

DECISION OF THE CERTIFICATION OFFICER ON AN APPLICATION UNDER ARTICLE 90A OF THE TRADE UNION & LABOUR RELATIONS (NORTHERN IRELAND) ORDER 1995

IN A MATTER OF COMPLAINTS MADE AGAINST THE NATIONAL ASSOCIATION OF SCHOOL MASTERS AND UNION OF WOMEN TEACHERS (NASUWT)

CLAIMANT

MR J ARBUCKLE

Date of decision:

24 May 2005

DECISION

- 1.1 Under Article 90A.-(1) of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (as amended) (“the 1995 Order”) a person who claims that there has been a breach or threatened breach of the rules of a Trade Union relating to any of the matters mentioned in paragraph 90A(2) of that Order, may apply to me for a declaration to that effect.
- 1.2 Article 90B of the 1995 Order empowers me to make such enquiries as I think fit and, after giving the applicant and the Union an opportunity to be heard, to make or refuse to make the declaration asked for.
- 1.3 Whether or not I make the declaration sought, I am required to give the reasons for my decision in writing. Where I make a declaration under Article 90B I am required, unless I consider it inappropriate, to make an enforcement order on the Union. My enforcement order, which is enforceable in the High Court, is required to impose on the Union one or both of the following requirements -
 - (1) to take such steps to remedy the breach, or withdraw the threat of a breach, as may be specified in the order;
 - (2) to abstain from such acts as may be specified with a view to securing that a breach or threat of the same or a similar kind does not occur in future.
- 1.4 The Claimant in this case, Mr Jim Arbuckle, is a member of the National Association of Schoolmasters and Union of Women Teachers (“NASUWT/the Union”). By an application dated 19 May 2003 he made numerous complaints against the Union relating to alleged breaches of its National and Northern Ireland rules.
- 1.5 Briefly, the background is that on 18 March 2003, Mr Arbuckle was suspended for 3 years from the elected post of Honorary Secretary of the Northern Ireland Executive Committee (NIEC), shortly after being elected for a second 1 year term, (having served a total of 24

years as an elected officer of NASUWT). His suspension followed an internal disciplinary hearing and appeal.

- 1.6 Mr Arbuckle said he was disciplined because he wrote to the General Secretary of the Irish Congress of Trade Unions (ICTU), Mr David Begg, on 10 April 2002 saying he could not continue to support the Union's candidate, Mr McKee, who had been nominated to stand for election to the Northern Ireland Committee of ICTU (NIC-ICTU) and also because he said he had enclosed correspondence with his letter. He said Ms Sue Rogers, the Union's Honorary Treasurer, made the complaint against him because he had earlier made a complaint against Mr McKee.
- 1.7 The Union alleged that Mr Arbuckle committed internal disciplinary offences by: 1) - acting contrary to or failing to carry out Union policies and 2) - acting prejudicial to the Union. The Union claims the offences arose because Mr Arbuckle sent internal Union correspondence to an outside organisation, ICTU, and sought to prejudice the election of the Union's nominated representative, Mr McKee, to that body.
- 1.8 Following the disciplinary and appeal hearings, the Union found Mr Arbuckle had acted in a way prejudicial to it, however, it dismissed the further charge of acting contrary to, or failing to carry out, Union policies.
- 1.9 Mr Arbuckle said the Union failed properly to apply and therefore, breached its disciplinary rules in the way it conducted the internal disciplinary and appeal processes and as a consequence it denied him a fair and impartial hearing. He also said his suspension denied him some membership rights and he also alleged that the Union breached a number of its National and Northern Ireland rules in the way it filled the casual vacancy created by his suspension.
- 1.10 The Union initially claimed in correspondence to my Office that it properly applied its National rules in relation to the disciplinary procedures and it also claimed that the Northern Ireland rules did not apply in relation to the filling of the casual vacancy created by his suspension. At hearing, the Union confirmed that the rules contained within the Northern Ireland Constitution did apply to the election of Mr Arbuckle's replacement.
- 1.11 The rules Mr Arbuckle referred to are matters contained in Article 90A of the Trade Union & Labour Relations (Northern Ireland) Order 1995, (the 1995 Order), namely the appointment, election to and removal of a person from any office and disciplinary proceedings (including expulsion). The relevant provisions of the 1995 Order and the Union's rules are in Appendices 1 & 2 respectively.
- 1.12 I have decided to deal first with his complaints concerning the way the Union applied its National disciplinary rules and conducted its internal disciplinary and appeal processes and the related complaint that his removal from office denied him membership rights (complaints (1) & (2)). The remainder of Mr Arbuckle's complaints about the way the Union filled the casual vacancy created by his suspension are similar in nature and overlap to some degree and where I considered it appropriate I have combined these alleged breaches of Northern Ireland rules under 4 separate headings (complaints (3) - (6)).
- 1.13 The Claimant alleged that the Union breached the following rules:
 - (1) National rules 26 (2)(a),(b) & (c) and Article 90A 2-(b) of the 1995 Order by allowing an assistant general secretary, a paid official, to accept an improperly constituted

complaint against him by the National Treasurer, under National rule 24 (which deals with the Union's benevolent fund) and by re-numbering it as a National rule 26(g) & (h) complaint (Rule 26 is the rule which deals with internal association discipline matters). Mr Arbuckle also alleged that he had been denied a fair and impartial hearing because of the way the Union handled his disciplinary and subsequent appeal processes.

- (2) National rule 4(a)(i) & (ii) and Article 90A 2 – (a) of the 1995 Order by removing him from office; and National rule 3(i) and Article 90A 2 - (b) of the 1995 Order, by removing him from office and thereby denying him membership rights.
- (3) Rule 6 (e)(iii) of its Northern Ireland rules and Article 90A 2.-(a) of the 1995 Order on 20 March 2003 when the General Secretary invited local association secretaries to make nominations for the post of NIEC Honorary Secretary.
- (4) Rule 6 (e) (iii) of its Northern Ireland rules and Article 90A 2.-(a) & (d) of the 1995 Order by failing to apply proper procedures by permitting the Ex – President NASUWT NI to assume the role of NIEC Honorary Secretary on 21 March 2003 and later by applying improper procedures when it appointed the replacement Honorary Secretary.
- (5) Rules 5 & 9 of its Northern Ireland rules as the NIEC Officers' Committee meetings of 21 March, 11 & 16 April 2003 were improperly constituted and separately, breached rule 4 of its Northern Ireland rules as the NIEC meeting on 24 April 2003, was improperly constituted and, in all cases Article 90A 2.-(a) & (d) of the 1995 Order was also breached.
- (6) Rules 6 (e)(iv), 7(c) & 9 (a) of its Northern Ireland rules and Article 90A 2-(a) of the 1995 Order as it failed to fill the vacant post of NIEC Ex – President arising on 21 March 2003.

