

RULES AND CONSTITUTION as revised at Annual Conference 2023

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RULE 1 NAME AND OFFICES

Name

Rule 1.1 The organisation is called the “POA” and is referred to in these Rules as “the Union.”

Head Office

Rule 1.2 The Union’s head office will be at Cronin House, 245 Church Street, Edmonton, London, N9 9HW, or such other place as Conference decides.

Regional Offices

Rule 1.3 The Union will have a regional office at Castell House, 116 Ballywalter Road, Millisle, County Down, BT22 2HS, or such other place(s) in Northern Ireland as Conference decides.

Rule 1.4 The Union will have a regional office at Linden House, Sardinia Street, Leeds, LS10 1BH, and/or such other place(s) as Conference decides.

Rule 1.5 The Union will have a regional office at Bowden House, Cooperage Way, Alloa, Clackmannanshire, FK10 3LP, and/or such other place(s) as Conference decides.

RULE 2 OBJECTS AND POWERS

Objects

Rule 2.1

The objects of the Union are to:

- (a) protect and promote the interest of its members;
- (b) improve the conditions of employment of its members;
- (c) regulate relations between its members and their employing bodies;
- (d) provide and maintain an organisational structure as approved by Conference from time to time;
- (e) provide and maintain benefits and services for members and dependants as approved by Conference from time to time;
- (f) assist its members in learning, maintaining and improving standards of conduct;
- (g) provide learning training and development opportunities;
- (h) spread knowledge and understanding in all aspects of a member's working environment;
- (i) provide protection in relation to third party claims where appropriate;
- (j) provide a death benefit;
- (k) secure full trade union rights and equality of opportunity for its members;
- (l) secure Facilities Agreements with all employers where the Union actively recruit full members.
- (m) to achieve full staffing levels in all establishments where POA members are employed.
- (n) emulate any improved benefit or achievement with an employer with all other employing bodies for POA members such as pay and pension age.

Powers

Rule 2.2

The Union may do anything incidental or conducive to any of the objects including (but not limited to):

- (a) affiliate to relevant bodies,
- (b) co-operate with other organisations as considered appropriate;
- (c) employ full or part-time executive and other staff;
- (d) publish an official journal of the Union, diary and other occasional texts and papers;
- (e) subject to the approval of the Legal Aid Committee, provide initial legal advice in accordance with these Rules;
- (f) subject to the approval of the Legal Aid Committee, provide legal assistance in relation to any legal, quasi-judicial or disciplinary proceedings related to a member's work in accordance with these Rules;
- (g) promote and support nationally and internationally steps to improve the conditions or administration of penal and secure establishments and Mental Health Trust or private mental health provider which provides legally-authorized mandatory and mental health services in England, Wales, Northern Ireland, Scotland and the Isle of Man.

RULE 2.3

The Union may not affiliate to any political party without prior approval by Conference.

RULE 3 MEMBERSHIP

Classes of Membership

Rule 3.1 The Union has the following classes of membership:

- (a) full members;
- (b) retired members;
- (c) honorary life members.

Addresses

Rule 3.2 All members must provide the Union with written notice of the address which the member wishes the Union to treat as the member's postal address for the membership register and for postal ballots, this should be either:

- (a) the member's home address; or
- (b) any other address, including their workplace address.

RULE 4 FULL MEMBERS

Qualification

Rule 4.1 The qualification for full membership is employment:-

- (a) Any penal or secure establishment, Mental Health Trust or private mental health provider which provides legally-authorized mandatory and mental health services, associated training establishment, Prison Service establishment, secure units, Private Sector Escort or Custodial Services in England, Wales, Northern Ireland, Scotland or the Isle of Man; or
- (b) as a paid Officer of the Union.
- (c) As a worker within the Criminal Justice System, Home Office or for an organisation providing services to any of the establishments described in Rule 4.1(a).

Rule 4.2 If a full member's employment which qualifies under Rule 4.1 terminates:

- (a) with the member's agreement;
 - (b) without the member's agreement and the member has not appealed against the termination within 3 months; or
 - (c) without the member's agreement and the member has exhausted all rights of appeal;
- full membership ceases automatically.

Entitlement

Rule 4.3 Full members are entitled to all the rights and benefits given by these Rules.

RULE 5 RETIRED MEMBERS

Rule 5 The Union will have a Retired Members Section.

Qualification

Rule 5.1 The qualification for retired membership is having been a full member until ceasing qualification for full membership under Rule 4.1.

- (a) Retired Members Committee.
- (b) The Union will have a Retired Members Committee comprising: -
 - (i) Chair
 - (ii) Vice Chair.
 - (iii) Secretary.
 - (iv) Up to two Committee members
- (c) The Retired Members Committee will have no Executive powers.
- (d) The Retired Members Committee will be in contact with the NEC and should any meetings be required these will be in accordance with Rule 17.2.
- (e) The Retired Members Committee shall keep copies of all meetings and copies of the meetings shall be forwarded to the General Secretary.
- (f) Nominations for the Retired Members Committee will be forwarded in writing to the General Secretary when vacancies arise.
- (g) The NEC will determine from time to time the format and personnel of the Retired Members Committee.

Entitlement

Rule 5.2 Retired members are not entitled to any of the rights or benefits of membership apart from:

- (a) the Union's official journal;
- (b) the Union diary;
- (c) death benefit of an amount fixed from time to time by Conference;
- (d) any other commercial benefits as approved from time to time by the NEC.

RULE 6 HONORARY LIFE MEMBERS

Qualification

Rule 6.1 The qualification for honorary life membership is having made an outstanding contribution to the work of the Union.

Rule 6.2 Honorary Life Membership may be granted to someone who qualifies under Rule 6.1 (or revoked) but only by Conference on the recommendation of the National Executive Committee.

Entitlement

Rule 6.3 Honorary life members

- (a) are not required to pay subscription; unless they remain employed and qualify for full membership as set out in Rule 4. In this case the Honorary Life member will be required to pay a monthly subscription as set out in Rule 8.1(a) and (b).
- (b) are not entitled to vote;
- (c) are entitled to legal advice and assistance under Rule 19 if the Legal Aid Committee decides to grant it; but
- (d) are entitled to all the other rights and benefits of membership, including the same death benefit as full members;
- (e) are entitled to the reasonable costs of attending Annual Conference with their partner; and
- (f) are entitled to remain in Conference during a closed session for delegates.

RULE 7 RECRUITMENT & RESIGNATION

Application for Membership

Rule 7.1 Anyone who qualifies under Rule 4.1 may apply to the National Executive Committee to become a full member.

Rule 7.2 Any full member:
(a) who qualifies for retired membership under Rule 5.1; and
(b) whose full membership does not end as a result of a sanction under Rule 26; may apply to the National Executive Committee to become a retired member.

Local Recruitment

Rule 7.3 Applicants who qualify under these Rules may apply for membership online or locally by completing the appropriate form and submitting it to the Secretary or Chair of the local Branch Committee who must ensure the form is completed correctly and forward it without delay to the Union's head office.

Refusal of Membership

Rule 7.4 The National Executive Committee may refuse membership to any applicant:

- (a) on the recommendation of a Branch Committee
- (b) by its own motion;

Rule 7.5 A person who is refused membership may apply again after one year from the date of refusal.

Rule 7.6 An expelled member cannot re-apply for membership of the Union unless:

- (a) 3 years have elapsed since the final decision on the expulsion was made; or
- (b) Conference permits an earlier application at the request of the ex-member or a Branch on proof of special circumstances.
- (c) no expelled member may join the Retired Members Section unless they qualify under Rule 5.1.

Resignation

Rule 7.7 A member may resign by giving at least one month's prior written notice to the General Secretary.

RULE 8 SUBSCRIPTIONS

Full Members

Rule 8.1 Full members will pay a monthly subscription at a level which will be determined by Conference from time to time, and changes will:

- (a) take effect in the subscription month following Conference; and
- (b) be notified to the full members by circular from the Union's head office as soon as practicable after Conference.

Rule 8.2 Each full member (apart from any member who is exempt under some other provision of these Rules) must pay the current monthly subscription in arrears on the 1st or 15th working day in each month:

- (a) by deduction from salary (where this facility exists); or
- (b) by direct debit.

Rule 8.3 Full members whose banking facilities do not allow direct debits may instead pay subscriptions to the Finance Department 6 or 12 months in advance on 1 January or 1 July.

Retired Members

Rule 8.4 Each retired member must be registered at the Union's Headquarters by their home address on the approved application form.

Rule 8.5 Retired members will qualify for commercial benefits, once registration has occurred in accordance with Rule 8.4.

Rule 8.6 Retired members are eligible for membership of the retired members section on their final retirement date.

Waiver

Rule 8.7 Subscriptions are waived automatically for members on armed forces call up, or members on a reduced salary (half or pensionable rate of pay) because of:

- (a) long term sickness; or
- (b) maternity leave.
- (c) Members who qualified for their subscriptions to be waived under Rule 8.7(a) and (b) shall not be entitled to reclaim paid subscriptions, save for 3 months maximum, if they failed to apply at the appropriate time.
- (d) Subscriptions may be waived at the discretion of the National Executive Committee for members who are suspended without pay for one month or more.

Lapse of Membership

Rule 8.8 If the subscription payable by a member is unpaid for at least 2 months, membership lapses automatically. Lapsed members cannot re-join the Union unless they complete a direct debit for future payments.

Rule 8.9 A lapsed member is not entitled to any membership rights or benefits, but the Legal Aid Committee has a discretion to allow a lapsed member legal assistance, if they think it is in the interests of the Union.

RULE 9 ORGANISATION AND MANAGEMENT

Authority

Rule 9.1

The management of the Union is vested in

- (a) Conference;
- (b) the National Executive Committee;
- (c) the Officers; and
- (d) the National Chair and General Secretary acting together; In that order of priority (except where the Rules provide differently)

Rule 9.2

No other member or Branch may conduct enquiries into Union matters unless authorised by:

- (a) law;
- (b) these Rules; or
- (c) Conference.

Officers

Rule 9.3

(a) The Officers of the Union comprise:

- i the Chair,
- ii the General Secretary,
- iii the Vice Chair,
- iv the Deputy General Secretary,

in that order of authority (except where these Rules provide differently).

- (b) The Officers of the Union shall meet once every month unless exceptional circumstances prevent such a meeting but may meet more frequently if the Chair in consultation with the General Secretary shall so determine.
- (c) The Officers may invite a member of the Finance Department into the meeting to provide financial advice on any matters affecting the union.

Rule 9.4

- (a) The National Chair or the National Executive Committee may authorise a Vice Chair to exercise the powers of the Chair in cases of emergency or if the Chair is not available for more than five days: and
- (b) The Deputy General Secretary to exercise the powers of the General Secretary in cases of emergency or if the General Secretary is not available for more than 14 days.
- (c) The National Chair will be responsible for the deployment of the Vice Chair and NEC members, ensuring the work of the union is maintained and facility time appropriately used.

Other Officials

Rule 9.5

The National Executive Committee will appoint such Assistant General Secretaries as required.

Rule 9.6

In addition the National Executive Committee may appoint part-time advisers, but:

- (a) the General Secretary must notify branches of any such appointment; and
- (b) details must be included in the National Executive Committee's finance report to Annual Conference.

RULE 10 NATIONAL EXECUTIVE COMMITTEE

Membership

- Rule 10.1** The National Executive Committee members comprise
- (a) The Chair,
 - (b) The General Secretary,
 - (c) The Vice Chair,
 - (d) The Deputy General Secretary; and
 - (e) 6 National Executive Committee Members (NEC)

Election

- Rule 10.2** The members will elect:
- (a) The Chair for 5 years,
 - (b) The General Secretary for 5 years,
 - (c) The Vice Chair for 5 years,
 - (d) The Deputy General Secretary for 5 years; and
 - (e) The National Executive Committee for 5 years and the members occupying these posts are eligible for re-election, unless conference determines differently for any specific period of office.

- Rule 10.3** If a vacancy occurs between elections:
- (a) the members will elect a replacement; and
 - (b) the person elected will serve the balance of the term of the person replaced, but if the vacancy occurs within six months before the normal date, the National Executive Committee may postpone the election until the normal date.

- Rule 10.4** Elections for National Executive Committee members will be by secret postal ballot under Rule 11 and only full members who have provided an address in accordance with Rule 3.2 are entitled to vote.

- Rule 10.5** Pending the election to fill a vacancy:
- (a) in the case of the Chair, the Vice Chair will be acting Chair,
 - (b) in the case of a Vice Chair, the National Executive Committee member who has held that office for the longest unbroken period will be an acting Vice Chair; and
 - (c) in the case of the General Secretary, the Deputy General Secretary will be acting General Secretary.

Eligibility

- Rule 10.6** Candidates for election as National Executive Committee members must be:
- (a) full members of the Union who are willing to stand; and
 - (b) nominated to the General Secretary in writing by Branches in accordance with duly convened Branch meetings.

- Rule 10.7** Any member of the Union who lapses in, or is suspended or expelled from, membership cannot be elected as a National Executive Committee member until 5 years after re-joining full membership of the Union.

- Rule 10.8** A National Executive Committee member:
- (a) may retain office even if promoted or transferred to another rank and/or establishment
 - (b) ceases to be a National Executive Committee member automatically on ceasing to be a full member of the Union.

- Rule 10.9**
- (a) Any National Committee Member who resigns from office during their elected term or after the commencement of any national ballot that they are candidates in, will be disqualified from holding any National Executive post for a period of five years after the position would be due for re-election.
 - (b) It is incumbent upon any member of the Union, who is a successful

candidate in any national election to take up office. Failure to do so will deem them to have resigned and will automatically de-bar them from holding any national office for a period of five years after the day when he/she would have been due for re-election.

