In the event of any matter of urgency arising the Chair may accept a call for the suspension of Standing Orders. Any member may propose the suspension of one or more of these Standing Orders, stating concisely the reason for the suspension. If formally seconded, such a motion shall be put to the vote without debate or amendment. It shall be carried only if supported by a two-thirds majority.

## **DISCIPLINARY RULES**

### **Definitions**

- 1.1 Within these rules any reference to 'section' or 'clause' relates to the Constitution of Napo – the trade union and professional association for family court and probation staff.
- 1.2 Within these rules any reference to the National Chair, the General Secretary or a Branch Chair refers also to other National Officers, Assistant General Secretaries or Branch Officers deputising for them.
- 1.3 Within these rules any reference to 'the member' refers to the member who is subject to the disciplinary action.
- 1.4 Within these rules a member who originally makes a complaint against another member does so to her or his Branch Officers or the NEC. If the Branch Officers or the NEC initiate disciplinary action they become the complainant in the case.
- 1.5 Within these rules a reference to a 'working day' refers to a day where the Napo office is open for all or part of the day.

### **General**

- 2.1 These rules have been approved by the National Executive Committee (NEC) for use in all disciplinary action under Section 29 of the national constitution.
- 2.2 In order to address the issues of race, gender, sexual orientation and disability all panels referred to in these rules shall, in their composition, pay attention to the Association's Equal Opportunities Policies.
- 2.3 All arrangements under these rules shall, so far as is practicable, be made with due regard to the personal circumstances of those involved.
- 2.4 All parts of the disciplinary procedure shall be completed as quickly as possible consistent with the principles of natural justice. The full disciplinary procedure with the exception of the right to appeal shall be completed within six months of the original complaint being notified to Branch Officers or the National Officers, subject to 3.1 below. This time can only be extended in exceptional circumstances and with the agreement of the General Secretary.
- 2.5 At all stages during disciplinary action a member against whom a complaint has been made has the right to be represented by a person of her or his choice at no expense to the Association.
- 2.6 All panels referred to in these rules shall be responsible for electing a chair from amongst their number.

2.7 At all stages the member who is the subject of the disciplinary procedure shall be informed of decisions taken. In the preliminary stages this shall be by the Branch Chair or the General Secretary. In the remaining stages it shall be by the General Secretary.

2.8 Should the member refuse to co-operate with the procedure it shall continue without their co-operation.

2.9 Any question of interpretation under these rules which arises during an investigation, an attempt at conciliation, a hearing or an appeal shall be resolved by the Chair of the relevant stage in the proceedings in accordance with natural justice. Any question which arises outside any of those stages shall be similarly resolved by the Chair of the Association.

### **Preliminary Stages**

3.1 Any members wishing to make a complaint that another member has contravened clause 29(a) should do so to the officers of his/her branch. In the event of a conflict of interest the member may make the complaint in writing to the National Officers.

3.2 The complaint should describe the conduct it relates to and state whether it is alleged that such conduct seriously prejudices the interests of the Association and/or is contrary to its objects.

3.3 Consideration will not be given to a complaint that relates to an incident more than six months old.

3.4 On receipt of such a complaint the Branch Officers or the National Officers shall decide whether or not to initiate the disciplinary process. Their decision should be recorded in the minutes of the meeting at which it was made.

3.5 In the event of an appeal to the NEC by the complainant against the response of the branch or the National Officers under 29(g) of the Constitution, a panel of five NEC representatives will be convened by the General Secretary to consider the matter.

3.6 If the decision is to initiate the disciplinary process the Branch Officers, National Officers or the Appeal Panel of the NEC shall inform the General Secretary within ten working days.

3.7 After deciding to initiate the disciplinary process the Branch Officers or the National Officers shall, if, and only if, they deem it to be essential in the interests of the Association, suspend the member against whom the complaint has been made from participation in specified activities of the Association until the matter is resolved.

3.8 A member so suspended shall continue to be eligible for all other rights their membership of the Association affords.