1.14 I initially investigated these matters in correspondence. As required by Article 90B of the 1995 Order, the parties were offered the opportunity of a formal hearing and this took place over 4 days; 20 & 21 June and 23 & 24 August 2004. The Union was represented by Mr J O'Hara QC instructed by Mr J O'Neill of Thompson McClure, solicitors. Evidence for the Union was given by Mr G Bartlett, its then assistant general secretary. Mr Arbuckle acted in person assisted by Mr J Bowers and Mr R Egan. Three large bundles of documents were prepared for the hearing by my Office. The rules of the Union were also in evidence. Pre-hearing, both parties submitted skeleton arguments. At its conclusion, I agreed to allow the parties to submit their closing arguments to me in writing. It is my policy in these matters to ensure that the parties have an opportunity to see each other's submission before I take their final submissions, which my Office received on 4 October 2004. This decision has been reached on the basis of the representations made by the parties, together with such documents as were provided by them. During this time I was the Certification Officer.

COMPLAINT 1

2.1 By allowing an assistant general secretary, a paid official, to accept an improperly constituted complaint against him by the National Treasurer, under National rule 24 (which deals with the Union's benevolent fund) and by re-numbering it as a National rule 26(g) & (h) complaint (which deals with internal association discipline matters) the Union breached

National rules 26 (2)(a)(b) & (c) and Article 90A 2-(b) of the 1995 Order. Mr Arbuckle also alleged that he had been denied a fair and impartial hearing because of the way the Union handled his disciplinary and subsequent appeal processes.

Findings of Fact

- 2.2 A large amount of evidence was presented to me at hearing and by way of copies of correspondence between the parties, most of which form the backdrop to this part of the application. I have set out the facts succinctly to provide the background to this complaint.
- 2.3 On 11 January 2002, following an invitation from ICTU, NIEC voted to send Mr Arbuckle to an ILO conference in Geneva (June 2002) as a delegate. It subsequently endorsed its decision at a meeting (8 February). On 9 February, the Union's then Regional Official (Policy), Mr McKee, (who attended February's meeting as a non – voting ex-officio member) wrote to the Union's then General Secretary Mr de Gruchy, advising of his reservations about the NIEC decision. Mr McKee said NIEC's decision to send Mr Arbuckle to ILO was unjustified; it would set a dangerous precedent and be seen as 'endorsing junket trips'. He said he had taken the unusual step of placing his comments on record and copying them to NIEC as otherwise his silence might be interpreted as tacit support for the decision.
- 2.4 By letter of 13 February 2002, Mr Arbuckle complained to Mr de Gruchy about Mr McKee's conduct. He said Mr McKee had undermined the democratic process of NIEC and endangered the harmony of professional relationships between paid staff and elected officials. He advised Mr de Gruchy of his withdrawal of support for Mr McKee's nomination to NIC – ICTU (for 2002 – 04) which NIEC had approved (8 February) and that he would encourage others likewise to withdraw their support. He advised he would write in similar terms to Mr Begg.
- 2.5 By letter of 18 February 2002, Mr de Gruchy advised Mr Arbuckle 'in the strongest terms possible' against writing to Mr Begg. He reminded him the Union's National Executive had decided that its representative on NIC - ICTU should be either the General Secretary or his nominee. He said the proposed intervention would run entirely counter to established policy and repeated 'my strongest advice that you should desist from any such action.'
- 2.6 By letter of 20 February 2002 Mr O'Kane, General Secretary Designate, told Mr Arbuckle that his and Mr McKee's letters were considered by the Union's National Officers' Committee (19 February) and it had decided that decisions on who should attend international events are matters for the National Executive Committee (NEC). Mr O'Kane said the NEC would, nevertheless, be happy to receive advice and/or recommendations from Northern Ireland colleagues on who might represent the Union.
- 2.7 In a further letter of 27 February 2002, Mr McKee expressed concerns to Mr de Gruchy about Mr Arbuckle's intention to advise ICTU of the withdrawal of support for his nomination. He said "as the nomination was ratified by the Federation Executive, Jim is now proposing to write to an outside body challenging a decision of the Federation Executive..... to reverse unilaterally a decision of the Executive, it can only be a move, to broadcast internal divisions, without the authority of the Executive.... As Jim should be aware..... (it) must also act in a way which is fully consistent with the role of a national Union in respect of representation at international conferences. If individual parts of the Union are permitted to send their own delegates to international conferences, the Union

would effectively cease to operate as a disciplined national body and would quickly fragment.”

- 2.8 By letter of 9 March 2002, Mr Arbuckle assured Mr O’Kane that if NIEC had breached established protocol/policy by nominating him to attend ILO without first consulting NEC that no snub was intended and he apologised on NIEC’s behalf. He offered to withdraw his nomination in favour of the General Secretary or his nominee. He said the decision was taken as an Executive Committee of an ICTU affiliated organisation without awareness of any protocol/policy. He sought written confirmation and details of these to inform future decision-making processes (the Union did not reply to this request).
- 2.9 By letter of 25 March 2002, Mr Arbuckle told Mr de Gruchy that, on his advice, he refrained from contacting ICTU until the question of ILO representation was finalised. He asked for an urgent decision, as arrangements were well advanced and it was a matter of embarrassment that he remained unable to confirm participation. On the same day, Mr McKee e-mailed Mr de Gruchy to say he was glad Mr Arbuckle had not written to ICTU; adding that if NIEC insisted on sending representatives to international conferences this may be construed as a snub to NEC or as a bid for unilateral independence. The next day, Mr O’Kane wrote to Mr Arbuckle to say that the costs (about €2,000) did not justify attendance at ILO in this instance.
- 2.10 By letter of 10 April 2002 Mr Arbuckle advised Mr Begg, General Secretary ICTU viz;

Dear David,

DEVELOPMENT EDUCATION SUMMER SCHOOL

“It is with regret and embarrassment that I write to inform you that National Officers of NASUWT have decided that the costs involved in the Summer School would not justify participation.

They have taken this decision following representations by NASUWT Regional Official (Policy) Tom McKee a member of the Northern Committee, who equates the decision to participate in the project as being ‘seen as endorsing junket trips.’

I am enclosing copies of recent correspondence which will better inform you of the situation and hopefully you will realise that NASUWT Northern Ireland is not opposed to participation. Quite the opposite in fact but we are bound by the decision of National Officers.

Given the views expressed by the Regional Official (Policy) in his representations with regard to participation in the Summer School as well as conferences concerning abortion and Amnesty you will understand that I cannot continue to support his nomination to Northern Committee of ICTU 2002 – 2004.

Please accept my apologies on behalf of NASUWT (NI) for the inconvenience and difficulties that our withdrawal will surely cause.