Proceedings

- Rule 10.10** The National Executive Committee will conduct the business of the Union in accordance with the policy laid down from time to time by Conference, unless these Rules provide differently.
- Rule 10.11** The following may attend National Executive Committee meetings but, they have no vote and may speak only to give factual information and/or to give technical or professional advice:
- (a) The Area Chair (Northern Ireland and Scotland) if invited to do so by the General Secretary or Chair.
 - (b) Any other person invited to do so by the General Secretary or Chair for the purpose of giving information or advice.
- Rule 10.12** The National Executive Committee:
- (a) may appoint sub-committees of the National Executive Committee; but
 - (b) may not delegate any of their powers to such a sub-committee.
- Rule 10.13** The National Executive Committee will normally meet twice every calendar month; however, the Chair in consultation with the General Secretary, has the authority to call additional meetings.
- Rule 10.14** Save in exceptional circumstances National Executive Committee meetings will be held at the Union's head office or regional office or at Conference.
- Rule 10.15** Any National Executive Committee member absent from a National Executive Committee meeting must explain the absence in writing to the General Secretary.
- Rule 10.16** Any National Executive Committee member absent from two consecutive National Executive Committee meetings without a reason which the National Executive Committee considers to be adequate will be deemed to have resigned from office on the date the National Executive Committee decides there is no adequate reason for the repeated absence.

RULE 11 SECRET POSTAL BALLOTS

Applicability

Rule 11.1 This Rule applies to secret postal ballots for the election of National Executive Committee members.

Procedure

Rule 11.2 Branch Committee members should:

- (a) hold a branch meeting to discuss the election or circulate requests for nominations to members via email. No branch meetings, for nomination purposes, should be convened or requests circulated until close of nominations, as stated in the officially published timetable.
- (b) read out or circulate via email all requests for nominations and nominate a candidate for the vacant position or inform the General Secretary that the branch failed to nominate any candidate; and
- (c) encourage members to vote.

Rule 11.3 Where ballot papers are sent to members at an establishment:

- (a) the Branch should play no part in distributing or collecting ballot papers unless in accordance with Rule 11.5(a) or (b);
- (b) the Branch should leave management to distribute them as internal mail; and
- (c) it is for the individual members to post the completed ballot papers.

Rule 11.4 Where ballot papers are sent to members at an establishment, Branch Committee members are recommended to:

- (a) urge management to distribute them promptly; and
- (b) tell the scrutineer and the General Secretary if management do not distribute them promptly.

Rule 11.5 Where ballot papers are sent to members at an establishment, members must not distribute them unless:

- (a) distribution of internal mail is part of the particular member's duties; and
- (b) management instruct him/her to do so.

Rule 11.6 Members must not:

- (a) pressurise other members to vote for a particular candidate;
- (b) vote on behalf of anyone else;
- (c) set up a polling booth or polling station;
- (d) collect completed ballot papers; or
- (e) provide a facility for posting completed ballot papers.

RULE 12 CONFERENCE

Annual and Special Conferences

Rule 12.1 The Annual Conference will be held every year on a date and venue determined by the National Executive Committee. The General Secretary will inform branches of the venue and dates at least 3 months in advance.

Rule 12.2 A Special Conference will be summoned by the Chair and General Secretary for the whole of the Union or individually for England and Wales, Scotland or Northern Ireland.

- (a) if the Chair and the General Secretary, consider it appropriate; or
- (b) the National Executive Committee asks them to; or
- (c) within any period of 4 weeks, branches representing a majority of the affected membership support the request for a Special Conference.

When a call for Special Conference is made by any branch, the General Secretary will publish a branch secretary circular to that effect, including a copy of the proposed motion/s provided by the requesting Branch, and the deadline for branches to respond to the request.

Rule 12.3 In these Rules "Conference" refers to both Annual Conference and any Special Conference.

Rule 12.4 Conference will determine the principles and policies of the Union, except where these Rules provide differently.

Preparations

Rule 12.5 The only motions to be discussed at Conference are those proposed by a Branch:

- (a) after having been passed at a duly convened meeting of the Branch; and
- (b) submitted to the General Secretary at least 3 months before the Conference is due to commence unless the National Executive Committee agrees a shorter period; and
- (c) in writing, signed and certified on the approved Annual (and Special) Conference Motion Standard Form by the Branch Chair or Secretary, that it has been passed at a duly convened meeting of the Branch.

Rule 12.6 The General Secretary will circulate the Conference agenda and any proposed standing orders to the Branches:

- (a) in the case of a Special Conference summoned to consider an urgent issue, as early as practicable; and
- (b) in the case of any other Conference, at least one month before the Conference is due to commence.

Conference Proceedings

Rule 12.7 Each Branch will send up to 2 delegates funded by the Union to Conference and may determine to fund observers from the Branch Funds:

- (a) unless the Branch determines differently, the delegates will normally be the Branch Chair and Secretary of the Branch;
- (b) only the 2 delegates representing the Branch may speak for the Branch on any matter at Conference, if any observer speaks in place of the delegates, this will be dealt with as a breach of the Rules & Constitution.
- (c) No delegate should attend Annual or Special Conference without a mandate from their branch following a branch meeting to vote on any matters to be determined by Conference. No delegate should draw any travel or subsistence from the union to attend Annual or Special Conference unless they are mandated by their branch to fully represent their member's interests
- (d) No delegate may speak or vote in contravention of his/her branch mandate, unless they are the mover of the motion following a request to withdraw the motion.
- (e) Where any Conference motion that has been placed on the agenda which cannot be heard due to the proposing branch not being present and where their absence is legitimate, the Chair will seek conferences

permission for the motion to be considered as formally moved.

- Rule 12.8** Conference will adopt the standing orders proposed by the National Executive Committee subject to any amendments Conference agrees.
- Rule 12.9** The Chair of Conference:
- (a) will be the Chair, or the Vice Chair
 - (b) will not speak for or against any motion;
 - (c) will not vote unless there would otherwise be an equal number of votes on each side, when the Chair will have a casting vote;
 - (d) may make rulings on procedure or points of order which are binding unless challenged;
 - (e) may exclude any delegate who causes a disturbance and refuses to obey a ruling which is not challenged or is upheld until that delegate makes a suitable apology;
 - (f) may allow invited guests to address Annual Conference
- Rule 12.10** A ruling by the Conference Chair may only be challenged by a motion, supported by at least 10 Branches, that "the Chair vacates the Chair". Such a motion requires a two-thirds majority of those voting to be passed, in which event the Chair's ruling will be reversed, however the Chair will continue to preside.
- Rule 12.11** Unless the Conference Chair agrees otherwise:
- (a) the mover of a motion may speak for not more than 5 minutes;
 - (b) no other delegate may speak for more than 3 minutes;
 - (c) the mover may reply to the debate for not more than 5 minutes;
 - (d) no other delegate may speak more than once on any motion.
- Rule 12.12** Points of order must relate to:
- (a) an alleged infringement of these Rules, standing orders or general custom and practice in the conduct of the debate or in the content of any speech; or
 - (b) an allegation that the content of a speech is irrelevant, abusive, offensive, discriminatory or unlawful.
 - (c) The content of the speech is misleading.
- Rule 12.13** Voting on all motions at Conference will be by a show of voting cards (one per branch), but a card vote based on branch membership may be demanded by at least 10 branches, this to include any appeals of motions to Conference. Votes from branches in favour, opposed and abstaining will be called for by the Chair in both voting card and card votes on all Conference motions.
- Rule 12.14** Once a motion has been disposed of, it may not be considered again at that Conference unless Conference agrees otherwise by a two thirds majority.
- Rule 12.15** Any delegate or elected Union official who absents him/herself from Conference without written permission from the Chair or General Secretary or good reasons acceptable to the National Executive Committee, must repay to the Union any allowances paid by the Union in respect of that Conference.

Annual Conference Proceedings

- Rule 12.16** The following will be published in full in the April issue of the Union's official journal or such issue determined by the NEC:
- (a) the audited statement of accounts for the preceding year;
 - (b) any comments or recommendations made by the auditor.
- Rule 12.17** Any questions to be raised at Annual Conference, concerning those audited accounts must be submitted to the Finance Department in writing at least 14 days before the start of Annual Conference.

- Rule 12.18** The Annual Conference will:
- (a) receive the audited statement of accounts;
 - (b) receive a finance report for the year from the National Executive Committee; and
 - (c) appoint (or reappoint) the Union's auditors under Rule 16.14.

- Rule 12.19** On the first day of the Annual Conference the the General Secretary or Deputy General Secretary will:
- (a) present the National Executive Committee's finance report;
 - (b) answer any questions concerning the audited accounts where notice has been given under Rule 12.17; and
 - (c) answer any relevant questions raised concerning any other matters dealt with by the National Executive Committee's finance report.

- Rule 12.20** On the second day of the Annual Conference:
- (a) the General Secretary or Deputy General Secretary; and
 - (b) the auditor with his/her working papers; will be available together to delegates for at least one hour in order to deal with any informal queries on the audited accounts.

RULE 13 MEETINGS

**Quorum
Rule 13.1**

The quorum will consist of:

- (a) in the case of a Branch meeting, twice the number of members of the Branch Committee plus one; and
- (b) in the case of Conference and all other meetings, a majority of those eligible to attend the meeting.

**Majority
Rule 13.2**

A simple majority of those voting suffices for the adoption of a resolution, except where these Rules provide otherwise.

**Records
Rule 13.3**

The General Secretary will ensure the Union maintains in writing:

- (a) records of all appointments of officials;
- (b) records of the names of the members present at each meeting of the National Executive Committee and its sub-committees;
- (c) minutes of all decisions made by the National Executive Committee and its sub-committees;
- (d) minutes of all resolutions passed by Conference and a verbatim report of the proceedings at Conference.

Rule 13.4

In respect of those records, minutes and verbatim report the General Secretary will circulate copies to each Branch.

RULE 14 TRUSTEES

Identity

Rule 14.1

The Union's Trustees will be the Vice Chair for the time being, the General Secretary or the Deputy General Secretary for the time being, each ex-officio. The third trustee will be the National Chair.

Functions

Rule 14.2

All real or personal property acquired on behalf of the Union (including investments and interest on them) will be the property of the Union and be vested in and managed by the Trustees.

Rule 14.3

The Trustees have a principal and paramount duty to preserve the assets of the Union and must:

- (a) at all times act diligently and prudently;
- (b) seek appropriate advice before taking any investment decision;
- (c) ensure proper accounts are kept of all financial dealings and transactions;
and
- (d) not derive any profit or benefit from their positions as Trustees.

Rule 14.4

The funds of the Union may be invested as freely as if they were being invested by a sole beneficial owner, but subject to:

- (a) the overriding policy of the National Executive Committee;
- (b) the authority of the Trustees;
- (c) the provisions of Rule 16.3; and
- (d) incorporation of a list of the investments in the Union's balance sheet

Rule 14.5

For the purpose of making investments in accordance with this Rule the National Executive Committee may from time to time with the concurrence of the Trustees appoint one or more investment brokers.

RULE 15 FINANCE COMMITTEE

Rule 15.1 The Union shall have a Finance Committee comprising:

- (a) the Vice Chair,
- (b) the General Secretary,
- (c) member/s of the National Executive Committee nominated by the National Chair,

The Chair of the Committee shall be the Vice Chair. The Finance Committee will not consist of more than five members of the executive and members of the executive can stand in for individuals who are on authorised absences.

Rule 15.2 The Finance Committee shall have responsibility for administering the finances of the Union in conjunction with the General Secretary or the Deputy General Secretary in the best interests of the Union and in accordance with the policies laid down from time to time by Conference and the National Executive Committee. In carrying out its duties, the Finance Committee shall act in accordance with the duties placed upon the Trustees by Rules 14.2 to 14.5 and seek the approval of the National Executive Committee if it wishes to do any of the acts set out in Rule 16.12 to 16.13.

RULE 16 FUNDS AND BANKERS

Division

Rule 16.1

The Union will maintain:

- (a) General Fund;
- (b) Provident Benefit Fund;
- (c) Political fund;
- (d) Welfare fund;
- (e) Northern Ireland Area Fund;
- (f) Northern Ireland Life Assurance Fund;
- (g) The Committee for Mental Health Services Fund;
- (h) The Union Learning Fund;
- (i) Branch Funds.

The funds, including any investments, held in respect of the foregoing will be vested in the Trustees for the time being jointly on behalf of the Union in accordance with Rule 14 and the following provision of this Rule

Provident Benefit Fund

Rule 16.2

Only the following may be paid out of the Provident Benefit Fund:

- (a) payments in discharge or aid of funeral expenses on the death of a member;
- (b) legal expenses in representing members Employment Tribunal Hearings except where it is member v member of the Union;
- (c) legal expenses in connection with members' claims in respect of accidents or injuries they have suffered;
- (d) general administrative expenses of providing Provident Benefits.

General Fund

Rule 16.3

The General Fund may be used for any lawful purpose of the Union as the National Executive Committee from time to time determines.

Allocation

The Northern Ireland Area Fund

Rule 16.4

- (a) If the Northern Ireland Area Committee so decides it shall have the power to raise funds from the members of the Union in Northern Ireland by means of a monthly levy, which shall not be more than an average of 50p per member, per month. The levy shall be collected from the members who opt to pay with their normal monthly subscriptions and be paid to the Northern Ireland Area Fund.
- (b) The payment of such levy by the members in Northern Ireland shall at all times be voluntary and no member shall be subjected to any detriment for not paying the levy or coerced into payment of the levy.
- (c) The Northern Ireland Area Committee shall administer the Northern Ireland Area Fund and may if they so decide delegate day to day control of the fund to one or more of their members provided always:
 - (i) that those to whom administration of the fund has been delegated provide details of the usage of the account to the Northern Ireland Area Committee on a monthly basis; and
 - (ii) that details of the terms of the delegation are provided in writing to the Finance Department.
- (d) The fund may be used by the Northern Ireland Area Committee in any way it decides provided always that the usage of the fund is lawful.
- (e) The Northern Ireland Area Committee shall be responsible for promptly providing any information or documentation requested by the General Secretary, Deputy General Secretary or the Union's Auditors.