## **Investigation**

4.1 On receipt of information that the disciplinary process has been initiated in accordance with Rules 3.4 and 3.5 the General Secretary shall within 10 working days inform the Chair of a neighbouring branch that an investigation into the complaint is required.

4.2 On receipt of information under Rule 4.1 the Chair of the neighbouring branch shall convene a panel of members of that branch to investigate the complaint.

4.3 Such a panel shall consist of at least three members who are not otherwise involved in the disciplinary action.

4.4 The Investigation Panel shall investigate the complaint as it deems fit but shall allow the member against whom the complaint is made to make oral and/or written submissions.

4.5 At the conclusion of the investigation the Investigation Panel shall decide whether or not there is a case to answer. If the decision is that there is a case to answer it shall decide on the final wording of the complaint against the member and shall communicate these decisions to the member, the member's Branch Chair and to the General Secretary.

4.6 The Investigation Panel shall complete its work within 30 working days of the receipt of information under Rule 4.1.

## **Disciplinary Hearing**

5.1 If the Investigation Panel concludes that there is a case to answer the General Secretary shall convene a Disciplinary Panel comprising five branch representative members of the NEC. The panel shall not include a representative of any branch otherwise involved in the disciplinary process and shall, in its composition, pay attention to race and gender.

### **5.2 PRE-HEARING**

- (a) The Panel shall not be informed of any detail of the allegation prior to the hearing.
- (b) The National Officers shall appoint a person to present the case against the member.
- (c) The member shall be provided with a copy of the investigating panel's report including the final wording of the complaint and the name of the person who will present the complaint at the hearing.

- (d) The member and the presenter shall exchange documents they wish to present to the hearing and the names of witnesses they intend calling at least three working days before the hearing. No other documents or witnesses will be permitted unless mutually agreed at the hearing.

### 5.3 THE HEARING

- (a) The Chair of the Panel shall open the hearing by reading the statement of complaint.
- (b) The person presenting the complaint against the member may make an opening statement. She or he shall then present the case against the member by calling witnesses and submitting documents.
- (c) Witnesses called may be questioned after they have given their evidence by the member and by the panel. The presenter may re-question the witness dealing only with matters raised by the member or by the panel.
- (d) The member shall then present their case in a manner similar to that which is contained in Rules 5.3(b) and (c) above.
- (e) When all the evidence has been given the presenter followed by the member shall be given the opportunity to sum up their respective cases.
- (f) The Panel shall then withdraw to deliberate in private recalling the parties only to clarify points arising from evidence already given. If recall is necessary both parties shall be recalled.
- (g) The Panel shall decide by a majority vote on the basis of the evidence produced whether or not the member has, beyond reasonable doubt, acted in a way which seriously prejudices the interests of the Association and/or is contrary to its objects. The hearing shall re-convene and the Chair shall announce the Panel's decision giving the voting figures.
- (h) If the complaint has not been upheld that is the end of the disciplinary process and any suspension imposed on the member shall be withdrawn.
- (i) If the complaint has been upheld the member shall be invited to address the Panel on the question of the appropriate penalty. The Panel shall then withdraw to consider the penalty. The Panel shall select one of the alternatives contained in clause 29(l) namely:

**either-** impose a written warning as to future conduct,  
**or-** disqualify from office in the Association for up to three years,  
**or-** recommend to the NEC that the member be expelled from the Association. The hearing shall then re-convene and the Chair shall announce the Panel's decision. Any penalty imposed under clause 29(l)(i) or (ii) shall take effect immediately and any suspension imposed on the member shall be withdrawn. If the Panel decides to recommend to the NEC that the member be expelled from the Association under clause

29(l)(iii), any suspension shall remain in force pending the decision of the NEC.

- (j) The Disciplinary Panel shall complete its work within 30 working days of the receipt of information under Rule 6.1.

#### 5.4 POST-HEARING

- (a) The findings of the Panel shall be notified in writing within five working days of the hearing to the member, the Chair of the member's Branch and the General Secretary.
- (b) The General Secretary shall notify the member forthwith of her or his rights of appeal against a penalty imposed by the Disciplinary Panel and of the procedure to do so OR, if expulsion has been recommended, the process by which the NEC will consider the matter.