Yours fraternally

Jim Arbuckle
Honorary Secretary

Cc Peter Bunting ICTU
David Joyce ICTU
Peter Scott NASUWT
Jim McDaid NASUWT
Peter Butler NASUWT
Tom McKee NASUWT
Eamonn O’Kane NASUWT

- 2.11 By letter of 18 April 2002, Mr O’Kane advised NIEC members Peter Scott and Jim McDaid of their responsibility to ensure the NASUWT delegation to ICTU’s Northern Ireland Conference lent full, undivided support to Mr McKee for NIC - ICTU membership. He said he had little doubt that they understood ‘the absolute necessity of maintaining the integrity of Union decisions’ and following Mr Arbuckle’s letter he felt it important to ‘communicate formally’ the Union’s position. He said he had a copy of Mr Arbuckle’s letter to Mr Begg (10 April) and that it had been referred to the National Officers’ Committee for consideration. On 21 April, Peter Scott, wrote to all NASUWT delegates at the NIC - ICTU Conference to encourage support for Mr McKee ‘as to do otherwise would offend a clear mandate and render NASUWT divided and consequently weakened in the eyes of our ICTU colleagues and perhaps more significantly our teacher Union rivals.’
- 2.12 By letter of 11 May 2002, NASUWT’s Ms Sue Rogers, made a formal complaint to Mr O’Kane against Mr Arbuckle, viz: ‘I wish to make a formal complaint under National Rule 24(g) & (h) against Jim Arbuckle of the Northern Ireland Federation. In his capacity as an Officer of that Federation against the express advice of the General Secretary he sent internal letters and papers to an outside organisation, ICTU. He also sought to prejudice the election to that organisation of..... Tom McKee.’ National rule 24 does not deal with disciplinary matters (it deals with the benevolent fund) and the Union did not seek clarification from Ms Rogers. Mr O’Kane verbally instructed Assistant General Secretary Mr Bartlett, to re-number her complaint from rule 24 to rule 26 (the latter dealt with disciplinary matters) and to “progress it”. Mr Bartlett followed his instructions.
- 2.13 By letter of 21 May 2002, (i.e. 10 days after Ms Rogers’ complaint) Collette McCrossan, Honorary Secretary of the Union’s Belfast Association, advised Mr O’Kane that by writing to ICTU, Mr Arbuckle had jeopardised their ability to enable Mr McKee to be elected to NIC-ICTU; that he brought an internal matter to the attention of an outside body, which she said was not in the Union’s best interests and although he signed the letter as NIEC honorary secretary, he did not speak for Union members in Northern Ireland. In raising her Association’s concerns, she asked Mr O’Kane what steps National Officers proposed to take.
- 2.14 By letter of 23 May, Mr Bartlett advised Mr Arbuckle of the complaint and asked him to write to the General Secretary within 14 days to admit or deny it. By letter of 5 June, Mr Arbuckle wrote to the General Secretary denying the complaint and said he would provide a fuller response later, which he did on 17 June.
- 2.15 By fax and letter of 10 June, Mr Bartlett advised Mr Hardman, Union Ex – President, that Ms Rogers had made 2 complaints against Mr Arbuckle under disciplinary rule 26. In his

letter, Mr Bartlett summarised these as ‘action contrary to or failure to carry out the policies of the Association’ (Rule 26 (1)(g)) and action prejudicial to the interests of the Association’ (Rule 26 (1)(h)).’ In fact, the rules do not contain a rule 26 (1) (h), properly cited these would read 26 (1) (f) & (g).

2.16 Mr Bartlett also provided Mr Hardman with 9 documents including Mr McKee’s letter to Mr de Gruchy (9 February) Mr Arbuckle’s letter to Mr de Gruchy (13 February) Ms McCrossan’s letter to Mr O’Kane (21 May) and also Mr Arbuckle’s initial response to the complaint (5 June).

2.17 Mr Hardman replied directly to Mr O’Kane by letter of 12 June saying “I have reviewed the relevant paperwork---- I:

am of the opinion that a preliminary investigation is not necessary: I instruct you to convene a Disciplinary Committee meeting for the purpose of a hearing to consider the complaint.”

2.18 By letter of 25 June 2002, Mr Bartlett sought advice from Mr O’Kane about what papers he should provide for the Disciplinary Committee hearing. In reply (26 June) Mr O Kane said that Mr Arbuckle’s detailed response (some 34 documents) to Ms Roger’s complaint should be seen by the disciplinary panel to allow it to “get some idea of the people [Mr McKee] has to deal with.”

2.19 Mr Bartlett’s letter (13 September) enclosing the documents to Mr Egan (Mr Arbuckle’s representative) showed the list of those to whom it was being copied. He also sent hidden copies to the General Secretary, Mrs Keates, then Deputy General Secretary and Mr McKee. This information was not included on Mr Egan’s letter, but appeared on Mr McKee’s copy letter.

2.20 By reply letter of 18 September 2002, to Mr Sheerin, (then the Union’s Northern Ireland President) who was suggesting that the General Secretary might try to resolve matters, Mr O’Kane said that “neither he, nor any other official has any part to play in the disciplinary process other than in an administrative capacity” or where “we might be called as material witnesses in any hearing.” He rejected Mr Sheerin’s request to intervene on the basis that such intervention “is not provided for in the Rules, where a clear procedure has been set down and which, in the interests of justice and equity, must be adhered to.”

The Submissions

2.21 Mr O’Hara, for the Union, said that for years, internal disciplinary rules were contained in rule 24, however, rule additions at National Conference had caused consequential re-numbering and rule 26 now dealt with this matter. He said these changes were relatively recent and many members still refer to rule 24 when they meant rule 26. Clearly Ms Rogers quoted rule 24 in error instead of rule 26, however, it was evident from the context that it was her clear intention to lodge a complaint under rule 26. He said there is no other rule relating to internal discipline in the National Rules and therefore, this was not a matter of interpretation.

2.22 Mr O’Hara said it was unfortunate that in correcting the number of the rule in subsequent correspondence, Mr Bartlett also made a slight error (in quoting rule 26 (1)(h) which did not

exist) but, he said, such errors occur from time to time in any organisation, asserting that any reasonable person would accept that such errors occasionally occur, adding that in this case it made little material difference. He said Mr Arbuckle did not raise any query about the issue of the rule numbering at the preliminary stages of the disciplinary procedure; rather he only did so at the first hearing of the disciplinary panel. He added that in his initial reply, Mr Arbuckle also cited incorrect numbers.