The Northern Ireland Life Assurance Fund

Rule 16.5

The Northern Ireland Assurance fund shall be used solely for the purposes of collecting members' premiums due to and for making payments to the designated Life Assurance Company. Any interest which accrues on the money passing through the fund or any unused balances which are de minimis may on the direction of the Northern Ireland Area Committee be used for charitable purposes as they may decide.

The Mental Health Care Services Fund

Rule 16.6

- (a) If the Committee for Mental Health Services so decides it shall have the power to raise funds from the members of the Union who work in mental health care services by means of a monthly levy, which levy shall not be more than an average of 50p, per member, per month. The levy shall be collected from the members who opt to pay with their normal monthly subscriptions and be paid to the Mental Health Care Services Fund.
- (b) The payment of such levy by the members working in Mental Health Care Services shall at all times be voluntary and no member shall be subjected to any detriment for not paying the levy or coerced into payment of the levy.
- (c) The National Committee for Mental Health Care Services shall be responsible for administering the Mental Health Care Fund but may if they so decide delegate day to day control of the whole or part of the fund to one or more of their members provided always:
 - (i) that each of those to whom administration of the fund or part of the fund has been delegated provide complete details of the usage of the fund to the National Committee for Mental Health Care Service as and when requested to do so; and
 - (ii) that details of the terms of any delegation are provided in writing to the Finance Department.
- (d) The fund may be used by the National Committee for Mental Health Care Services in any way it decides provided always that the usage of the fund is lawful.
- (e) The National Committee for Mental Health Care Services shall be responsible for promptly providing any information or documentation requested by the by the Trustees, General Secretary, Deputy General Secretary or the Union's Auditors.

The Union Learning Fund

Rule 16.7

- (a) Any money received by the Union in relation to the Union Learning initiative shall be paid into the Union Learning Fund.
- (b) All payments to be made in respect of the Union Learning initiative shall be paid from the Union Learning Fund.
- (c) The fund will be administered by the General Secretary/Deputy General Secretary when expenditure has been authorised by the Project Manager and the DGS, responsible for the day to day running of the Union Learning Fund.
- (d) Notwithstanding the provisions of 16.8 (a) and (b) where it is necessary for the fulfilling of the Union's commitments to the learning initiative programme the NEC may transfer funds from the General Fund to the Union Learning Fund and from the Union Learning Fund to the General Fund provided always that wherever funds are transferred all such transaction shall subsequently be reported to the Finance Committee at their next meeting.

Branch Funds Rule 16.8

- (a) Each Branch of the Union shall maintain a Branch account into which all Branch funds shall be paid and from which all Branch payments shall be made. Money which is not the property of the Union must not be paid into the Branch account.
- (b) It shall be the responsibility of the Branch Committee to properly manage their Branch account which will always be operated in credit.
- (c) In addition to its obligation under rule 20.3 (g) the Branch Committee shall, by the 31st January in each year, provide to the General Secretary or the Deputy General Secretary a copy of a statement of account showing the balance as at the 31st December in the previous year.
- (d) For the purpose of completing his audit of the Union's accounts the Auditor shall nominate a number of Branches each year whose accounts he wishes to examine. At least one month prior to the beginning of Annual Conference the General Secretary or the Deputy General Secretary shall notify those branches nominated by the Auditor of the requirement for them to bring all relevant documents and accounting records relating to the Branch's account to the Annual Conference so that the Auditor can examine and inspect

them. The members of the Branch Committee shall fully cooperate with the Auditor and use their best endeavours to provide him with any information or documents which he may require.

The General Secretary or the Deputy General Secretary may from time-to-time issue guidance to Branch Committees in respect of the managing of Branch accounts.

Allocation

Rule 16.9

The union has a political fund, which is managed and organised in accordance with Annex F of the Rules and Constitution.

Rule 16.10

The members' subscriptions will be paid into the General Fund. The National Executive Committee may direct the Trustee to transfer money from the General Fund into the Provident Benefit Fund;

Rule 16.11

All investment income and capital gains of the Union will be paid into the Provident Benefit Fund, unless the National Executive Committee decides that all or some of it will be paid into the General Fund.

Petty Cash

Rule 16.12

No more than £300 (or such larger figure as Conference approves from time to time) will be held as Petty Cash at any one time at the Union's Head Office or any regional office.

Accounts

Rule 16.13

The financial year of the Union will end on 31st December each year.

Rule 16.14

The Union's accounts will be examined annually by a registered auditor appointed by Annual Conference. That auditor will prepare:

- (a) a statement of accounts (showing separately any expenses connected with the Union's activities outside the United Kingdom and Isle of Man); and
- (b) any comments or recommendations which he/she believes should be communicated to the members.

Bankers

Rule 16.15

The Union shall maintain such accounts as the Trustees may determine from time to time with a bank or banks or such other organisation or person. The National Executive Committee with the concurrence of the Trustees shall appoint the Union's banker and any additional banker on such terms as it may, with the concurrence of the Trustees, agree (including terms as to authorised signatories), and may determine any such appointment, with such concurrence at any time.

RULE 17 EXPENSES & GRANTS

Expenses

Rule 17.1

When on authorised Union business National Executive Committee members, officials and members are entitled to expenses and allowances in accordance with regulations determined from time to time by Conference.

Rule 17.2

If the National Executive Committee invite a member or members of the Union to any venue, travelling expenses and subsistence will be paid subject to a maximum determined from time to time by the Conference.

Rule 17.3

Attendance without prior invitation will disqualify a member from receiving travelling expenses and subsistence unless the member satisfies the National Executive Committee that the reason for attendance was of extreme gravity or urgency.

Grants to Branches

Rule 17.4

Each year, after the statement of accounts has been prepared, the Union will pay:

- (a) branches with up to 50 members £375;
- (b) branches with more than 50 members £375 plus £30 for every additional 50 members;
or such other sum as may be allowed from time to time by Conference to be used at the discretion of the Branch Committee, but only for purposes for which the General Fund may be used.
- (c) The rebate given to branches shall rise in line with inflation regardless of any other increase determined by Conference at any time.

Rule 17.5

On the formation of a new Branch, the Union will pay £500 or such other sum as may be approved from time to time by Conference to the Branch to be used at the discretion of the Branch Committee, but only for purposes for which the General Fund may be used.

RULE 18 DEATH BENEFIT

Exclusion

Rule 18.1

Death benefit will not be paid in respect of any member who owes the Union any money at the date of death (apart from any subscription arrears during sickness leave on reduced pay) unless the National Executive Committee decide that death benefit should be paid, having regard to all the circumstances of the case.

Entitlement

Rule 18.2

Subject to Rule 18.1, on the death of a member death benefit will be paid out of the Provident Benefit Fund. The amount of death benefit will be fixed from time to time by Conference, which may fix different amounts for:

- (a) full members, honorary life members and
- (b) retired members.

Payment

Rule 18.3

The death benefit will be paid:

- (a) to the beneficiary nominated in writing by the member; but if there is no such nomination
- (b) to the member's next of kin.

Rule 18.4

The Union will not become involved in any dispute concerning the member's estate. If there is any dispute about the appropriate identity of the beneficiary, the National Executive Committee (after consultation with the Branch Committee) will decide and its decision will be final.

Rule 18.5

Death benefit be paid by BACS to the beneficiary or the member's Branch.

Rule 18.6

The Branch Secretary must forward to the Finance Department at the Union's head office as soon as practicable:

- (a) a copy of the member's death certificate; and
- (b) a covering letter signed by the Branch Secretary and at least two other members of the Branch Committee.

Rule 18.7

Before each Annual Conference the NEC will circulate to the membership a report showing the death benefits paid in the preceding accounting year.

RULE 19 LEGAL ADVICE & ASSISTANCE

Legal Aid Committee

- Rule 19.1** The Union will have a Legal Aid Committee comprising;
- (a) the Vice Chair (as Chair);
 - (b) the General Secretary;
 - (c) a National Executive Committee member nominated by the National Chair;
 - (d) any Assistant Secretary nominated by the General Secretary.

Administration

The Legal Aid Committee may delegate functions to any of its members. The Legal Aid Committee will not consist of more than three members of the Executive and members of the executive can stand in for individuals who are on authorised absences.

- Rule 19.2** the Legal Aid Committee will:
- (a) administer the Union's legal advice and assistance scheme in accordance with these Rules;
 - (b) deal with all queries and concerns relating to the legal advice and assistance scheme and individual cases.

- Rule 19.3** If there is any query or concern relating to the legal advice and assistance scheme or an individual case:
- (a) it shall be referred first to the Legal Aid Committee; and
 - (b) appeal from any decision of the Legal Aid Committee is to the National Executive Committee (whose decision is final).
 - (c) If any member wishes to appeal the decision of the Legal Aid Committee they must do so within 3 months of the date of the written notification of the Legal Aid Committee's decision, by informing the General Secretary of the intention to appeal and supply the grounds for the appeal in writing.

Advice and Assistance

- Rule 19.4** All requests for initial legal advice on any work-related matter will be considered by the Legal Aid Committee. The Legal Aid Committee will deal with disputes over whether initial legal advice on work related matters is appropriate, in accordance with Rule 19.3 if the Legal Aid Committee approves the application:
- (a) It will refer the matter to the Union's Solicitors, unless a conflict of interest makes this inappropriate; in which event it will refer the matter to other Solicitors agreed with the member, but subject to the Legal Aid Committee fixing an appropriate level of cost;
 - (b) the advice will be preliminary only and the Union will not be liable for further costs, unless legal assistance is approved by the Legal Aid Committee under Rule 19.5.

- Rule 19.5** Any full member may apply for legal assistance in relation to any legal, quasi-judicial or disciplinary proceedings related to the member's work. If the Legal Aid Committee approves the application, it will refer the matter to the Union's Solicitors, unless a conflict of interest makes this inappropriate - in which event it will refer the matter to other solicitors agreed with the member, but subject to the Legal Aid Committee fixing an appropriate level of costs and conditions.

- Rule 19.6** The Legal Aid Committee has a discretion to approve initial legal advice or legal assistance to:
- (a) a retired member;
 - (b) an honorary life member;
 - (c) the dependant of any member; or
 - (d) the estate of any deceased member;
- if the Legal Aid Committee considers this is in the interests of the Union.

- Rule 19.7** The Legal Aid Committee may:
- (a) impose conditions (either of general application or relating to a particular case) on the provision of advice or assistance; and

- (b) withdraw advice or assistance when it considers appropriate.

Limitations

Rule 19.8

Initial legal advice and legal assistance will not be provided to any new or re-joining member for any proceedings initiated (or subject to investigation) before the member joined or re-joined

Rule 19.9

The Union is not responsible for any costs incurred by any Branch or member in respect of legal advice or assistance:

- (a) before advice or assistance is approved by the Legal Aid Committee;
- (b) after approval is withdrawn by the Legal Aid Committee; or
- (c) if the Branch or member wilfully misrepresented, or failed to disclose, any material fact.

Rule 19.10

The Union is not responsible for any costs or damages awarded against any Branch or member, but the Union may agree to pay costs only awarded against a Branch or member where all of the following apply:

- (a) legal assistance was granted by the Legal Aid Committee under Rule 19.5 in respect of the relevant legal proceedings,
- (b) there has been full compliance with all Union requirements, directions and obligations in relation to those proceedings,
- (c) the legal proceedings were funded by a Collective Conditional Fee Agreement (CCFA) between the Union and the solicitors instructed (or other arrangement with the solicitors instructed which the Union has in writing agreed to) where the wording of that CCFA or, in the case of other arrangements, of the Union's written communication, clearly and unambiguously confirm that the Union shall pay those costs,
- (d) at the time when Court proceedings were commenced the solicitors' formal assessment of the case met the Union's criteria or, where they did not, the Legal Aid Committee had been informed in writing and had agreed to the commencement of Court proceedings and
- (e) the award was made by a Court in which the normal rule is that the losing party (whether claimant, defendant or otherwise) pays the costs of the winning party.

RULE 20 BRANCH ORGANISATION

Branch Formation

Rule 20.1 Branches of the Union will be formed as per Rule 4.1a and 4.1c.

Branch Committee and their Duties

Rule 20.2 Unless approval for a variance to these members is sought and approved by the NEC, each branch will have a branch committee comprising:

- (a) a Chair;
- (b) a Secretary; and
- (c) 3 to 5 other committee members.
- (d) if any of the above positions does not include other associated grades, then that Committee should seek to co-opt such Members on to the committee for advisory reasons, or to cover short or long term absences for example suspension, maternity or disability leave.

Rule 20.3 The duties of the Branch Committee will be determined by the Branch Chair in consultation with the Branch Secretary in order to protect and promote the interest of the members of the Branch, including (but not limited to):

- (a) appointing one of the Branch Committee members as Treasurer to be responsible to the Branch and the National Executive Committee for the administration of all Branch finance;
- (b) recruiting and retaining members, and assisting the National Executive Committee and General Secretary in carrying out the Rules and objects of the Union;
- (c) ensuring a copy of the Union's journal is made available to each member of the Branch who requests it;
- (d) ensuring the contents of Branch circulars are brought to the attention of all members of the Branch;
- (e) keeping written attendance records of the names of the Branch Committee members and the number of Branch members present at each meeting of the Branch and Branch Committee;
- (f) keeping written minutes of all resolutions passed by the Branch or the Branch Committee;
- (g) sending copies (signed by the Branch Chair or Secretary) of those attendance records and minutes to the General Secretary on request;
- (h) furnishing any returns of information required from time to time by the General Secretary,
- (i) appointing a suitable person from within the committee to act as membership recruitment co-ordination officer;
- (j) appointing a suitable person to act as Equality Committee member for the benefit of every member, where possible (as Rule 20.2d); and
- (k) allocating areas of responsibility to each Branch Committee Member

Rule 20.4 A Branch Committee must not take any action without the prior approval of the Branch unless urgency requires the taking of immediate action and prior formal consultation is not possible. Any action without the prior approval of the Branch must be referred to a meeting of the Branch for ratification as soon as practicable.