#### **Right of Appeal to NEC**

6.1 A member who has been deemed by the Disciplinary Panel to have been guilty of conduct as defined in clause 29(a) and has been dealt with in accordance with clause 29(l) may appeal against one or both of those decisions to the NEC.

6.2 The appeal will be heard by a panel selected by the General Secretary consisting of five branch NEC representatives who have not been involved in the case.

6.3 The appeal hearing will be a re-hearing of the case and new evidence will be admitted from either side.

6.4 The procedure of the appeal will be as outlined in Rules 5.2 and 5.3. The powers of the Appeals Panel will be to either dismiss the case or uphold the finding of guilt and either confirm or reduce the penalty imposed.

6.5 The findings of the Appeals Panel will be announced by its Chair immediately and then notified in writing within five working days to the member, the Chair of the member's branch and the General Secretary.

6.6 The findings of the Appeals Panel shall be final.

#### **Procedure at the NEC when Expulsion is being Considered**

7.1 The Chair of the Disciplinary Panel shall report to the NEC on the Panel's deliberations, findings and decision. At the conclusion of the report the member and members of the NEC shall be invited to ask questions of the Chair of the Disciplinary Panel.



7.2 The member may then address the NEC. At the conclusion of the address members of the NEC shall be invited to ask questions of the member.

7.3 The Chair of the Disciplinary Panel and the member shall then withdraw from the meeting.

7.4 The NEC shall then debate the question of the expulsion of the member.

7.5 The NEC shall have the power to expel the member, impose any of the penalties contained in clause 29(l)(i) or (ii), or dismiss the case. Voting on the issue shall be by a hand vote. A decision to expel must be supported by at least two-thirds of the NEC members hearing the case.

7.6 In making a decision under Rule 7.5 any mandate given by a branch to a member of the NEC shall be deemed null and void.

7.7 When the NEC has reached a decision the member and the Chair of the Disciplinary Panel shall rejoin the meeting and the Chair of the NEC shall announce the result. Any resulting penalty shall take effect immediately. Any suspension imposed under Rule 3.7 shall be lifted as soon as the case is dismissed or any penalties take effect.

## **Post – NEC**

8.1 The General Secretary shall send written notification of the decision of the NEC to the member, the Officers of the member's branch and the Chair of the Disciplinary Panel within five working days of the decision.

8.2 If the NEC has expelled the member from the Association the General Secretary shall notify her or him in writing within five working days of her or his right under the constitution to appeal against the decision of the NEC to the next Annual General Meeting and the process by which she or he can do so. Any penalty imposed by the NEC shall not be suspended pending an appeal to the AGM.

## **Right of Appeal to AGM**

9.1 A member who has been expelled from the Association by the NEC under Rule 7.5 has the right of appeal to the next Annual General Meeting of the Association.

9.2 At the AGM a representative selected by the NEC shall report to the AGM on the NEC's deliberations, findings and decision. At the conclusion of the report the member may ask questions of the representative of the NEC.

9.3 The member may then address the AGM.

9.4 The representative of the NEC and the member shall then withdraw from the meeting.

9.5 The question of whether or not the AGM allows the member's appeal against the decision of the NEC to expel her or him shall then be put. A vote shall be taken by ballot. A majority of votes cast in favour of allowing the appeal will remove any penalties imposed on the member. No other questions may be put.

9.6 The representative of the NEC and the member shall return to the meeting for the announcement of the result of the appeal.

9.7 Following the AGM the General Secretary shall send written notification of the decision of the AGM to the member and the Chair of her or his Branch.