- 2.23 Mr O’Hara asked Mr Arbuckle what, in his opinion, should have happened in the context of the reference to the wrong rule. Mr Arbuckle said the Union should have asked Ms Rogers to confirm exactly under which rule she was complaining. He said that when he made a complaint about Mr McKee, the General Secretary wrote to him requiring confirmation of the rule under which he was complaining. He said the same treatment should apply in each case. Mr Arbuckle asserted that no member made a properly constituted complaint against him and the General Secretary had acted beyond his powers by accepting an improperly constituted complaint against him and by instructing Mr Bartlett to change the rule numbering and process it. He also claimed that he deliberately replied to Mr Bartlett’s letter (23 May 2002) using his incorrect numbering, knowing the rule was erroneously cited by Mr Bartlett.
- 2.24 Mr O Hara said when a member makes a complaint against another member, the rules only require the complainant to set out the defendant’s conduct; they do not require a member to cite or identify a rule number linked to the alleged conduct. Mr O’Hara also asserted that Mr Arbuckle fully understood what rule he was alleged to have breached in this case.
- 2.25 Mr Arbuckle rejected Mr O’Hara’s arguments. He said the rule is dependant on the offence and offences are specified in Rule 26; if a member believes another member has committed a disciplinary offence that member would have to specify the offence to allow the defendant to respond to the charges. The question of whether or not he was aware of the offences against him was irrelevant as in his view it remained a matter for the Certification Officer to determine whether or not the Union had breached its rules.
- 2.26 Mr Arbuckle went on to argue that National rules only permit a member to make a complaint against another member, and in this case no member had made a properly constituted complaint against him, nor did the Union take any steps to clarify Ms Rogers’ complaint. He said that by not taking this simple reasonable step, it supported his claim that the Union had orchestrated the complaint against him. He also stressed that Ms Rogers’ complaint was made in her capacity as a Union officer against him as Honorary Secretary (also a Union officer). (Mr Arbuckle’s emphasis)
- 2.27 He argued the role of paid officials, in these matters, is to act impartially and solely in an unbiased administrative role, and this “plainly did not happen in this case.” By re-numbering the complaint and muddling matters by citing a non – existent rule, the paid official (Mr Bartlett) “played an active part in constructing the complaint, contrary to, and thereby breaching the Union’s disciplinary rules and the law”. Mr Arbuckle also said the re-numbering of the rule was not a relatively recent event as suggested, but had occurred some years ago.
- 2.28 Continuing, Mr Arbuckle said National rule 26 (2) (c), specifically required the General Secretary to refer the complaint to the Ex – President following a denial by the defendant or upon the expiry of 14 days if no response is received from the defendant. Instead, Mr O’Kane asked Mr Bartlett to handle the administration of the complaint on his behalf,

thereby delegating his responsibility to Mr Bartlett and in so doing had acted out with and, therefore, breached this rule.

- 2.29 Mr Arbuckle argued that rule 26 is deliberately constructed in such a way as to protect members during the initial stage of examining the validity, or otherwise, of alleged complaints. In his view, the purpose of the rule is to limit the number of persons who know about the complaint to the most senior people in the Union (the General Secretary and Ex – President) in addition to the complainant and respondent, until the Ex – President recommends the appropriate action to be taken. Where he decides to reject the complaint, the parties are advised accordingly and in this way confidentiality and reputations may be protected. Mr Arbuckle argued that the point at which the General Secretary could delegate under rule would only arise after, either the respondent admits the complaint or the Ex - President is of the opinion that the complaint should proceed further; whereupon the General Secretary shall convene a Disciplinary Committee meeting for the purpose of a hearing to consider the complaint.
- 2.30 Mr Arbuckle said that Ms Rogers had brought her complaint against him on false information supplied to her by the General Secretary’s Office and that the Union had upheld a complaint that he had sent internal papers to ICTU yet at no time did Ms Rogers prove what, if any, papers had been sent. He said the complaint was “built on speculation” and after presenting her case the appeal panel had to ask him “what he had done wrong” this he said confirmed that the case against him was not proved.
- 2.31 He said the appeal panel found he had sought to prejudice Mr McKee’s election, despite admitting that it had received in evidence a statement, signed by all of the elected delegates entitled to vote in the election, that he had not sought to do so and the delegates also confirmed that Mr Arbuckle did not have a vote and was not a delegate.
- 2.32 Continuing he said, when Mr Bartlett had referred the complaint to Mr Hardman he enclosed copies of Mr Arbuckle’s letter to Mr de Gruchy (13 February 2002) and the letter from the Belfast Secretary to Mr O’Kane, (21 May 2002) but that he did not enclose a copy of Mr Arbuckle’s letter of 10 April 2002 to Mr Begg, which was the initial subject of the complaint. Mr Arbuckle asserted that Mr Hardman instructed Mr O’Kane to convene a disciplinary hearing based on the contents of the wrong letter supplied by Mr Bartlett and that Mr Bartlett clearly sought to influence Mr Hardman’s decision thereby interfering in the process.
- 2.33 Mr Arbuckle said Mr Bartlett had advised him by letter of 19 June 2002 that a Disciplinary Committee Hearing had been arranged for 19 and 20 July 2002, within less than 4 weeks of him being informed that there was a complaint against him and he contrasted this to complaints he had made against Union officials which sometimes took the Union months to respond to: on one occasion he said he did not receive any response and in every case no action was taken on the complaint. He said on 28 September 2002 he complained to Mr O’Kane about Ms Rogers’ and Mr McKee’s conduct [Mr Arbuckle said they had discussed his religion] and on 7 October Mr O’Kane wrote asking him under which rule he was complaining against Ms Rogers and it took the Union 10 weeks to reply, confirming that no action would be taken against Ms Rogers.
- 2.34 He said “secret actions” were taken by Mr Bartlett which were detrimental to him and favoured Mr McKee, who was one of Ms Rogers’ witnesses; he said the “actions” included “the sending of all defence documents written to him [Mr Bartlett] as the nominee of the

General Secretary directly and secretly to [Mr McKee] at his home” he added that both paid officials [messrs McKee and Bartlett] were witnesses for the complainant against him.

- 2.35 Mr Arbuckle said that an examination of pages 218/9 of the original report of the disciplinary hearing shows the panel stated openly that he was guilty before they heard one defence statement. He said the transcript shows that in discussions which took place before Ms Rogers’ witnesses had finished giving evidence and before any evidence had been given on behalf of Mr Arbuckle, Mr Battye (chairman of the Disciplinary Committee) commented that he suspected he would be in a position to make a decision, apparently on the basis of the evidence in the documents and of Ms Rogers’ witnesses alone. The transcript also records that Mr Ferri (a National Executive Officer and a member of the Disciplinary Committee) commented at that stage “we have got the evidence to prove that he did what he shouldn’t have done”.
- 2.36 Mr Arbuckle drew my attention to National Rule 26 (5)(iv) & (v) which provides that Notice of Appeal sent to the defendant should specify his right to attend, make verbal submissions, call witnesses, submit documentary evidence and make written submissions. He said all this proves that the Panel members had made up their minds before hearing his evidence.
- 2.37 In evidence, Mr Bartlett said he had over 30 years experience of disciplinary/grievance proceedings, tribunals and Trades Union internal committees of investigation. Prior to the hearing of the rule 26 complaint against Mr Arbuckle, he had acted as the General Secretary’s nominee 5 times in rule 24/26 proceedings and was responsible for the administrative arrangement for an additional internal disciplinary complaint.
- 2.38 He also told me he had acted as Mr de Gruchy’s nominee in respect of the first Internal Association Discipline hearing held under the then rule 24. In respect of all those relevant issues where the rulebook is silent, he said he worked with the first Disciplinary & Appeals Committee Chairs, devising appropriate procedures and interpretations.
- 2.39 On receipt of the rule 24 complaint against Mr Arbuckle, he was asked by Mr O’Kane to re-number it and progress it on his behalf. He could not offer an explanation why he did not revert to Ms Rogers before doing so. His first action (23 May 2002) was to write to the Defendant in accordance with rule 26 (2)(b):
- ”upon receipt of such a complaint the General Secretary shall send a copy of the complaint to the Defendant who shall within 14 days of the date it was sent to him/her notify the General Secretary in writing whether the complaint is admitted or denied.”*
- 2.40 He said that, whilst acting on Mr O’Kane’s behalf, he had attempted to progress the complaint against Mr Arbuckle according to all relevant provisions of rule 26, the procedure adopted by the relevant Committees and established custom and practice. He said, throughout his correspondence with Mr Arbuckle, he referred to the complaint against him as being under “Rule 26.” In his first letter to Mr Arbuckle (23 May 2002) he pointed out to him that Ms Rogers had referred in error to “Rule 24.”
- 2.41 Mr Bartlett accepted he was at fault by informing Mr Arbuckle that, apart from the renumbering of “Rule 24” to “Rule 26”, all other aspects of the Rule were unchanged. He said he had omitted to point out to him that clauses originally appearing as 24 (1)(g) & (h) had been re-lettered 26 (1)(f) & (g). Mr Bartlett said Mr Arbuckle was not in anyway