Branch Committee Elections

Rule 20.5 The members of the Branch Committee:

- (a) will be elected in accordance with Rule 25.2;
- (b) by secret workplace ballot of the Branch full members under Rule 25;
- (c) for 5 years (subject to Rule 20.8); and
- (d) are eligible for re-election.

Rule 20.6 To maintain continuity, the elections will be staggered on a recurring 5-year cycle:

- (a) year 1: The Chair and the first other member;
- (b) year 2: any third, fourth and fifth other member;
- (c) year 3: The Secretary and the second other member;
- (d) years 4 and 5 there will be no elections.

Rule 20.7 In the case of a new branch the first elections will be for the whole of the Committee. The local Chair will determine what period the members of the Committee will serve for their first term and when the second and subsequent elections will be held so as to ensure that the dates of elections of the new committee are synchronised with all other branches.

Rule 20.8 If a vacancy occurs between elections:

- (a) the Branch members will elect a replacement; in accordance with 20.6(b) unless authority is given by the NEC to leave the post vacant; and
- (b) the person elected will serve the balance of the term of the person replaced.

Rule 20.9 A Branch Committee member:

- (a) must be a full member of the Union; and
- (b) ceases to be a Branch Committee member automatically on ceasing to be a full member of the Union; and
- (c) ceases to be a local branch committee member automatically on election to the Scottish National Committee or the NEC.

Rule 20.10 The Branch Committee will send details of the election results immediately:

- (a) in the case of Branches in England, Wales and the Isle of Man: to the General Secretary and the head of the relevant penal or secure establishment or Mental Health Trust or private mental health provider which provides legally-authorized mandatory mental health services.
- (b) in the case of Branches in Northern Ireland: to the Northern Ireland Office and the head of the relevant penal or secure establishment or or Mental Health Trust or private mental health provider which provides legally-authorized mandatory mental health services.

Branch Meetings

Rule 20.11 Each Branch will meet at least twice a year. A meeting may be called:

- (a) on written request from at least one third of the members of the Branch; or
- (b) at the request of the Branch Committee.

Rule 20.12 The National Executive Committee may require individual Branches to hold meetings from time to time for any specific purpose in work time or members' own time.

Rule 20.13 The Branch Chair is responsible for convening the Branch meetings, except in cases of urgency, at least 48 hours' notice of the meeting and the agenda will be given to all members of the Branch by circular or by printed public announcement.

Rule 20.14 All branches must hold regular committee meetings throughout the year, the dates of which should be set by individual committees, with the subsequent minutes of those meetings regarding branch work being recorded and open to scrutiny by visiting NEC representatives.

RULE 21 NATIONAL COMMITTEE FOR MENTAL HEALTH CARE SERVICES

Membership

Rule 21.1

The Union will have a National Committee for Mental Health Care Services, which will consist of:

- (a) The General Secretary
- (b) Assistant General Secretary (England and Wales) nominated by the General Secretary
- (c) the Branch Chair and Branch Secretary (or deputies nominated by them) from each Hospital Branch of the Union.
- (d) an Assistant General Secretary for Scotland.

Functions

Rule 21.2

The National Committee for Mental Health Care Services will:

- (a) recommend the manner in which members of the Union employed in Mental Health Care Units further their aims, objectives and professional aspirations;
- (b) be responsible for the organisation of all members in Mental Health Care Units; and
- (c) liaise with and support members in all Mental Health Care Units.

Rule 21.3

The National Committee for Mental Health Care Services will hold:

- (a) an annual general meeting;
- (b) four other meetings each year; and
- (c) such sub-committee meetings as it or the National Executive Committee determines;

and expenses of those delegates, who are members of the Union, in attending the meetings will be met from the General Fund of the Union.

Appointment of Delegates

Rule 21.4

The National Committee for Mental Health Care Services shall each year appoint one of its members to represent it on the NHS staff council.

Rule 21.5

The National Committee for Mental Health Care Services shall each year appoint one or more of its members to represent it on any other committee or review body as determined by the NHS staff council named in 21.4.

Rule 21.6

A delegate to either of the two bodies referred to in 21.4 or 21.5 above or their successors in title:

- (a) must be a full member of the Union and be a member of the Committee.
- (b) ceases to be a delegate automatically on ceasing to be a full member of the Union or a member of the Committee.

Rule 21.7

The Secretary of the National Committee for Mental Health Care Services will send details of the delegates appointed under rules 21.4 and 21.5 immediately to the General Secretary.

RULE 22 NATIONAL COMMITTEE FOR PRIVATE SECTOR SERVICES

Membership

- Rule 22.1** The Union will have a National Committee for Private Sector Services, which will consist of:
- (a) an employee of the POA nominated by the General Secretary to act as Secretary;
 - (b) one other person, nominated by the General Secretary to act as Chair;
 - (c) the Branch Chair and Branch Secretary (or deputies nominated by them) from each of the Main Operators from providers outside of HMPPS where a Branch of the Union exists.

Functions

- Rule 22.2** The National Committee for Private Sector Services will:
- (a) recommend the manner in which members of the Union employed in Private Sector Services further their aims, objectives and professional aspirations.
 - (b) be responsible for the organisation of all members in Private Sector Services; and
 - (c) liaise with and support members in all Private Sector Services.

- Rule 22.3** The National Committee for Private Sector Services will hold:
- (a) an annual fringe meeting at annual conference;
 - (b) four other meetings each year;
 - (c) such sub-committee meetings as it or the General Secretary and or NEC determines; and
- expenses of those delegates, who are members of the Union, in attending the meetings will be met from the General Fund of the Union.

Appointment of Delegates

- Rule 22.4** The National Committee for Private Sector Services shall each year appoint members to represent it on the pay and conditions subcommittee.
- Rule 22.5** A delegate to either of the two bodies referred to in Private Sector Services above or their successors in title:
- (a) must be a full member of the Union and be a member of the Committee; and
 - (b) ceases to be a delegate automatically on ceasing to be a full member of the Union or a member of the Committee.
- Rule 22.6** The Secretary of the National Committee for Private Sector Services will send details of the delegates appointed under rule 22.4 immediately to the General Secretary.

RULE 23 NORTHERN IRELAND AREA COMMITTEE

Membership

Rule 23.1

The Union will have a Northern Ireland Area Committee comprising:

- (a) an Area Chair (Northern Ireland);
- (b) an Area Vice-Chair (Northern Ireland);
- (c) the Branch Secretaries of each penal or secure establishment and Mental Health Trust or private mental health provider which provides legally-authorised mandatory mental health services (if any) in Northern Ireland.

Functions

Rule 23.2

The Northern Ireland Area Committee will protect and promote the interest of the members in Northern Ireland, including (but not limited to):

- (a) appointing its own Treasurer;
- (b) co-operating in advancing the national policy of the Union;
- (c) maintaining permanent contact with the National Executive Committee.
- (d) assisting the National Executive Committee and General Secretary in carrying out the Rules and objects of the Union;
- (e) fulfilling the requirements of Rule 23 and administering and safeguarding all Northern Ireland Area Committee finance;
- (f) keeping written attendance records of the names of the members present at each meeting of the Northern Ireland Area Committee;
- (g) keeping written minutes of all resolutions passed by the Northern Ireland Area Committee;
- (h) sending copies (signed by the Area Chair) of those attendance records and minutes to the General Secretary on request; and
- (i) furnishing any returns of information required from time to time by the General Secretary or Finance Department.

Rule 23.3

The Area Committee will deal primarily with the matters of interest to all penal or secure establishments and Mental Health Trust or private mental health provider which provides legally-authorised mandatory mental health services (if any) in Northern Ireland. Branches in Northern Ireland may refer local matters which have not been dealt with to their own satisfaction to the Area Committee for further consideration and action if necessary.

Rule 23.4

The National Executive Committee will allot to the Northern Ireland Area Committee a sum of money to meet its working expenses. The Treasurer of the Northern Ireland Area Committee will be responsible for the administration of this money and will render an account twice yearly to the General Secretary or the Deputy General Secretary.

Elections and Appointment

Rule 23.5

The Area Chair (Northern Ireland) and the Area Vice-Chair (Northern Ireland) will each be elected every 5 years by a secret workplace ballot of the full members in the Union's Branches in Northern Ireland under Rule 25.

Rule 23.6

If a vacancy occurs for Area Chair (Northern Ireland) or Area Vice-Chair (Northern Ireland) between elections:

- (a) the replacement will be elected by secret workplace ballot under Rule 25; and
- (b) the person elected will serve the balance of the term of the person replaced.

Rule 23.7

A Northern Ireland Committee member:

- (a) must be a full member of the Union; and
- (b) ceases to be a Northern Ireland Committee member automatically on ceasing to be a full member of the Union.

Meetings

Rule 23.8

The Northern Ireland Area Committee will meet whenever it deems necessary, but not less than twice yearly. A meeting may be called at the request of:

- (a) the Area Chair (Northern Ireland); or in his/her absence
- (b) the Area Vice-Chair (Northern Ireland); or in their absence

- (c) a majority of branches that make up the quorum of the Northern Ireland Area Committee.

Rule 23.9

The Area Chair (Northern Ireland), or if he/she is not available the Area Vice- Chair (Northern Ireland), is responsible for convening the Northern Ireland Area Committee meetings. Except in cases of urgency, at least 48 hours' notice will be given to all members of the Northern Ireland Area Committee by circular or by printed public announcement.

RULE 24 SCOTTISH NATIONAL COMMITTEE

Membership

- Rule 24.1** The Union will have a Scottish National Committee comprising:
- (a) a Scottish Chair;
 - (b) a Scottish Vice-Chair;
 - (c) a Scottish Treasurer;
 - (d) 4 other members;
 - (e) and up to two Scottish Assistant Secretaries.

Functions

- Rule 24.2** The Scottish National Committee will protect and promote the interests of the members in Scotland, including (but not limited to):
- (a) co-operating in advancing the national policy of the Union;
 - (b) maintaining permanent contact with the National Executive Committee through the Scottish Chair and the Scottish Vice-Chair;
 - (c) assisting the National Executive Committee and General Secretary in carrying out the Rules and objects of the Union;
 - (d) fulfilling the requirements of Rule 24 and administering and safeguarding all Scottish National Committee finance;
 - (e) keeping written attendance records of the names of the members present at each meeting of the Scottish National Committee;
 - (f) keeping written minutes of all resolutions passed by the Scottish National Committee;
 - (g) sending copies (signed by the Scottish Chair or Scottish Vice-Chair of those attendance records and minutes to the General Secretary on request; and
 - (h) furnishing any returns of information required from time to time by the General Secretary or Finance Department.

- Rule 24.3** The Scottish National Committee will deal primarily with the matters of interest to all penal, secure or Prison Service establishments and Mental Health Trust or private mental health provider which provides legally-authorized mandatory mental health services (State Hospital) in Scotland. Branches in Scotland may refer local matters which have not been dealt with to their own satisfaction to the Scottish National Committee for further consideration and action if necessary.

- Rule 24.4** The National Executive Committee will allot to the Scottish National Committee a sum of money to meet its working expenses. The Scottish Treasurer will be responsible for the administration of this money and will render an account twice yearly to the General Secretary or the Deputy General Secretary

Elections and

Appointment Rule 24.5

- (a) The Scottish Chair, and Vice-Chair, will each be elected every five years by a secret workplace ballot of the full membership in the Union's branches in Scotland under Rule 24.
- (b) Four other members of the Scottish National Committee will be elected every 5 years by secret workplace ballot of the full membership of the Union's branches in Scotland under Rule 25.
- (c) The Scottish Treasurer will be elected every five years by secret workplace ballot of the full membership of the Union's branch in Scotland under Rule 24.

- Rule 24.6** If a vacancy occurs for Scottish Chair or Scottish Vice-Chair between elections:
- (a) the replacement will be elected by secret workplace ballot under Rule 25; and
 - (b) the person elected will serve the balance of the term of the person replaced.

- Rule 24.7** A Scottish National Committee member:
- (a) must be a full member of the Union; or
 - (b) an Assistant Secretary, and ceases to be a Scottish National Committee member automatically on ceasing to be a full member of the Union, or on ceasing to be an Assistant Secretary.

Rule 24.8 The designated Assistant Secretary, will send details of the election results immediately to:

- (a) the General Secretary; and
- (b) the Scottish Prison Agency.

Meetings

Rule 24.9 The Scottish National Committee will meet whenever it deems necessary, but not less than once a month. A meeting may be called at the request of:

- (a) the Scottish Chair; or in his/her absence,
- (b) the Scottish Vice-Chair;
- (c) the General Secretary;
- (d) or three other members of the Scottish National Committee.

Rule 24.10 The Scottish Chair, or if he/she is not available the Scottish Vice-Chair, is responsible for convening the Scottish National Committee meetings. Except in cases of urgency, at least 48 hours' notice will be given to all members of the Scottish National Committee by circular or by printed public announcement.

Scottish Conference

Rule 24.11 In these Rules "Scottish Conference" refers to the Annual Conference for Scotland.

Rule 24.12 The Scottish Conference will be held in October at such time and place as the Scottish National Committee decides and the designated Assistant Secretary will inform all the Unions Branches in Scotland at least 4 months in advance.

Rule 24.13 The Scottish Conference will determine the principles and policies of the Scottish National Committee, except where these Rules provide differently, and provided that such principles and policies are not at variance with the principles and policies of the Union.

Preparations

Rule 24.14 Motions to be discussed at the Scottish Conference are those proposed by a Branch:

- (a) after having been passed at a duly convened meeting of the Branch;
- (b) submitted to the designated Assistant Secretary at least 2 months before the Conference is due to commence unless the Scottish National Committee agrees a shorter period; and
- (c) in writing, signed and certified on the approved Annual (and special) Conference Motion Standard Form by the Branch Chair or Secretary that it has been passed at a duly convened meeting of the Branch and those proposed by the Scottish National Committee.