## **RULES FOR THE OPERATION OF THE SPECIAL AID FUND FOR LEGAL ASSISTANCE TO NAPO MEMBERS**

These Rules for the operation of Napo's Special Aid Fund are made by the NEC under the provisions of clause 16(a) of Napo's Constitution, and clarify the administrative arrangements for the Fund under clause 26(c), (d) and (f) of the Constitution. The Rules are based on Napo's experience of handling members' cases where some form of legal assistance may be appropriate, and of Legal Assistance Appeals Panel hearings when direct legal assistance is initially denied. The Rules are intended to make that decision-making process as transparent as possible, to protect individual members' interests and to clarify Napo's position in relation to what individual members may reasonably expect of the union's resources.

1. The provision of advice and assistance shall be at all times within the discretion of the NEC and in accordance with any regulations to be determined and issued by the NEC from time to time.
2. Members seeking legal assistance from Napo should deal directly with Napo on all points, unless specifically asked to do otherwise by Napo. Members should not commit themselves to any course of action or expenditure in the expectation they will be financially or otherwise supported, without first obtaining Napo's express authority. Any legal expenses incurred prior to receiving approval shall remain the responsibility of the individual concerned.
3. In all cases where legal assistance is sought, the following procedure applies:
  - (i) The member should initially make their request for assistance to their Branch at the earliest possible opportunity. Exceptionally, if the matter is of a particularly urgent nature or involves criminal proceedings or the threat of such proceedings, the member may approach the General Secretary directly. Legal assistance in criminal proceedings will normally only be given where the charges arise from the member's trade union activity.

- (ii) Upon receiving a request for legal assistance, the Branch should endeavour to obtain particulars from the member and refer the matter to the General Secretary. This referral shall be made as soon as practicable by the Branch, and in any event no later than 14 days from receipt of the request.
4. Upon receipt of an application or at any time thereafter, the General Secretary shall determine, having regard to the criteria set out below, whether and in what form advice or assistance shall be given or continue to be given. The criteria are:
- the nature of the case and its overall merits;
  - whether or not the member's interests can be more appropriately safeguarded in another way, for example by a straightforward industrial relations solution;
  - the complexity of the law and facts involved on the advice of Napo's solicitors;
  - the value of any claim;
  - the estimated legal costs of providing advice and/or assistance and best disposal of available financial resources;
  - any collective bargaining/professional/trade union/equal opportunities significance of the claim;
  - any relevant aspects of Napo's aims, objectives and policies;
  - the personal consequences of an adverse result on the applicant member, eg financial hardship, loss of employment etc;
  - the principles of natural justice.
- Examples of where legal assistance may be available to members are:
- accidents at work, or to and from work, and work-related personal injury cases;
  - redundancy, unfair dismissal, maternity, sickness, pensions and other matters relating to contracts of employment and statutory employment rights;
  - equal opportunities and discrimination issues;
  - enforcement of rights as trade unionists.

5.1 In every case where assistance is granted the General Secretary shall have the right to determine in what form and to what extent legal assistance shall be given. Legal assistance will normally only be provided through Napo's solicitors to ensure proper accountability for the member's interests and the disposal of Napo's resources. Assistance may be limited or made subject to conditions being satisfied by the member.

5.2 Any limitations or conditions will be stipulated at the time the offer of assistance is made. Assistance will be given on a stage by stage basis, and cases will be reviewed regularly using the criteria previously identified under Rule 4.

6. Members receiving legal assistance will be expected to co-operate with Napo or its agents, and act in accordance with their advice at all stages. There will be an expectation that members receiving assistance will make thorough disclosure of all relevant facts and cooperate fully with those assigned to assist them. Failure to comply with these provisions may result in the withdrawal of legal assistance and the General Secretary may subsequently seek the NEC's authority to recover all or part of any expenses incurred as constituting a debt owed by the member to Napo.

7. Napo will be bound to have regard to any potential conflict of interest – either between a member and Napo, or between two or more members. No assistance will be given in cases of a conflict between a member and the union. In conflicts between members each member is entitled to have their application considered. In some cases it may be appropriate for independent assistance to be given to either or both of the members concerned.

8.1 In cases where either a member's initial application is refused or legal assistance is subsequently withdrawn, the member concerned has the right to appeal. Notice must be lodged with the General Secretary within 15 working days of the date of the General Secretary's decision, and the following procedure will then apply.