misled or disadvantaged as evidenced by his reference to the precise wording of the correct provisions of the rule under which the complaint against him had been made. He said that Mr Arbuckle was fully aware of the precise wording of the provision of rule 26 under which the complaint against him had been made; this view was reinforced by the letter which Mr Arbuckle had sent to him (9 August 2002) in which he said:

“I have not been informed of precisely which policies of the Association I am accused of acting contrary to or failed to carry out as stated in the complaint. Nor have I been informed precisely how I have acted in a way prejudicial to the interests of the Association as stated.”

- 2.42 Continuing, Mr Bartlett said that in Mr Arbuckle’s notice of Appeal to the General Secretary, he alleged that *“correspondence sent for the attention of my representative [Mr Egan] was also sent by your nominee [Ms Keates] to a prosecution witness [Mr McKee] by what, in my opinion, can only be regarded as a devious and underhand route.”* Mr Bartlett said he believed this related to the letters between himself and Mr Egan (8 & 13 September 2002).
- 2.43 Mr Bartlett confirmed that he forwarded *“silent”* copies of these to Mr McKee by e-mail but he did not believe his action was prejudicial. He said his action, in allowing one of Ms Rogers’ witnesses access to relevant correspondence did not inform them of anything they did not already know. He said it was the practice in all previous disciplinary hearings, to copy all exchanges to both parties and all members of the Disciplinary Committee.
- 2.44 Mr Bartlett told me that both Regional Officials in Northern Ireland had complained of harassment by elected officer colleagues and he copied the relevant communications *“silently”* so as not to exacerbate an already difficult situation by providing Mr Arbuckle with any indication of the existence of the harassment complaint. Mr Bartlett said he e-mailed Mr McKee at his home because he did not want staff for whom he had line management responsibility to become aware of his treatment by senior elected officers.
- 2.45 Mr Bartlett also said he was Mr McKee’s line manager, with responsibility delegated by the General Secretary for his health, safety and welfare at work. He said, in this context, he felt he had a duty to inform Mr McKee of hazards to his health and safety and of measures taken by him for his protection. In particular he directed me to Mr Egan’s letter (8 September 2002) which he believed had serious implications and was designed to undermine Mr McKee’s credibility. Mr Egan had asked for copies of Mr McKee’s job description and current rules regarding Union operations in Northern Ireland; nomination/election procedures and votes cast in the 2002 ICTU election in which Mr McKee stood. Mr Egan had claimed this information was central to the complaint and Mr Arbuckle’s defence.
- 2.46 Mr Bartlett said, in his letter (9 August 2002) Mr Arbuckle implied a further breach of procedure by alleging that he hadn’t been informed precisely of which policies he was accused of acting contrary to or failing to carry out, nor exactly how he had acted in any way prejudicial to the Union’s interests. Mr Bartlett said Mr Egan also repeated this allegation (on 8 September). Mr Bartlett told me he wrote to Mr Arbuckle (2 September) to say there had been no breach of procedure, reminding him that in her letter of 11 May 2002, Ms Rogers alleged that, in his capacity as an officer of the Northern Ireland Federation and against the express advice of the General Secretary, he had acted contrary to (or failed to carry out) policies of the Association and acted in a way prejudicial to the interests of the Association by sending internal NASUWT letters and papers to an outside organisation

(ICTU), and seeking to prejudice Mr McKee's election to ICTU as NASUWT's nominated representative.

- 2.47 Mr Bartlett said, in his opinion, the requirements of National rule 26(5)(c)(iii) regarding the provision of details of the complaints sufficient to enable Mr Arbuckle to understand the case against him, were satisfied and, indeed, he was sufficiently well informed to provide a 7 page statement in response.
- 2.48 Turning to Mr Arbuckle's allegations that he had not received a fair and impartial hearing, Mr Bartlett responded to a number of questions put to him by Mr O'Hara. He said he did not believe he was responsible for any breach of procedure or advice relating to the holding of a fair and impartial hearing.
- 2.49 Turning to one of Mr Arbuckle's grounds for appeal viz;

“There is clear and overwhelming evidence that the procedures and advice received relating to the holding of a fair and impartial hearing were repeatedly and systematically breached by agents of the Association.”

Mr Bartlett said the first of the alleged procedural breaches related to the postponement of the first two dates fixed for Disciplinary Committee meetings. Notice of these dates (19 & 20 July 2002) were agreed by the Chair and Committee members and sent to Mr Arbuckle in accordance with rules 26(5)(b) & (c). Mr Arbuckle confirmed he had received notice of the hearing but could not attend as he was out of the country throughout July and had he been consulted he would have advised of his unavailability. On receipt of Mr Arbuckle's reply, Mr Bartlett advised the Disciplinary Committee Chair to adjourn the hearing to a future date.

- 2.50 The Chair and Committee members postponed the hearing to 13 & 14 September, however, Mr McKee advised Mr Bartlett that the dates coincided with a scheduled NIEC meeting and as he wanted to ensure that rule 26 proceedings did not impede the functioning of the NIEC. Mr Bartlett advised the Chair and disciplinary panel accordingly; the 27 September was finally settled for the hearing date. Mr Bartlett said that neither of these postponements constituted a breach of any rule 26 procedure or advice issued in relation to the holding of a fair and impartial hearing.
- 2.51 Mr Bartlett said in his letter (30 August 2002) that Mr Arbuckle had complained that Ms Rogers was in breach of procedure in having approached potential witnesses after the Union had set a deadline of 19 August for receipt of witness statements and names. Mr Bartlett advised Mr Arbuckle (3 September) that:

“The National treasurer is not in breach of the pre-hearing procedure relevant to the forthcoming Rule 26 Disciplinary Committee meeting.....The contact with potential witnesses for the Complainant occurring two days after the Chair fixed the new date for the hearing and well in advance of the revised deadline (Monday 16 September 2002) published in the second revision of the hearing procedure.”