Rule 24.15 The designated Assistant Secretary will circulate:

- (a) the Conference agenda; and
- (b) any proposed standing orders; to the Branches:

Conference Proceedings

Rule 24.16 Each Scottish Branch may send 2 delegates to the Scottish Conference and:

- (a) unless the Branch determines differently, the delegates will be the Chair and Secretary of the Branch;
- (b) only the two delegates representing the Branch may speak for the Branch on any matters at Conference;
- (c) the delegates must be mandated by a Branch Meeting on all matters - to support them, to oppose them or to exercise their own judgement;
- (d) no delegate may speak or vote in contravention of his/her Branch mandate.

Rule 24.17 Scottish Conference will adopt the standing orders proposed by the Scottish National Committee subject to any amendments the Scottish Conference agrees.

Rule 24.18 The chair of Conference:

- (a) will be the Scottish Chair, or Scottish Vice Chair.
- (b) will not speak for or against any motion;
- (c) will not vote unless there would otherwise be an equal number of votes

- on each side, when the chair will have a casting vote;
- (d) may make rulings on procedure or points of order which are binding unless challenged;
- (e) may exclude any delegate who causes a disturbance and refuses to obey a ruling which is not challenged or is upheld until that delegate makes a suitable apology.

Rule 24.19 A ruling by the Scottish Conference chair may only be challenged by a motion, supported by at least 2 Branches, that “the chair vacate the chair”. Such a motion requires a two-thirds majority of those voting to be passed, in which event the chair’s decision will be overruled but the chair will continue to preside.

RULE 25 SECRET WORKPLACE BALLOTS

Applicability

Rule 25.1

This Rule applies to secret workplace ballots for the election of:

- (a) Branch Committee members under Rule 20 - in which case “the Committee” is the relevant Branch Committee;
- (b) members of the Scottish National Committee as set out in rules 24.5 and 24.6 in which case the “Committee” will be the Scottish National Committee;
- (c) the Area Chair (Northern Ireland) and the Area Vice-Chair (Northern Ireland) under Rule 23 - in which case “the Committee” is the Northern Ireland Area Committee.

Procedure

Rule 25.2

The Committee will fix:

- (a) the closing date for nominations; and
- (b) the date of the first day of the election, which will be at least 4 days after the closing date for nominations.
- (c) All local elections will be concluded by 31st December each year and each elected official will take up office on 1st January the following year.

Rule 25.3

The Committee will ensure that:

- (a) an election notice is posted in the relevant Branch(es) continuously for at least 17 days up to (and including) the closing date for nominations;
- (b) the notice is posted in a prominent place accessible to, and where it is likely to be seen by, the members;
- (c) the notice states the closing date for nominations and the date of the first day of the election; and
- (d) the notice invites nominations to be made in writing on the notice board, identifying the nominated candidate with a proposer and seconder.

Rule 25.4

In the case of the Area Chair (Northern Ireland) and the Area Vice-Chair Northern Ireland:

- (a) only one nomination per Branch for each post will go forward for election; and
- (b) if more than one candidate is nominated within a Branch, a Branch meeting will be held to choose the Branch’s nominee.

Rule 25.5

The Committee will issue voting papers to all available members. The ballot will extend from Monday to Sunday inclusive of the week in which the ballot is held, or such longer period as the Committee or the National Executive Committee area representative considers necessary in order to facilitate the members’ right to vote.

RULE 26 DISCIPLINE

Matters which may give rise to Disciplinary action

- Rule 26.1** Subject to any statutory restrictions in force at the time, any member may be disciplined who:
- (a) acts against the interests of the Union's membership;
 - (b) acts contrary to or fails to carry out or comply with the policies of the union, its rules or the annexes to the rules;
 - (c) tampers with, falsifies or otherwise wilfully misuses any books, documents, electronic data or records belonging to any part of the Union;
 - (d) obtains possession of and wrongfully refuses to give up anything belonging to any part of the Union;
 - (e) falsifies, withholds or tampers with any forms, papers or returns used in any vote, election or ballot in any part of the Union;
 - (f) impersonates any other member in connection with the conduct of any vote, election or ballot in any part of the Union;
 - (g) does anything which is likely to invalidate any vote, election, or ballot in any part of the Union;
 - (h) obtains membership of the Union by misrepresentation or by failing to volunteer any material fact; or
 - (i) disobeys any properly made and communicated directive or sanction of the member's branch, Area Committee, National Executive Committee or the Disciplinary Committee.
 - (j) Inciting, espousing or practicing discrimination or intolerance amongst members on grounds of race, ethnic origin, religion, belief, age, gender, pregnancy or maternity, disability, sexual orientation or marriage and civil partnership.
 - (k) Breach of the Union's policies.

The Investigation/Conduct Committee

- Rule 26.2** The Union will have an Investigation Committee consisting of Assistant General Secretaries of the Union who will be responsible for all investigations following a report from the National Executive Committee, the General Secretary or a Branch under Rule 27.
- Rule 26.3** The Union will have a Conduct Committee who will be responsible for all Conduct Hearings following receipt of a comprehensive Investigation Report from the nominated Assistant General Secretary. The Conduct Committee will consist of members or retired members of the Union who hold the Cronin Clasp or Honorary Life Membership who shall be selected for a period of not more than 5 years unless reselected by the General Secretary and the National Chair. Nominations for the Conduct Committee will be selected
- (a) from candidates nominated by Branches in writing to the General Secretary.
 - (b) by the General Secretary and the Chair to secure, as far as practicable, a reasonable operational number of members and geographical spread.
- Rule 26.4** The General Secretary and the National Chair shall appoint one member of the Conduct Committee to act as Chair of the Conduct Committee.
- Rule 26.5** The General Secretary or the National Executive have the power to direct a Branch to cease a Disciplinary Investigation (at whatever stage has been reached) and refer it to the Investigation Committee.
- Rule 26.6** The Deputy General Secretary shall be the Secretary to the Conduct Committee and shall be responsible for:
- (a) assisting the Conduct Committee in all administrative matters related to their work.
 - (b) keeping all relevant records of complaints to the General Secretary and in relation to disciplinary cases;
 - (c) ensuring that all matters referred to the Conduct Committee are dealt with expeditiously and within any prescribed time limits.

Report by General Secretary

Rule 26.7 Any member who wishes to complain about any matter relating to another union member should do so by writing to the General Secretary setting out the basis of the complaint.

Rule 26.8 If the General Secretary (or, in his absence, his Deputy) becomes aware, either because of a complaint made to him under Rule 26.7 or by any other means, of circumstance which may mean that a member may have been breached Rule 26.1 he will deal with the matter in the following manner:

- (a) Following consideration of the information refer it back to the complainant if he considers it not to be an issue falling within the ambit of the Conduct and Standards process.
- (b) Refer the matter to a member or members of the National Executive Committee, a Full Time Officer or Officers, a member of the Northern Ireland Area Committee, a member of the Scottish National Committee or a member of the National Committee for Mental Health Care Services so that the assigned person or persons can seek to resolve the issue by means of alternative dispute resolution;
- (c) By use of the Unions' Mediation Policy.
- (d) If action under (b) to (c) has not resolved the matter or if the informal methods of resolving the matter are in his opinion inappropriate, then he will refer the matter to be investigated by the Investigation Committee.

General

Rule 26.9 The union and or its officials are responsible for all approved reasonable expenses incurred by or on behalf of a member in proceedings against them under Rules 26 to 29.

Rule 26.10 Where practicable, a member must exhaust all stages of the procedure for appealing against a disciplinary sanction before applying to any court, tribunal, outside agency or outside official for redress.

RULE 27 SANCTIONS BY BRANCHES

Powers

Rule 27.1

A member (who is not a member of a Branch Committee, the National Executive Committee, the Area Committee for Northern Ireland or the Scottish National Committee) may be sanctioned by their Branch if they are found to be in breach of Rule 26.1. After following the relevant process the members' Branch has the power to do one of the following:

- (a) censure the member;
- (b) ban the member from holding any local office for up to three years;
- (c) deprive the member temporarily of some or all Branch rights and facilities for a time (not exceeding twelve months) and extent fixed by the Branch;
- (d) recommend to the Conduct Committee that they consider a sanction under Rule 29.

Alternative Dispute Resolution and Mediation

Rule 27.2

Where a dispute arises between two or more members of a Branch or a complaint is made by one branch member about another member of the same branch the Branch Secretary and Branch Chair shall try to resolve the dispute through negotiation and discussion. When appropriate the Branch Secretary or Branch Chair should seek advice and or assistance from the Area NEC. Where it is thought necessary, and the parties agree the Area NEC may request that the General Secretary (or in his absence the Deputy General Secretary) arrange for mediation. If attempts to resolve the issue by informal methods do not resolve the matter, then the Branch Committee can then consider the matter under Rule 27.

Branch Committee

Rule 27.3

Before imposing a sanction under Rule 27.1 the Branch Committee must give at least ten days written notice to the member by registered or recorded delivery post to the member's last known home address (or work address if the home address is not known), stating:

- (a) briefly why it is alleged that the member may be in breach of the rules;
- (b) the time, date and place of the investigation meeting at which the matter is to be considered;
- (c) the member's rights: to be present at the meeting; to make representations; to call and cross-examine witnesses; and to be represented throughout by a friend who is a member of the Union

Rule 27.4

The Branch Committee will:

- (a) firstly determine whether it believes the member is in breach of Rule 26.1 and secondly if appropriate what sanction it deems appropriate;
- (b) recommend any action it believes the Branch should take;
- (c) place its findings and recommendation(s) before a Branch meeting for approval at the earliest opportunity, and in any event within twenty-eight days of date of the investigation meeting.

Branch Meeting

Rule 27.5

Before placing its findings and recommendation(s) before the Branch for approval the Branch Committee must give at least ten days written notice to the member by registered or recorded delivery post to the member's last known home address (or work address if the home address is not known) stating:

- (a) the recommendation(s) which has/have been made;
- (b) the time, date and place of the Branch meeting at which approval of the recommendation(s) is/are to be sought; and
- (c) the member's right to be present at the meeting and to make a personal statement (either personally or through a friend who is a member of the Union).

Rule 27.6 At the Branch meeting:

- (a) all proceedings will be fully minuted by a member of the Branch agreed in advance by the member facing disciplinary action or, in the absence of such agreement, by some other person nominated by the Deputy General Secretary;
- (b) a member of the Branch Committee will present the Branch Committee's report and recommendation to the meeting; and
- (c) then after allowing the member the opportunity to make a personal statement of such duration as the Chair of the meeting shall reasonably determine, the Branch must either approve or reject the recommendation(s) of the Branch Committee.

Rule 27.7 The Branch Committee must give written notice of any sanction imposed by the Branch meeting:

- (a) to the member by registered or recorded delivery post to the member's last known home address (or work address if the home address is not known); and
- (b) to the Deputy General Secretary for the information of the National Executive Committee and the Conduct Committee.

Appeal from the Decision of a Branch Rule 27.8

- (a) The member who has been sanctioned may within fourteen days of receiving the notice of the decision of the Branch (or such longer period as the Chair of the Conduct Committee determines on proof of special circumstances) appeal to the Conduct Committee by sending a written notice to the Deputy General Secretary requesting an appeal.
- (b) Upon receipt of the Notice of Appeal:
 - (i) the Chair of the Conduct Committee will appoint three members of the Conduct Committee to determine the appeal; and
 - (ii) the Deputy General Secretary will write to the Branch Secretary requesting, the minutes of the Branch meeting at which the member was disciplined, copies of any documents considered by the Branch at the meeting when the sanction was imposed and copies of any correspondence sent by the Branch to the member and vice versa. Upon receipt of these documents the Deputy General Secretary shall send copies of those documents to the member and inform him that if he wishes to make any representations then he should do so in writing within 14 days.
- (c) After the expiration of the 14 days specified in 27.8(b)(ii) the appointed members of the Conduct Committee will consider and determine the appeal. The Deputy General Secretary shall be responsible for informing the member and the Branch of the outcome of the appeal which he will do in writing.
- (d) The sanction imposed by the Branch will not be enforced until the appeal has been determined.
- (e) The decision of the Conduct Committee on the Appeal will be final and cannot be reviewed by any other decision making body of the Union.

**Time Limit
Rule 27.9**

All internal disciplinary proceedings under this rule, including any appeal to the Conduct Committee, will be completed within six months from the date on which the Branch Committee gave notice of the disciplinary charges to the member under rule 27.3. The General Secretary may extend the time limit for any appeal in consultation with the Chair of the Conduct Committee if it is appropriate.

RULE 28 TEMPORARY SUSPENSION BY CONDUCT COMMITTEE

Powers

Rule 28.1 Where the Investigation Committee is investigating whether a member is to be subject to action under the Rules or where a decision or an appeal is pending; and they believe that it is prudent for the protection of the Union or any Branch then the Conduct Committee appointed for that case under Rule 29.2, has power to:

- (a) suspend the member from local or national office (or both) until the final decision on the case or until the outcome of any appeal; and where appropriate;
- (b) amend or cancel the suspension at any time.

Rule 28.2 The Deputy General Secretary will give written notice of the imposition, amendment or cancellation of any suspension: to the member by registered or recorded delivery post to the member's last known home address (or work address if the home address is not known); and the General Secretary.

Appeal

Rule 28.3 If the Conduct Committee

- (a) imposes a suspension; or
- (b) amends a suspension in a way which extends its scope the member who has been suspended may appeal to a panel of three members of the National Executive Committee selected by the General Secretary and National Chair by sending written notice to the Deputy General Secretary within fourteen days of receiving the notice of the decision (or such longer period as the General Secretary determines on proof of special circumstances), asking them to amend or cancel the suspension.
- (c) If the member who is suspended is a member of the National Executive Committee the appeal will be heard by three members of the Conduct Committee who are not members of the relevant Disciplinary Panel or Investigation Committee.