8.2 Napo's Officers will appoint an Officer to be responsible for convening the Legal Assistance Appeals Panel, to oversee the procedure and act as the Panel's liaison point, and to act as adviser when the Panel meets. The Panel hearing will be convened no later than 25 working days from receipt of the member's notice of appeal.

8.3 The Panel will consist of three full members elected by the NEC, and due attention will be given to its race and gender composition.

8.4 On receipt of the notice of appeal, the convening Officer will contact the General Secretary and applicant member within three working days, asking each to provide written submissions giving reasons on the following grounds why the application should or should not be supported:

- its background and particular circumstances;
- a consideration of the criteria outlined in Rule 4.

8.5 The written submissions must be received by the convening Officer within seven working days of the date of the request.

8.6 Once written submissions have been received, Panel members may seek further information or clarification from either or both parties via the convening Officer. Any additional information or clarification will be made available to all Panel members.

8.7 The Panel meeting will consider all the available information obtained under paragraphs 8.4 and 8.5, and its findings will be final. The applicant member, the General Secretary and the Chair will be notified in writing of the Panel's decision within five working days. The next NEC will also be notified of the Panel's decision by a written summary from the convening Officer.

# **RULES FOR THE CONDUCT OF BALLOTS**

## **1. General Rules**

- 1.1 Under clause 7(k) of the Constitution, the NEC has established the following Rules for the Conduct of Ballots. Any ballot conducted under clauses 3(a), 9(b), 9(d), 12(c), 21(g), 21(k), 28(a) and 28(b) of the Constitution shall be organised accordingly, unless the Rules are varied by special resolution of an AGM, SGM or the NEC.
- 1.2 Ballots for the establishment of maintenance of a Political Fund under clause 3(a) shall be postal.
- 1.3 Ballots for the election of national Officers under clauses 9(b) and 9(d) shall be postal.
- 1.4 Ballots for the election of General Secretary under clauses 12(c) shall be postal.
- 1.5 Ballots for the election of branch NEC Co-Representatives and under clause 21(h) shall be either workplace or postal, as decided by formal resolution of the Branch.
- 1.6 Ballots for industrial action under clauses 28(a) and 28(b) shall be either workplace or postal or a mixture of both as decided by the NEC or by the Officers acting under clause 9(g). In consideration, the following will apply as preferred choice:
  - (a) a ballot for national industrial action will usually be postal;
  - (b) a ballot for local industrial action will usually be workplace;
  - (c) a mixture of these methods, as may be in the best interests of Napo, may be used for either a national or a local ballot.
- 1.7 Ballots for the election of branch officers under clause 21(g) may be postal where the branch operates under clause 22 Workplace Meetings.
- 1.8 The NEC, the Officers, or the Branch Executive as appropriate, shall make or shall cause to be made, such arrangements as are necessary to ensure the following:
  - (a) every member properly entitled to vote shall be allowed to do so without interference from or constraint imposed by Napo, or any of its members, officers, officials or employees;
  - (b) every member properly entitled to vote shall, as far as is reasonably practicable, be allowed to do so without incurring any direct cost to themselves;
  - (c) every member properly entitled to vote shall, as far as is reasonably practicable, be given a voting paper and a convenient opportunity to vote;
  - (d) that as far as is reasonably practicable, ballots will be conducted in such a way as to ensure that those voting do so in secret.

1.9 The NEC or the Officers shall make, or shall cause to be made, adequate arrangements for the appointment of an Independent Scrutineer, and for the Independent Scrutineer to make a written report on the conduct of the ballot. This report shall be made available to members on request after the ballot has taken place.

1.10 Napo will supply any member with a copy of these Rules free of charge, on request.

## **2.0 Rules for the Conduct of Workplace Ballots**

2.1 The NEC, the Officers or the Branch Executive shall make arrangements for adequate notice of the ballot to be given to all those members properly entitled to vote, including the times and places at which they are able to vote and such identification as will be required to establish entitlement to vote.