- 2.52 Mr Bartlett replied to Mr O'Hara's questioning in connection with another of Mr Arbuckle's grounds for appeal, viz;

“There is clear and overwhelming evidence which shows there was systematic and deliberate interference with the due process. The nominee of the General Secretary acted with others in inappropriate ways prejudicial to the Defendant having a fair and impartial hearing.”

- 2.53 Mr Bartlett denied any “*interference*” He said his actions as the General Secretary’s nominee either had no effect on the fairness and impartiality of the hearing or were designed to protect Mr Arbuckle’s interests. He said the e-mails he copied “silently” to Mr McKee’s home would not have been received by him until after he had signed and submitted his witness statement. He said all other relevant communications were copied openly to all parties to the hearing. Mr Bartlett said the advice which he offered in response to requests from Mr Arbuckle and his representative in replying to their voluminous correspondence was entirely impartial, adding that he applied the same standards when advising the Ex-President and Chair.
- 2.54 Mr Bartlett said that on being told of the evidence which apparently existed of alleged repeated breaches of “*published procedures, guidance and advice*” he said he was confident of his ability to demonstrate that no bias occurred. Mr Bartlett told me he believed that Mr Arbuckle had received a fair and impartial hearing and it was his view, that Mr Arbuckle and Mr Egan attempted in pre-hearing correspondence and during the Disciplinary Committee meeting to prevent a fair hearing of the complaint through transparently obvious attempts to intimidate him. He said that in his role as the General Secretary’s Nominee, he observed no discrimination against Mr Arbuckle and was unaware of any evidence of such discrimination; or of other members of the Association being treated differently to Mr Arbuckle.
- 2.55 Mr Bartlett said in regard to his handling of the initial disciplinary process, “Mr Arbuckle received more favourable consideration than Ms Rogers in respect of the rescheduling of the hearing dates for his convenience; ...the provision of substantial Union resources in responding to requests for advice and information;... and a very much greater allocation of administrative support in the preparation of documentary evidence for the hearing....”
- 2.56 Mr Bartlett said that Mr Egan had argued that Ms Rogers was advantaged because she was advised before Mr Arbuckle, of the postponement of the 13 September hearing. Mr Bartlett said it was a matter of fact that, at the relevant time, neither party had complied with the previously published deadline for the submission of documentary evidence and identification of witnesses. He said that Ms Rogers became aware of the re-scheduled hearing date some five days before Mr Arbuckle because she was in the Union’s headquarters on business on the day (27 August) the Committee Chair decided that the meeting was to be rearranged for Friday 27 September.
- 2.57 Mr Bartlett said that on 28 August he dictated a letter conveying the same information to Mr Arbuckle but it was not posted until 30 August. Nevertheless, he said he did not believe Mr Arbuckle was disadvantaged as a consequence of the prior notification to Ms Rogers. He said deadlines which had already been passed twice were extended and Mr Arbuckle had almost a month to complete final preparations for the hearing.

My Decision

- 2.58 I have considered Mr Arbuckle's complaint under two separate headings: firstly by looking at the way in which it was made by Ms Rogers and secondly by examining how it was processed by the Union.
- 2.59 Mr Arbuckle alleges that the complaint was improperly constituted. It is clear that internal association discipline matters are covered by National Rule 26 whereas Ms Rogers cited National Rule 24 (which refers to the Union's benevolent fund) when making her formal complaint against Mr Arbuckle. The Union admitted that Ms Rogers' had made an error and this was further compounded by Mr Bartlett renumbering the Rule from 24 to 26 and then referring to a non existing subsection. However, I do not accept by doing so, that Mr Bartlett played an active part in constructing the complaint against Mr Arbuckle, rather I believe he acted as he did to endeavour to correct Ms Rogers original error. I agree with Mr Arbuckle that the proper course of action would have been for the General Secretary to confirm with Ms Rogers exactly under which rule she was complaining. That would have cleared up the matter.
- 2.60 I agree with Mr O'Hara that the rules only require the complainant to set out the defendants conduct and do not specifically require a member to cite or identify a rule linked to the alleged conduct.
- 2.61 From the evidence I am satisfied that Mr Arbuckle was sufficiently aware of what the Union was accusing him. Mr Bartlett had written to him (2 September 2002) reminding him of Ms Rogers' letter (11 May 2002) in which she complains of Mr Arbuckle's behaviour in the face of the express advice of the General Secretary v.v releasing internal Union letters and papers to ICTU. Indeed he was well enough informed to provide a comprehensive 7 page statement in response.
- 2.62 The wrong rule was cited at the outset but despite this muddle, which was wholly within the Union's control to clarify and rectify I believe the incorrect numbering to be a technicality as the substance of the complaint was understood by Mr Arbuckle having been addressed in subsequent correspondence between the parties. By itself the incorrect numbering of the rule does not provide adequate grounds for invalidating Ms Rogers' complaint and I find the Union did not breach Nation Rule 26(2)(a).
- 2.63 Mr Arbuckle also points out that Ms Rogers complained in her capacity as a Union officer against him as Honorary Secretary, also a Union officer, whereas National Rule 26 provides for a 'member' to make a complaint against a 'member'. It is clear that both these persons were not only elected officers of the Union they were also members of the Union at the time of the complaint and as such Ms Rogers was entitled under the provisions of the rule to make her complaint against Mr Arbuckle. The rule contains no qualifications or exceptions for 'officers'. I am not persuaded by Mr Arbuckle arguments that the complaint made against him was improperly constituted in this case.
- 2.64 Turning to Mr Arbuckle's allegation that he was denied a fair and impartial hearing because of the way the Union handled his disciplinary and subsequent appeal processes, there are a number of matters which concern me.
- 2.65 Firstly, when Mr O'Kane received the complaint from Ms Rogers, National Rule 26 (2)(b) required him as General Secretary to follow a very specific course of action. He should have sought a response from Mr Arbuckle and sent a copy of the complaint to the Ex-

President following a denial by the defendant or after the expiry of 14 days if no response was received.