Rule 28.4 If a member appeals under Rule 27.3 the panel of the National Executive Committee or the Conduct Committee must give at least ten days written notice to the member by registered or recorded delivery post to the member's last known home address (or work address if the home address is not known), stating:

- (a) the time, date and place of the meeting at which the panel of the National Executive Committee or Conduct Committee will hear the appeal; and
- (b) the member's right to be present at the meeting and to make a statement (either personally or through a friend who is a member of the Union).

Rule 28.5 At the end of the appeal hearing the Deputy General Secretary will inform the member in writing of the outcome of the appeal. If the appeal is unsuccessful the Disciplinary Panel will be instructed by the General Secretary to hear the case as soon as possible.

RULE 29 SANCTIONS BY CONDUCT COMMITTEE

Powers

Rules 29.1

If a member is subject to action by reason of breach of Rule 26.1 the Conduct Committee has power to do one or more of the following:

- (a) censure the member;
- (b) ban the member from holding any local office in the Union for up to five years;
- (c) ban the member from holding any national office in the Union for up to five years;
- (d) deprive the member temporarily of some or all of the rights and facilities of membership for a time and extent fixed by the Conduct Committee;
- (e) suspend the member for up to two years;
- (f) expel the member; as it thinks is appropriate.

Proceedings

Rule 29.2

Before any sanction is taken under Rule 26.1 the General Secretary must select an Assistant General Secretary to Investigate any matter. The Chair of the Conduct Committee will appoint a Disciplinary Panel consisting of three members of the Conduct Committee who will consider the report of the Investigator and where necessary hold a disciplinary hearing. The Investigator cannot be a member of any Disciplinary Panel.

Investigations

Rule 29.3

The Investigator shall:

- (a) appoint a date for the conduct of the investigation giving at least 14 days' notice;
- (b) Visit the members branch or in the case of an NEC member one of the Unions Offices;
- (c) interview such parties as is necessary to properly consider the complaint;
- (d) provide a written report of their findings which shall contain such recommendations as they deem appropriate to the Disciplinary Panel;
- (e) provide copies of its report to the member who is subject to the complaint, and the Deputy General Secretary.

Rule 29.4

The Disciplinary Panel will:

- (a) consider the investigation report as soon as is reasonably practicable; and
- (b) determine whether it is necessary to hold a disciplinary hearing;
- (c) inform the member of its decision and where appropriate:
 - (i) inform the member in writing briefly why it is alleged that the member is in breach of the rules;
 - (ii) the date, time and venue for the meeting of the Disciplinary Panel at which the disciplinary hearing will take place (which should be held at a venue at or near the member's branch or in the case of an NEC member one of the Unions Offices);
 - (iii) the member's right:
- (d) to submit written submissions in advance of the meeting;
- (e) to make representations to the Disciplinary Panel before and during the meeting;
- (f) to call and cross-examine witnesses and to be represented throughout by a friend who is a member of the Union.

The Disciplinary Hearing

Rule 29.5

- (a) The Chair of the Conduct Committee shall select one member of the Disciplinary Panel to act as Chair of the Disciplinary Hearing who shall be responsible for the conduct of the hearing and whose decision on procedural issues shall be final.
- (b) Where the member charged does not attend the hearing, the hearing will proceed in their absence unless a good reason has been given to the Deputy

- General Secretary prior to the hearing.
- (c) The Disciplinary Panel will listen to a statement by the Investigator who will present the report.
 - (d) The charged member and/or their friend may then make an opening statement.
 - (e) The Disciplinary Panel shall call witnesses who after giving their evidence may be cross-examined by the charged member, or their friend or the Disciplinary Panel.
 - (f) The charged member may then call witnesses who after giving their evidence may be cross-examined by the Disciplinary Panel. Investigating Officer removed.
 - (g) At the conclusion of all the evidence the charged member or their friend may make final submissions.
 - (h) The Disciplinary Panel will then reach a decision on whether the member has breached the Rules of the Union. They will inform the member of their decision and if appropriate ask whether there are any mitigating circumstances which the member would like them to consider prior to the determination of the appropriate sanction.
 - (i) After hearing any mitigation, the member wishes to make the Disciplinary Panel will then decide on the appropriate sanction and inform the member.
 - (j) Within 14 days of the hearing the Deputy General Secretary will circulate the written decision of the Disciplinary Panel
 - (i) to the member by registered or recorded delivery post to the member's last known home address (or work address if the home address is not known);
 - (ii) to the General Secretary;
 - (iii) to the National Chair;

Appeal

Rule 29.6

A member who has been sanctioned or the National Chair may appeal in writing to the General Secretary within 14 days of receiving notice of the decision of the Conduct Committee (or such longer period as the Conduct Committee determines on proof of special circumstances) in which case:

- (a) any sanction or suspension (unless continued under Rule 27) will not take effect until the appeal has been determined;
- (b) if the member sanctioned is a National Executive Committee member, the appeal will be determined by Conference;
- (c) in all other cases, the appeal shall be determined by an Appeal Panel of three members of the National Executive Committee nominated by the National Chair and General Secretary.
- (d) The National Chair shall only exercise his right of appeal if he believes that the decision is contrary to law or a policy of the Union ordered to be annexed to the Rules by Conference.

Rule 29.7

On appeals to Conference under Rule 28.6(b) and 28.8):

- (a) the General Secretary will distribute with the final Conference agenda:
 - (i) the report of the Investigation Committee;
 - (ii) the findings by the Conduct Committee;
 - (iii) any relevant written representations of the member or complainant which shall not exceed 10 pages of submissions and 50 pages of documents; and
 - (iv) where appropriate the National Chair's reasons for believing that the decision is contrary to law or a policy ordered to be annexed to the Rules by Conference.
- (b) the Conference will decide, by a simple majority based on a specific motion put by the General Secretary, whether to ratify the decision of the Conduct Committee.
- (c) the Appellant or their representative may address Conference on the motion for such period as the Chair shall reasonably determine; and
- (d) the decision of Conference on the appeal will be final and cannot be the subject of any further internal review.

Rule 29.8:

- (a) Where a complaint is made about a member of the Conduct Committee it will be investigated by two members of the National Executive Committee and any disciplinary hearing will be heard by three members of the National Executive Committee, all to be appointed by the National Chair and General Secretary.
- (b) The procedure to be followed in investigating and disciplining a member of the Conduct Committee shall be as in Rules 28.3 to 28.5 with appropriate modifications.
- (c) Where a member of the Conduct Committee wishes to appeal against the NEC's decision this may be taken to Annual Conference as set out in Rule 28.7.

**Time Limit
Rule 29.9**

All internal disciplinary proceedings, excluding any appeal to Conference, will be completed within six months from the date on which the Conduct Committee gave notice of the disciplinary charges to the member. The General Secretary may extend the time limit in consultation with the Investigator and Conduct Committee if he feels it is appropriate.

RULE 30 CONSTITUTION

Amendments to Rules

Rule 30.1 These Rules may only be amended by a two-thirds majority of votes cast at Conference.

Rule 30.2 Motions for the amendment of Rules will only be considered at the Annual Conference.

Interpretation of Rules

Rule 30.3 The headings are for convenience and do not affect the interpretation of the Rules.

Rule 30.4 The interpretation of these Rules is vested in:

- (a) Conference when it is in session;
- (b) the National Executive Committee when it is in session and Conference is not; and
- (c) the Chair and General Secretary (acting together) when neither Conference nor the National Executive Committee is in session.

Rule 30.5 A ruling by the Chair and General Secretary under Rule 30.4(c):

- (a) must be minuted in writing at the time;
- (b) must be reported to the next meeting of the National Executive Committee; and
- (c) may be overturned by the National Executive Committee.

Dissolution and Amalgamation

Rule 30.6 The Union may not be dissolved nor its funds divided except with the consent of at least five-sixths of the votes cast by the members voting by postal ballot.

The Union may not amalgamate with any other organisation except with the consent of at least two-thirds of the votes cast by the members voting by postal ballot.

ANNEX A

EQUAL OPPORTUNITIES POLICY

1. The POA is absolutely committed to equal opportunities and opposes any display or act of discrimination or harassment and will challenge any discrimination on grounds of gender, race, disability, sexual orientation, religion or age, to ensure that employees and union members are fully protected.
2. The POA will ensure that it is regarded as an exemplary employer and Trade Union and aims to take a strategic lead in combating discrimination, promoting equality and opportunity.
3. The POA will recognise the contribution of all its staff, union members and will work positively to protect them from any form of discrimination or harassment whilst promoting zero tolerance.
4. The POA is absolutely committed to the law and accepts its responsibilities set out in the Equality Act 2010 together with all amending legislation and will not tolerate discriminatory behaviour by or against its employees or membership.
5. The POA's national and branch officials must deal promptly with complaints made by any member or employee regarding unlawful discrimination or harassment, including sexual harassment and ensure that all parties are supported, valued and advised appropriately.
6. The National Executive Committee must deal promptly with any complaint made by an employer or member against any member or employee regarding unlawful discrimination or harassment, including sexual harassment.
7. In accordance with its Rules and Constitution the POA shall have the power to discipline, dismiss, remove from office or expel any member or employee who following an enquiry has been found to have behaved in a manner which can be construed as harassment victimisation or discrimination. Any member who registers a complaint against another member will be supported throughout the process by a local member of their local branch committee
8. The POA insists that diversity and equality training be available to all its members and be made mandatory by the Prison Service Agency, or any other management body responsible for the security, care and custody of any individual removed from society by the Crown.
9. The POA will establish processes to achieve change and monitor that progress to ensure we prevent discrimination, act when discrimination occurs and promote equality.
10. The POA is committed to all minority or disadvantaged groups and will actively work to promote, support and recognise their needs.

ANNEX B RACE RELATIONS POLICY

1. The POA is absolutely committed to racial equality and opposes any display of racial prejudice and will challenge that prejudice to ensure employees and union members are fully protected.
2. The POA will work positively to protect all its members and employees from racist or discriminatory behaviour, either by word or by conduct whilst promoting zero tolerance of racism.
3. The POA is absolutely committed to the law and accepts its responsibilities under the *Equality Act 2010* and the Equality and Human Rights Commission "Codes of Practices" and any further appropriate legislation, and will not tolerate discriminatory behaviour by, or, against union members or employees.
4. The POA's national and branch officials must deal promptly with complaints made by any member or employee regarding any racial incident ensuring that all parties are supported, valued and advised appropriately.
5. The National Executive Committee will deal appropriately with any complaint made by any individual against any member or employee regarding racist or discriminatory behaviour.
6. In accordance with its Rules and Constitution the POA shall have the power to discipline, dismiss, remove from office or expel any member or employee who following an inquiry has been seen to have behaved in a manner which can be construed as racist, discriminatory or harassment.
7. The POA insists that race relations training be available to all its members and be made mandatory by the Prison Service Agency, or any other management body responsible for the security, care and custody of any individual removed from society by the Crown.
8. The POA will establish processes to achieve change and monitor that progress to ensure we prevent racist or discriminatory behaviour, act when discrimination occurs and promote racial equality.

ANNEX C
DISABILITY DISCRIMINATION POLICY

1. The POA is absolutely committed to Disability Rights and opposes any display of prejudice or discrimination. Further to this, the Union will ensure union members and employees under the Disability Discrimination Act are fully protected.
2. The Union will work positively to protect all its members and employees from discriminatory behaviour, either by word or by conduct whilst promoting zero tolerance.
3. The POA is absolutely committed to the law and accepts its responsibilities under the Equality Act 2010 and under any relevant Code of Practice issued by the Equality and Human Rights Commission or its successors and any other appropriate legislation, and will not tolerate discriminatory behaviour by, or, against union members and employees.
4. The Unions national and branch officials must deal promptly with complaints made by any member or employee regarding any incident ensuring that all parties are supported, valued and advised appropriately.
5. The National Executive Committee will deal appropriately with any complaint made by any individual against any member or employee regarding discriminatory behaviour.
6. In accordance with its Rules and Constitution the Union shall have the power to discipline, dismiss, remove from office or expel any member or employee who following an inquiry has behaved in a manner which can be construed as discrimination or harassment.
7. The Union insists that disability awareness training be available to all its members and be made mandatory by the Prison Service Agency, or any other management body responsible for the security, care and custody of any individual removed from society by the Crown.
8. The Union will establish processes to achieve change and monitor their progress to ensure we prevent discriminatory behaviour.

ANNEX D TACKLING UNACCEPTABLE BEHAVIOUR

Introduction

All Employees have a legal right to work in an environment that is safe, healthy and to be protected from all forms of abuse, violence and harassment. The Union will tackle unacceptable behaviour, to ensure that all our employees, our providers and their employees work in an environment, which is safe so far as is reasonably practicable. Nothing is more menacing or so sapping of self-esteem than the threat of violence, intimidation or harassment. Our employees and those of our providers may face these threats on a daily basis along with an array of other pressures, whilst representing the Union.

Aim

To provide a safe healthy place of work, so far as is reasonably practicable for all employee's, providers and their employees when representing the Union. To prevent unwanted acts of violence, threats, harassment, abuse or bullying. To ensure that every employee is treated with dignity and respect.

Definitions

Violence, most people accept that physical force against an individual is an example of violence, but it can and often does take other forms.

- Verbal abuse and threats (with or without a weapon) whilst using the telephone or by written communication
- Rude gestures – innuendoes
- Sexual or Racial Harassment

The Union accept that people may have a different perception about behaviour, which they find threatening, or offensive, or that, which causes distress rather than simple annoyance.