2.2 The NEC, the Officers or the Branch Executive shall make arrangements for independent scrutiny of the ballot for every location where votes are cast.

2.3 The NEC, the Officers or the Branch Executive shall make, or shall cause to be made, arrangements for the issue of voting papers. This will not be entrusted to one Napo member alone unless that person is acting as an independent scrutineer, nor to anyone directly affected by the dispute or potential dispute to which the ballot relates, nor will it be a local Napo branch officer who regularly represents those entitled to vote.

2.4 Voting should take place in a room or area where there is privacy to mark a voting paper and cast a vote. No-one should be allowed in that area except those issuing ballot papers, any independent scrutineer and those entitled to vote. A single, secure ballot box should be provided.

2.5 Voting shall be by the marking of a voting paper by the person properly entitled to vote. Completed voting papers should be placed in the ballot box by the voter personally.

2.6 At the close of ballot, the NEC, the Officers or the Branch Executive shall make arrangements for sealed ballot boxes to be returned to the independent scrutineer.

2.7 The NEC, the Officers or the Branch Executive shall make for any member properly entitled to vote who identifies themselves:

- (a) postal voting arrangements for those members either unable to collect a voting paper at the time or location of issue, or to cast a vote at the designated workplace location;
- (b) suitable alternative or additional arrangements for those members unable to participate by reason of impaired vision or other physical cause.

### **3.0 Rules for the Conduct of Postal Ballots**

3.1 Wherever reasonably practicable, the NEC, the Officers or the Branch Executive shall establish, or cause to be established an appropriate checking system so that:

- (a) no member properly entitled to vote is accidentally disenfranchised;
- (b) no uncompleted paper comes into the hands of anyone not properly entitled to vote.

3.2 Advice will be given well in advance to those entitled to vote on when and how balloting will take place.

3.3 For postal ballots, the period between the distribution of voting papers and the date by which completed voting papers should be returned will allow at least:

- (a) 7 days if voting papers are to be distributed and returned by first class post;
- (b) 14 days if second class post is used for either distribution or return of voting papers.

### **NAPO ORGANISING FUND**

The NEC established the Fund in 1995. It was reviewed and amended by the NEC in September 2001. The NEC renamed and updated the remit of the fund in 2013.

The arrangements for the Fund are as follows:

1. The Fund will comprise monies provided by Branches and from central funds under the provisions set out below.
2. The Finance Sub Committee comprising the Chair, Vice-Chair (Finance) and General Secretary along with the Finance Officer will administer the Fund. The primary purpose of the fund will be to support members to pay for Employment Tribunal Fees. Members will be able to access monies from the fund in line with guidelines established by the NEC for the funding of claims made to an Employment Tribunal.
3. In addition, branches will be able to access the fund for organising activities. Account will be taken of the state of cash flow through Branch accounts when claims are made and notably the impact of Branch grants claimed and due to be claimed. Branches may be asked to submit a copy of their accounts in support of their claim.
4. Branches are required to pay to the Fund by 1 May, half of any surplus held in the Branch account(s) on 31 December the previous year, in excess of the previous year's eligible Grant, e.g. Branch A's allocated Grant was £1,000. At 31 December that year the Branch had funds of £1,400. The Branch pays £200 to the Fund on 1 May the following year (i.e. half the difference).
5. 50% of unclaimed Branch Grants (Annual not AGM) from the preceding year will be placed in the Fund.

6. Any monies remaining in the Fund will be carried forward to the Fund in the following year. If, at the time when the budget is set, the size of the Fund is deemed to be sufficient to meet potential calls upon it during the year, then a decision may be taken by the Finance Sub Committee to recommend to the NEC not to trigger transfers under Points 4 and 5.

7. The maximum cumulative amount that can be claimed by a branch for organising activities will be one-third of the annual grant, or £500, whichever is the greater.

8. Branches intending to submit a claim should do so stating the amount requested, how the grant is to be used and the Branch Account/s current balance/s.

9. The ability to meet claims on the Fund for organising activity, in whole or in part, will be subject to monies available in the Fund.