- 2.66 I agree fully with Mr Arbuckle that Rule 26 is constructed in such a way as to protect members during the initial stage of examining the validity or otherwise of alleged complaints. It restricts the number of people with knowledge of the complaint to the two most senior people in the Union (in addition to the complainant and respondent) until it is considered if it is appropriate for the complaint to proceed further. In this way complaints which lack substance or are frivolous / vexatious may be rejected so protecting members' confidentiality and reputations.
- 2.67 General Secretaries are busy people and I accept that in the normal course of their duties they will delegate as appropriate to enable them to conduct their responsibilities in an efficient and effective manner. However formal complaints made by members against members are serious matters and I imagine they are relatively rare events and Rule 26(2)(b) and (c) unambiguously requires the General Secretary to directly involve himself in the first stages. By asking Mr Bartlett to renumber the complaint and progress it on his behalf, Mr O'Kane effectively handed over the entire administration from the outset and I find in so doing he acted out with and therefore breached Rule 26(2)(b) and (c).
- 2.68 One of Mr Arbuckle's grounds for appeal was that there was "systematic and deliberate interference with the due process". In his role as the paid official in charge of processing the complaint for the Union, it was Mr Bartlett's duty to act as an independent and unbiased facilitator. I agree with Mr O'Kane when he replied to Mr Sheerin's request to intervene in the complaint by saying "neither he nor any other official has any part to play in the disciplinary process other than in an administrative capacity" or where "we might be called as a material witness in any hearing...". He added, such intervention "is not provided for in the Rules, where a clear procedure has been set down and which, in the interest of justice and equity, must be adhered to."
- 2.69 I find that Mr O'Kane's direction to Mr Bartlett, to forward copies of Mr Arbuckle's detailed response to Ms Rogers' complaint to members of the Disciplinary Committee Panel, to allow them to "get some idea of the people (Mr McKee) has to deal with", was evidence that Mr O'Kane was not acting at all times as an unbiased facilitator. I also find that the General Secretary's failure to deal with the complaint himself in the first instance, as he should have done under Rule, could have had an adverse input into the hearings.
- 2.70 In advising Mr Hardman of the complaints against Mr Arbuckle (10 June 2002) Mr Bartlett provided him with 9 documents. He omitted however to include with this package, the letter of 10 April which Mr Arbuckle sent to Mr Begg and which was central to the complaint against Mr Arbuckle. There was also the failure of both Mr Bartlett and Mr Hardman to wait for the full details of Mr Arbuckle's denial. Both men were aware that he had indicated he would be forwarding this, but in the event he didn't provide his response to the General Secretary until 17 June. Mr Bartlett and Mr Hardman should have waited to ensure that the latter would be in a position to take it into account when considering Ms Rodgers' complaint. I find evidence of bias on the part of both Mr Bartlett and Mr Hardman in this matter.
- 2.71 I have a number of other concerns:
- Mr Bartlett was placed in a position of conflict of interest when he was appointed by Mr O'Kane as his nominee. He was the line manager of Mr McKee, the paid official

whose conduct gave rise to the actions for which Mr Arbuckle was disciplined and the principal witness for the complainant. As such I consider it inappropriate for him to have been nominated in the role of impartial nominee. In evidence Mr Bartlett explained that his dual role was the reason why he sent hidden copies to Mr McKee – referred to by Mr Arbuckle as his “secret actions”.

- The statements of Mr Batty (chairman of the Disciplinary Committee) and Mr Ferri (a member of the Disciplinary Committee) as recorded in the transcript of the disciplinary hearing, show clear evidence of prejudice on their part.
- Initially Mr Bartlett was appointed by the General Secretary to act as his neutral nominee at the disciplinary committee hearing and later he was instructed by Mr O’Kane to appear as a witness for the complainant at the appeal hearing.

2.72 I will deal with two other issues raised by Messrs Arbuckle and Egan. Firstly, Mr Arbuckle claimed the Union could not produce evidence that he actually sent copies of papers to Mr Begg of ICTU although this was one of the main reasons for which he had been disciplined. He challenged the Union to identify even one document which it claimed he had sent. This was despite his letter (10 April) to Mr Begg, in which he wrote “I am enclosing copies of recent correspondence which will better inform you of the situation” . I find Mr Arbuckle’s argument somewhat semantic and his letter to be clear evidence of his intention.

Secondly, Mr Egan claimed that Mr Arbuckle was disadvantaged compared to Ms Rogers because of all the postponements to the disciplinary committee meetings: In essence he said it meant she had been given more time to prepare her case. I am not persuaded by Mr Egan’s arguments in this matter.

2.73 For the reasons above and after considering all the evidence in this case, I declare that Mr Arbuckle was denied a fair and impartial hearing because of the way the Union handled his disciplinary and subsequent appeal processes.

2.74 I order the Union to remove the suspension imposed on Mr Arbuckle, with immediate effect.

2.75 For the reasons above, I refuse to declare that the Union breached National rule 26(2)(a) and Article 90A 2-(b) of the 1995 Order when it accepted Ms Rogers’ complaint against Mr Arbuckle.

2.76 For the reasons above, I declare that the Union breached National rule 26(2)(b) and (c) and Article 90A 2-(b) of the 1995 Order when the General Secretary failed directly to involve himself in the initial administration of the complaint by asking the assistant general secretary to progress it on his behalf.

2.77 I consider it inappropriate to make a further enforcement order on the Union in this case.

COMPLAINT 2

3.1 Alleged breaches of National rule 4(a)(i) & (ii) and Article 90A 2 – (a) of the 1995 Order by removing him from office: and National rule 3(i) and Article 90A2-(b) of the 1995 Order, by removing him from office and thereby denying him membership rights.

Findings of fact

- 3.2 On 18 March 2003, the Union suspended Mr Arbuckle from the elected post of Honorary Secretary of NIEC.

Submissions

- 3.3 The Union claimed that in all circumstances there is simply no basis for Mr Arbuckle's claim that he has been deprived of any legitimate rights which he was entitled to or that he was treated unfairly by the Union during the whole process.
- 3.4 Mr Arbuckle said he believed the evidence would prove that the entire action against him was a deliberate policy aimed at victimising him. He alleged that the whole disciplinary process was flawed and his removal from office breached the Union's membership rules and the 1995 Order: his suspension denied him the right to continue in the elected office of Honorary Secretary. The manner of his suspension also breached the Union's objects, in that his interests were not fairly represented.

My Decision

- 3.5 I have already decided that Mr Arbuckle was denied a fair and impartial hearing because of the way the Union handled his disciplinary and subsequent appeal processes. In the application of the rules of the union, there is the implicit assumption of equality of treatment and natural justice for all members and I believe, on balance, that Mr Arbuckle was denied these fundamental rights in this case.
- 3.6 For the reasons above, I declare that, by removing Mr Arbuckle from office in the way it did, the Union breached National rule 4(a)(i) and (ii) and Article 90A2-(a) (which deal with Union membership and removal from office respectively) and also breached National rule 3(i) and Article 90A2-(b) (which are the Union object dealing with representation of the interests of members and the provisions relating to disciplinary proceedings respectively).
- 3.7 I consider it inappropriate to make a further order on the Union in this case.

COMPLAINT 3

- 4.1 Alleged breach of rule 6 (e)(iii) of it's Northern Ireland rules and Article 90A 2.-(a) of the 1995 Order on 20 March 2003 when the General Secretary invited local association secretaries to make nominations for the post of Honorary Secretary of the Northern Ireland Executive Council (NIEC).