What is Harassment

Harassment is behaviour, which is inappropriate, offensive and demeaning, is unwanted by the recipient, causes insult or injury, and creates an unpleasant or intimidating working environment. All forms of harassment are unacceptable for whatever reason. Sexual harassment is "unwanted conduct of a sexual nature" or other conduct based on sex, affecting the dignity of men and women at work. Racial harassment is unacceptable; it is rooted in racism, ignorance, prejudice and is offensive and threatening to the recipient. It is humiliating and degrading and there can be no degree of acceptability.

What is Bullying

Bullying is unacceptable behaviour; it may concern elements of violence, threats or harassment and is totally unacceptable.

Effects of Unacceptable Behaviour

The effects of unacceptable behaviour in any form can often lead to staff sickness, loss of performance or interest in work, expressions of anger, guilt and other emotions. It can also lead to expensive costs, if formal complaints are made.

Management

This policy will be managed by the General Secretary of the Union, or in his absence a designated deputy. Any complaint by a member, employee or provider (including their employees) will be dealt with by the General Secretary or his designated representative.

Mediation

Following a complaint and prior to any investigation the General Secretary will attempt to arrange mediation between both parties in accordance with Conference Policy of 2001 in an attempt to resolve the matter as quickly as possible.

Sanctions

Any complaint of unacceptable behaviour will be referred to the Unions Disciplinary Committee in accordance with the Rules and Constitution, if mediation has failed to resolve the matter. If any member is found guilty, they may be debarred from any of the benefits or entitlements as a member of the Union, including legal aid.

ANNEX E WORKPLACE BALLOTS

In previous workplace ballots there have been common problems arising, those being;

1. Nil Returns
2. Illegible returns
3. Late Returns
4. Spoilt Returns
5. Complaints regarding the Conduct of the Ballot (locally)

It is necessary to issue the following guidelines to assist in alleviating the above, and ensure maximum participation and recording of votes in a workplace ballot.

This is **not** all encompassing but purely a guide as many branches operate their own system satisfactorily.

- Ensure the ballot is well advertised within establishment.
- Hold branch meetings to discuss the ballot.
- Ensure the timetable laid by the National Executive Committee is strictly adhered to (so returns can be collated on time).
- Prior to commencing ballot identify scrutineers and tellers.
- Where possible have two committee members at ballot issuing point.
- Do not interfere with ballot.
- If possible leave the locked and sealed ballot box in a prominent position from commencement to closure of ballot.
- Once ballot is completed – Count straight away.
- Once counted, complete the ballot return form in a **thick, bold, black** pen.
- Fax or E-mail to Cronin House as soon as completed.
- Post original to Cronin House the same day.
- Publish local result in Establishment.
- **DON'T FORGET TO SIGN THE BALLOT RETURN FORM.**

ANNEX F
POLITICAL FUND RULES (ENGLAND SCOTLAND & WALES) & (NORTHERN IRELAND)

RULES FOR POLITICAL FUND

1. The objects of POA shall include the furtherance of the political objects to which section 72 of the amended Trade Union and Labour Relations (Consolidation) Act 1992 (the Act) applies. These objects are:-

1.1. The expenditure of money -

- (a) on any contribution to the funds of, or on the payment of expenses incurred directly or indirectly by, a political party;
- (b) on the provision of any service or property for use by or on behalf of any political party;
- (c) in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot by the union in connection with any election to a political office;
- (d) on the maintenance of any holder of a political office;
- (e) on the holding of any conference or meeting by or on behalf of a political party or of any other meeting the main purpose of which is the transaction of business in connection with a political party;
- (f) on the production, publication or distribution of any literature, document, film, sound recording or advertisement the main purpose of which is to persuade people to vote for a political party or candidate or to persuade them not to vote for a political party or candidate.

1.2. Where a person attends a conference or meeting as a delegate or otherwise as a participator in the proceedings, any expenditure incurred in connection with his attendance as such shall, for the purposes of paragraph (e) above, be taken to be expenditure incurred on the holding of the conference or meeting.

1.3. In determining, for the purposes of paragraphs (a) to (f) above, whether the trade union has incurred expenditure of a kind mentioned in those paragraphs no account shall be taken of the ordinary administrative expenses of the union.

1.4. In these objects -

"candidate" means a candidate for election to a political office and includes a prospective candidate;

"contribution", in relation to the funds of a political party, includes any fee payable for affiliation to, or membership of, the party and any loan made to the party;

"electors" means electors at any election to a political office;

"film" includes any record, however made, of a sequence of visual images, which is capable of being used as a means of showing that sequence as a moving picture;

"local authority" means a local authority within the meaning of section 270 of the Local Government Act 1972 or section 235 of the Local Government (Scotland) Act 1973; and

"political office" means the office of member of Parliament, member of the European Parliament or member of a local authority or any position within a political party.

2. Any payments in the furtherance of such political objects shall be made out of a separate fund of the union (hereinafter called the political fund).
3. The particular rules which apply to those people that joined the Union before 1st March 2018 and to political funds set up before 1st March 2018 are set out in Schedule 1 to these rules.
4. The particular rules which apply to those people that joined the Union on or after 1 March 2018 and to political funds set up on or after 1 March 2018 are set out in Schedule 2 to these rules.
5. For the purpose of enabling each member of the union who may pay a political contribution to know in respect of any such contribution, what portion, if any, of the sum payable by him is a contribution to the political fund of the union, it is hereby provided that £0.15 of each (monthly) contribution is a contribution to the political fund, and that any member who is exempt shall be relieved from the payment of the sum of £0.15, and shall pay the remainder of such contribution only.
6. A member who is exempt from the obligation to contribute to the political fund of the union shall not be excluded from any benefits of the union, or placed in any respect either directly or indirectly under any disability or disadvantage as compared with other members of the union (except in relation to the control or management of the political fund) by reason of his being so exempt.
7. If any member alleges that he is aggrieved by a breach of any of these rules for the political fund, being a rule or rules made pursuant to section 82 of the 1992 Act, he may complain to the Certification Officer, and the Certification Officer, after making such enquiries as he thinks fit and after giving the complainant and the union an opportunity of being heard, may, if he considers that such a breach has been committed, make such order for remedying the breach as he thinks just in the circumstances. Any such order of the Certification Officer may, subject to the right of appeal provided by section 95 of the 1992 Act, be enforced in the manner provided for in section 82(4) of the 1992 Act.
8. Contribution to the political fund of the union shall not be made a condition for admission to the union.
9. The union shall include in the annual return that is submitted to the Certification Officer details of political expenditure as required by section 32ZB of the 1992 Act.
10. The union shall ensure that a copy of the political fund rules is available, free of charge, to any member of the union who requests a copy.

Schedule 1

Rules that apply to members that joined the Union before 1st March 2018 and political funds set up before 1st March 2018

Notice to members

1. As soon as is practicable after the passing of a resolution approving the furtherance of such political objects as an object of the union, it shall ensure that a notice in the following form is given to all members of the union.

**Notice to
Members**

Trade Union and Labour Relations (Consolidation) Act 1992 (as amended)

A resolution approving the furtherance of political objects within the meaning of the above Act as an object of the union has been adopted by a ballot under the Act. Any payments in the furtherance of any of those objects will be made out of a separate fund, the political fund of the union.

Every member of the union has a right to be exempt from contributing to that fund. A form of exemption notice can be obtained by or on behalf of any member either by application at, or by post from, the head office or any branch office of the union or from the Certification Office for Trade Unions and Employers' Associations, 8th Floor, Windsor House, 50 Victoria Street, London, SW1H 0TL

This form, when filled in, or a written request to the like effect, should be handed or sent to the General Secretary or the Finance Department.

2. This notice shall be published to members by such methods as are used by the union to publish notices of importance to members. It is the union's current practice to publish such notices by: inclusion in the Union's magazine Gatelodge, in circulars, on local notice boards and on the Union's website.

Request for exemption

3. Any member of the union may at any time give notice a) on the form of exemption notice specified in rule 4, or b) written request in a form to the like effect, that s/he objects to contribute to the political fund. A form of Exemption Notice may be obtained by, or on behalf of, any member, either by application at, or by post from, the head office or any branch office of the union, or from the Certification Office for Trade Unions and Employers' Associations, 8th Floor, Windsor House, 50 Victoria Street, London, SW1H 0TL..
4. The form of an exemption notice shall be as follows:-

POA
POLITICAL FUND EXEMPTION NOTICE
I give notice that I object to contributing to the political fund of the union and am in consequence exempt, in the manner provided by Chapter VI of the Trade Union and Labour Relations (Consolidation) Act 1992, from contributing to that fund.
Print Name.....Signature: Address:
..... Date:

5. Any member may obtain exemption from contributing to the political fund by sending a Notice of Exemption to the General Secretary or such other person as is identified in the Notice to Members in rule 1. On receiving the Notice of Exemption the union shall send an acknowledgement of its receipt to the member at the address in the notice, and shall process the exemption as soon as reasonably practicable.

Manner of giving effect to exemption

6. On giving an exemption notice, a member shall become exempt from contributing to the union's political fund, where the notice is given:-
 - a) Within one month of the giving of Notice to Members in rule 1 following the passing of a political resolution on a ballot held at a time when no such resolution is in force, as from the date on which the exemption notice is given; or
 - b) In any other case, as from 1st January next after the exemption notice is given [or any earlier date as decided by the union].
7. The union shall give effect to the exemption of members from contributing to the political fund of the union either:-
 - a) By a separate levy of contributions to that fund from the members who are not exempt; or
 - b) By relieving members who are exempt from the payment of the whole or part of any periodical contributions required from members towards the expenses of the union.

Schedule 2

Rules that apply to people that joined the Union on or after 1st March 2018 and to political funds set up on or after 1st March 2018.

Opting in by union members to contribute to political funds

1. A member cannot be required to make a contribution to the political fund of the union unless they have given notice of their willingness to contribute to that fund (an "opt-in notice").
2. A member of a trade union who has given an opt-in notice may withdraw that notice by giving notice to the union (a "withdrawal notice").
3. A withdrawal notice takes effect at the end of the period of one month beginning with the day on which it is given.
4. A member of a trade union may give an opt-in notice or a withdrawal notice:-
 - (a) by delivering the notice (either personally or by an authorised agent or by post) at the head office or a branch office of the union;
 - (b) by sending it by e-mail to the following email address:
membership@poauk.org.uk
 - (c) by completing an electronic form provided by the union which sets out the notice and sending it to the union by electronic means with instructions by the union.
 - (d) by any other electronic means prescribed under the 1992 Act (as inserted by the 2016 Act)

Information to members about opting in to the political fund

5. The union shall take all reasonable steps to secure that, not later than the end of the period of eight weeks beginning with the day on which the annual return of the union is sent to the Certification Officer, all the members of the union are notified of their right to give a withdrawal notice.
6. Such notification may be given:-
 - (a) by sending individual copies of it to members; or
 - (b) by any other means (whether by including the notification in a publication of the union or otherwise) which it is the practice of the union to use when information of general interest to all its members needs to be provided to them.

7. The notification may be included with the statement required to be given by section 32A of the Trade Union and Labour Relations (Consolidation) Act 1992.
8. A trade union shall send to the Certification Officer a copy of the notification which is provided to its members in pursuance of this section as soon as is reasonably practicable after it is so provided.
9. Where the same form of notification is not provided to all the members of the union, the union shall send to the Certification Officer a copy of each form of notification provided to any of them.
10. If any member alleges that he is aggrieved by a breach of any of these rules for giving information to members about opting into the political fund, being a rule or rules made pursuant to section 84A of the 1992 Act, he may complain to the Certification Officer. Where the Certification Officer is satisfied that the union has failed to comply with a requirement of section 84A of the 1992 Act the Officer may make such order for remedying the failure as he thinks just under the circumstances. Before deciding the matter the Certification Officer:-
 - (a) may make such enquiries as the Officer thinks fit;
 - (b) must give the union, and any member of the union who made a complaint to the Officer regarding the matter, an opportunity to make written representations; and
 - (c) may give the union, and any such member as is mentioned in clause (b), an opportunity to make oral representations.

Manner of giving effect to decision not to contribute to political fund

11. The union shall give effect to the members decision not to contribute to the political fund of the union either:-
 - (a) by a separate levy of contributions to that fund from the members who are contributors; or
 - (b) by relieving members who are not contributors from the payment of the appropriate portion of any periodical contribution required from members towards the expenses of the union.
12. Any form (including an electronic form) that a person has to complete in order to become a member of the union shall include:-
 - (a) a statement to the effect that the person may opt to be a contributor to the fund; and
 - (b) a statement setting to the effect that a person who chooses not to contribute to the political fund shall not, by reason of not contributing, be excluded from any benefits of the union or be placed in any respect either directly or indirectly under a disability or at a disadvantage as compared with other members of the union (except in relation to control of the political fund).

POLITICAL FUND RULES (NORTHERN IRELAND)

- (1) Under Article 59 of the Trade Union and Labour Relations Order (Northern Ireland) as amended no member of the union shall be required to make any contribution to the political fund of the union unless she/he has delivered as provided in Rule (4) to the head office or some branch office of the union, a notice in writing, in the form set out in Rule (2) of her/his willingness to contribute to that fund, and has not withdrawn the notice in the manner provided in Rule (3). Every member of the union who has not delivered such a notice or who, having delivered such a notice, has withdrawn it in the manner provided in Rule (3) is to be deemed for the purpose of these rules to be a member who is exempt from the obligation to contribute to the political fund of the union.
- (2) The form of notice of willingness to contribute to the Political Fund of the union is as follows:

FORM OF POLITICAL FUND CONTRIBUTION NOTICE PRISON OFFICERS' UNION

Name of Member's Branch:

POLITICAL FUND (CONTRIBUTION NOTICE)

I hereby give notice that I am willing, and agree, to contribute to the political fund of the Prison Officers' Union and I understand that I shall in consequence be liable to contribute to that fund and shall continue to be so liable, unless I deliver to the Head Office or some other branch office of the union, a written notice of withdrawal. I also understand that after delivering such a notice of withdrawal I shall still continue to be liable to contribute to the political fund until the next following first day of January.

Name:

Address:

.....

Membership Number:

..... day of 20.....

- (3) If at any time a member of the union, who has delivered such a notice as is provided for in Rules (1) and (2) gives notice of withdrawal thereof, delivered, as provided in Rule (4) to the head office or at any branch office of the union, she/he shall be deemed to have withdrawn the notice as from the first day of January next after the delivery of the notice of withdrawal.
- (4) The notices referred to in Rules (1), (2) and (3) may be delivered personally by the members or by any authorised agent of the member, and any notice shall be deemed to have been delivered at the head or branch office of the union if it has been sent by post properly addressed to that office.
- (5) (a) All contributions to the political fund of the union from members of the union who are liable to contribute to that fund shall be levied and made separately from any contributions to the other funds of the union.

(b) The contribution to the political fund of the union shall be the sum of 15 pence per month.
- (6) If any Northern Ireland member alleges that she/he is aggrieved by a breach of any of these rules for the political fund, she/he may complain to the Northern Ireland Certification Officer for Trade Unions and Employers' Associations, *Certification Office 10-16 Gordon Street, Belfast, BT1 2LG* and the Certification Officer, after giving the complainant and any representative of the union an opportunity of being heard may, if he considers that such a breach has been committed, make such order for remedying the breach as he thinks just in the circumstances; any such order of the Certification Officer may, subject to the right of appeal provided by Section 95 of the Trade Union and Labour Relations (Consolidation) Act 1992, be enforced, in manner provided for in Section 82(4) of that Act.

ANNEX G

LIFE LONG LEARNING

In accordance with Rule 2.1 (d), the POA will endeavour to provide learning opportunities and wherever possible this will include learning centres. This provision will be managed in accordance with Rule 9 of the POA's rules and constitution.

The POA will ensure that its work in engaging staff in life-long learning is exemplary.

The POA will work in partnership with various employers, Union learn, Next steps, college providers and any other appropriate organisations who can support the POA in engaging staff and families in accessing learning across England, Ireland, Scotland and Wales or areas where POA members work.

The POA will provide information to members via the website www.poauklearning.org.uk, Gatelodge, POA circulars as and when deemed necessary.

The POA will identify funding streams that may be available and deemed appropriate to ensure staff have access to continued learning provision.

The POA will provide initial training and continued support for union learning reps and ongoing development training for qualified union learning reps via TUC training modules.

The POA will work towards developing a range of professional qualifications to enable members to develop their skills.

**ANNEX H
CORPORATE RESPONSIBILITY IN THE POA**

PROTOCOL

1. Members in seeking, accepting and being elected to *the Committees* must respect and accept a collective responsibility for decisions democratically taken by the members of *the Committees*.
2. Members of "*the Committees*" shall uphold and defend the collective decisions made and shall not express dissent from, or campaign against, such decisions made by the Committee.
3. Minutes of *the Committees* and such Reports are produced are to be treated as "**private and confidential**" to *the Committees*. These Minutes and Reports will remain "**private and confidential**" until approved as correct and sanctioned for publication by *the Committees*.
4. No Member of *the Committees* shall reveal the proceedings of *the Committees*, nor publish extracts or voting positions, except when authorised and approved by *the Committees*.
5. Members of *the Committees* may explain policy and discuss approved and published Minutes or Reports with any POA Members.
6. Full Time Officers of the POA will maintain the same standards of confidentiality as that required by elected Members of *the Committees*.
7. Any member of the Committee or Full Time Officer of the POA may be disciplined for any breach of the above protocol.
8. It is recognised that where members do not agree with the corporate position the option exist for them to tender their resignation, however no member should on resignation release to the membership any information until approved to do so by the Committee
9. Confidentiality will not be deemed to have been breached if a complaint is made under Rule 26.1 to the General Secretary in accordance with Rule 26.7 on any matter covered by this Annex.

ANNEX I RELIGIOUS TOLERANCE

Introduction

All Employees have a legal right to work in an environment that is safe, healthy and to be protected from all forms of religious discrimination and or abuse. The POA is totally committed to remove religious bigotry from its ranks.

The union will tackle unacceptable behaviour which is based upon a person's religion, to ensure that all our employees, POA members, providers and their employees' work in an environment where they are all treated equally no matter what their religious beliefs.

Our employees, members, providers and their employees' should not face threats or intimidation or other unacceptable behaviour whilst representing or working for the union because of their religious belief. Such behaviour **is simply unacceptable.**

The Union's Aim

This union will strive to provide a safe place of work, so far as is reasonably practicable for all employees, members, providers and their employees when representing or working for the Union free from unwanted acts of violence, threats, harassment, abuse, intimidation or any form of bullying, to ensure that all employees and members are treated with dignity and respect irrespective of their religious beliefs.

The union accept that people may have a different perception about behaviour, which they find threatening, or offensive, or which causes distress. However, it is important that we respect each other and allow each other to live their lives in accordance with their religious beliefs.

Definition of Harassment

For the purposes of this policy a person subjects another person to harassment where on the grounds of religion or belief, (A) engages in unwanted conduct which has the purpose or effect of violating (B's) dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for (B).

Management

This policy will be managed by the General Secretary of the Union, or in his absence his deputy. Any complaint by a member, employee or provider or one of their employees' will be dealt with by the General Secretary.

Mediation

Following a complaint and prior to any investigation the General Secretary will attempt to arrange mediation between the parties in accordance with Conference Policy so as to resolve the matter as quickly as possible.

Sanctions

Any complaint against a member may be referred to the Union's Conduct Committee in accordance with the Rules and Constitution, if mediation has failed to resolve the matter.

Conclusion

The purpose of the policy is to draw people's attention to the diverse culture that we all live and work in. The Union will promote equality for all and demands that its members respect the religious beliefs of our employees, members, providers and their employees.

ANNEX J

MEDIA POLICY OF THE PRISON OFFICERS' ASSOCIATION ('THE POA')

Introduction

The National Executive Committee of the POA ('the NEC') has decided that it is necessary to have an agreed Media Policy to protect the interests of the union and members.

The employer and the Cabinet Office have tried to prevent members speaking to the press and to this end the POA has sought legal advice which is contained for information and to ensure individuals are protected providing they have obtained authority and follow the policy.

The NEC is aware that some members of the union have and/are facing criminal proceedings for disclosing information to media.

Legal framework

1. There are conflicting legal rights and obligations that govern the actions of prison officers, union officials and other employees of institutions such as prisons who wish to make comments in the media:
 - a. Everyone has a right to freedom of expression. This is a qualified right (which means that state organisations can restrict expression providing that is proportionate). However, there is an important public interest in the public being informed about what is happening in prison (See, by analogy, *R (Hirst) v Secretary of State* [2002] 1 WLR 2929 at [53]). As a consequence, a powerful justification is required to stop a person with direct experience of prisons commenting on important issues regarding the state of prisons.
 - b. The Civil Service Management Code ('the code') provides that:
Civil servants must not take part in any activities or make any public statement which might involve the disclosure of official information or draw upon experience gained in their official capacity without the prior approval of their department or agency. They must clear in advance material for publication, broadcasts or other public discussion which draws on official information or experience. [4.2.4]
A breach of the code could result in disciplinary proceedings. However, it must be read consistently with the rights to freedom of expression. As a consequence, authority must be granted for public statements unless there is a clear justification for refusing it.
 - c. The provision in the code that states that authority should be sought for disclosure reflects the approach of the courts. In *R v Shayler* [2003] 1 AC 247 it was held that the existence of a right to apply for approval before disclosing material was sufficient to ensure that the Official Secrets Act 1989 was compatible with the rights of a person to freedom of expression.
 - d. Employees of private sector prisons are likely to be subject to similar duties by reason of their employment contracts.
 - e. A duty of confidentiality essentially arises where information is communicated in circumstances in which the nature of the material implies it is confidential, the person who receives the information knows that it is confidential and the person to whom the duty of confidence is owed has not given consent for disclosure (e.g. *Coco v AN Clark (Engineers) Ltd* [1969] RPC 41). In a prison context much of the information received by prison officers is likely to be subject to this duty. That is because the circumstances in which the information was obtained are likely to imply that the information is confidential. The existence of the code implies that information obtained in the course of a person's employment as a prison officer is likely to be regarded as confidential. However, the duty of confidentiality can be outweighed by the public interest.
 - f. Duties are owed under the Data Protection Act 1998 to individuals (including prisoners) to keep 'personal data' (i.e. data that identifies an individual) confidential. These duties are not imposed directly on most prison officers (but on the 'data controller', who is the person with responsibility for the control of data). However, they may justify actions taken by the Prison Service to maintain confidentiality such as disciplinary action based on the code.
 - g. The criminal law imposes restrictions upon prison officers when they disclose material regarding their employment to the media. In particular:

- i. It is an offence under section 2 of the Bribery Act 2010 for a person to receive or agree to receive any advantage for the improper performance of a public function. In light of the legal framework above (including the code), it is highly likely that the disclosure of any material gathered in the course of employment at a prison in return for any advantage will be an offence. That is because disclosure will be improper in light of the legal framework described above.
 - ii. An offence of misfeasance in public office is committed where a public officer (such as a prison officer) deliberately misconducts himself to such a degree as to amount to an abuse of the public's trust. Disclosure of confidential information for benefit is likely to amount to an offence. Similarly, deliberate disclosure intended to cause serious harm (because, for example, it may undermine a person's personal security) is likely to amount to an offence.
 - iii. It is an offence under section 55 of the Data Protection Act 1998 for personal data to be disclosed without the consent of the data controller. There is a public interest defence (among other defences).
- h. The above legal framework applies to any person who is employed by the state to work in prisons (or many other environments). As a consequence, for example, it would apply to those employed as an Operational support grade. It does not merely apply to prison officers. However, additional duties potentially apply to those who are members of a regulated profession as well as being state employees. For example, nurses are subject to *The Code: Professional standards of practice and behaviour for nurses and midwives*¹. Church of England clergy employed as chaplains may be disciplined². This guidance will not seek to set out all of the professional regulation that applies as it is assumed that all POA members will know when they are subject to professional obligation. The key point is that professional rules may impose additional obligations. In general a regulated professional such as a nurse will owe a duty of confidentiality to those who they are providing services to. A breach of those duties may result in professional disciplinary proceedings.

Guidance on legal framework described above

2. The following principles are clear from the legal framework identified:
- a. Information or knowledge obtained in the course of employment by the Prison Service or similar organisation must never be disclosed in return for payment (or other advantage). Disclosure in these circumstances is highly likely to amount to an offence under the Bribery Act 2010. It may also amount to misfeasance in public office. It will also bring the profession of prison officer into disrepute.
 - b. Security information (or other information which needs to be kept confidential to protect against physical or emotional harm) should never be disclosed. There is a significant risk that disclosure in these circumstances will amount to misfeasance in public office. Again it will also bring the profession of prison officer into disrepute.
 - c. Information obtained from prison records and that identifies a particular prisoner (or any other person about whom records are held) should never be disclosed. That is because it is almost certainly an offence under the Data Protection Act 1998. Although there is a public interest defence, it will be difficult to justify disclosure without seeking authority from management.
 - d. There is nothing objectionable in prison officers or other employees of the state making comments about legitimate matters of public concern where the matters that are being commented on are a matter of public record. For example, it would be unobjectionable for prison officers to comment on figures regarding the levels of violence in prison saying that they are unacceptable. There is a powerful public interest in such disclosure and it is not based on confidential information.
 - e. Where a prison officer or other person employed in a prison environment wants to comment on information obtained during the course of employment, they should seek approval from management. For example, if a prison officer wishes to say that their personal experience is that violence is frequent, approval should be sought. The difference between this and comments on the figures regarding the levels of violence is that a prison officer is commenting on their experiences.
 - f. If permission is refused to speak to the media by the employer, the employee should appeal the decision using the grievance procedures. Individuals can only be refused permission to speak to the media where there is a sufficiently good reason to justify restrictions upon freedom of expression.

¹ <http://www.nmc-uk.org/The-Code/The-Code-in-full/#professionalism>

² <http://www.common tenure.org/>

- g. In theory, there may be circumstances in which the public interest requires the media to be supplied with material without waiting for approval. This is likely to be exceptional. If there is reason to believe that there may be justification for such disclosure, advice should be sought from the Governor or Director of your place of work. Anyone taking such action should be aware that they will be at risk of legal action.
- h. If a POA official, employee and or member is refused permission to speak to the media by the Prison Service, they should seek permission from the NEC before speaking to the media. The NEC decision is final in accordance with the POA's Rules and Constitution. If a POA official, employee and or member is refused permission but proceeds to comment, they will not be eligible to apply for legal advice and support should they be investigated by the employer and or any other organisation.
 - i. The POA will vigorously defend its members' rights to speak to the media.

Authorised media comments on behalf of the union, in a person's capacity as a POA official, employee and or member.

- 3. The above guidance applies when a POA member wishes to make comments to the media in a personal capacity. The following additional guidance applies where a person wishes to comment as
 - a. An employee of the union.
 - b. An official of the union.
 - c. A member of the union.
 - d. In any other context in which there is a risk that the comments made will be attributed to the union.
- 4. It is essential for the effective advancement of members' interests that the union presents a consistent message. As a consequence, approval must be sought before comments are made to the media where there is a risk that the comments made will be attributed to the union. In particular, before any comment is made to the media:
 - a. In England and Wales, approval must be given by the National Chair, the General Secretary or the NEC. The power to give authority may be delegated by the NEC to named officials.
 - b. In Scotland, approval must be given by the Scottish National Committee and/or the Scottish Chair.
 - c. In Northern Ireland, approval must be given by the Northern Ireland Area Committee or the Northern Ireland Chair.
- 5. For the avoidance of doubt, no approval will be given in circumstances in which principles 2(a), (b) or (c) above would be breached.