Findings of fact

- 4.2 Following the internal disciplinary and appeal processes, which began in May 2002 and ended in March 2003, the Appeal Panel upheld the 3 year ban from Office imposed on Mr Arbuckle by the Union, recommending that the sanction be implemented immediately. On 18 March, he was suspended from his Office. On 20 March, the Union's General Secretary wrote to local Northern Ireland association secretaries advising that the 'National Officers had declared a vacancy for the position of Secretary of the Northern Ireland Executive' and he invited nominations to fill this vacancy. He advised that if there was more than 1 nomination, ballot papers would be distributed on 29 April with the ballot closing at noon on

20 May. On 27 May, Electoral Reform Services reported that the election closed at noon 23 May and Mr L Fitzsimons was elected.

Submissions

- 4.3 At the hearing, the Union recognised and confirmed that model rules published by it for the conduct of Northern Ireland Regional Executive business and adopted by its Regional Executive under National rule 11(b) were in force.
- 4.4 Turning to this alleged breach, the Union said the General Secretary invited nominations from Northern Ireland local associations because of local tensions caused by Mr Arbuckle's removal from office, claiming to have acted to ensure that the most open, democratic process was used in the election to replace him. It said such tensions are not unusual in internal disciplinary matters and the situation in this case was no exception. It said it knew that a number of Northern Ireland Officers, including the President, had an interest in the post.
- 4.5 Mr Arbuckle dealt firstly with the Union's written submissions that only National rules apply. He asserted there were also Northern Ireland rules, in the form of the Northern Ireland Constitution, which had been adopted by the National Executive under National rule. He referred me to National rule 11(b): 'The National Executive shall publish model rules for the conduct of the Regional Executive Councils business which rules shall be adopted by each Regional Executive Council save that the National Executive may approve such variations requested by a Regional Executive Council as it sees fit'. Mr Arbuckle said the National Executive had approved the Northern Ireland Constitution in accordance with this rule, following their adoption by a special NIEC meeting convened for that purpose in April 2002. He said the Northern Ireland Constitution contained at least 12 references to 'rules' and the Union's initial claim that there were no such rules was factually untrue. Mr Arbuckle said these rules were binding and must apply in his case and he said the NIEC Officers had been elected under this Constitution in both 2003 and 2004.
- 4.6 He referred me to Northern Ireland Rule 17 and National rule 27(a)(i) which govern the way rules are amended:

 'Northern Ireland Rule 17: Amendments to these Rules

- a. No alteration to these Rules may be made except at
- (i) Annual Conference of Northern Ireland Executive Council of NASUWT;
 - (ii) A special meeting of Northern Ireland Executive Council convened for that purpose.

 National Rule 27 Amendment to Rules

- a. An amendment to these Rules may be proposed by:
- (i) the National Executive by giving notice to the local associations in writing of the proposed amendment to these rules not less than three months prior to the date of Conference or any special conference called to consider amendment to these Rules'.

- 4.7 Mr Arbuckle said as neither of the above rules had been invoked, no alterations or amendments had been made to the Northern Ireland Constitution post adoption. He said the General Secretary and the National Officers are governed by Union rules. Referring me to

National Rule 18(a): ‘The General Secretary shall conduct the business of the Association in accordance with these Rules and act under the instructions of Conference, the National Executive and the National Officers’ Committee’. He claimed the General Secretary and the National Officers’ Committee did not have National Executive approval to override or depart from approved rules.

- 4.8 Addressing me on this specific complaint, Mr Arbuckle said he was re-elected NIEC Honorary Secretary under rules 5 & 6 of the Northern Ireland Constitution and had resumed office at annual conference on 22 February 2003. He was suspended on 18 March 2003 thereby creating a casual vacancy. He said the authority to fill casual vacancies is constitutionally vested in NIEC at an executive committee meeting; Northern Ireland rule 6(e) was clear, casual vacancies shall (his emphasis) be filled in accordance with the Northern Ireland Constitution. He argued that in his opinion, the General Secretary’s intervention, on the basis that the national officers had declared a vacancy, and his invitation to local association secretaries, rather than their members, breached Northern Ireland and National rules and the law relating to elections to trade Union office.
- 4.9 Mr Arbuckle denied knowledge of any tensions in the Region, saying in any event it is not a proper defence for the Union to claim tensions as justification for ignoring adopted Northern Ireland rules, nor to claim it acted as it did because some officers were allegedly interested in the post. He refuted the claim that the Northern Ireland President was interested in standing, in the event he did not; he also rejected the claim that no member was disadvantaged by the Union’s actions.
- 4.10 The relevant provisions of the 1995 Order and the Union’s rules are in Appendices 1 & 2 respectively.

My Decision

- 4.11 Clear provision is made under National rule 11(b) for the publication of model rules for the conduct of Regional Executive Councils business. Evidence was presented before me to demonstrate that the Union adopted such rules in April 2002. Although the Union initially argued in its written submissions that it “had no Northern Ireland rules” it confirmed at hearing that the Northern Ireland Constitution adopted in April 2002 was in force and no evidence was presented to me to show that it was subsequently amended or altered in accordance with Union rules. I find, therefore, that the Northern Ireland Constitution, adopted in April 2002, was in force. The NIEC and Northern Ireland members are entitled to expect the Union to be governed and bound by its rules, including the Northern Ireland Constitution where it applies. The Union must, therefore, ensure that its Northern Ireland Constitution is followed, inter alia, in the way it filled the casual vacancy in this case.
- 4.12 Rule 6 (e) (iii) governs the election of the honorary secretary in the event of a casual vacancy arising. The rule states that the post should be filled by election at the next NIEC meeting following nomination by local associations; however, the rule is silent on how such nominations should be sought. Whilst I accept that it may be unusual for the General Secretary to involve himself in the nomination process in a local association election, I do not believe that his involvement amounted to a breach of rule in this case and no evidence was presented to me that this rule had been breached in the way it was alleged. The Union would have communicated that it was seeking nominations to local associations through their secretaries and I heard no evidence that the nominations were in fact of the local secretaries and not the local members. The General Secretary, quite properly, advised that in the event of more than one nomination a ballot would be required and in the event a ballot

was duly carried out. I find no breach in the way in which the election procedures were applied in this case.

- 4.13 For the reasons above, I refuse to declare that the General Secretary breached rule 6(e)(iii) of its Northern Ireland rules when he sought nominations to fill the casual vacancy created by the suspension of Mr Arbuckle.

COMPLAINT 4

- 5.1 Alleged breach of rule 6 (e) (iii) of its Northern Ireland rules and Article 90A 2.-(a) & (d) of the 1995 Order, by failing to apply proper procedures by permitting the Ex – President NASUWT NI to assume the role of NIEC Honorary Secretary on 21 March 2003 and later by applying improper procedures when it appointed the replacement Honorary Secretary.

Submissions

- 5.2 The Union told me that the Ex – President temporarily undertook the secretarial functions of the Federation Secretary in addition to his own responsibilities. This followed a decision made by the NIEC under clause 9(b) of the Northern Ireland Constitution, viz:

‘9. THE OFFICERS’ COMMITTEE

- a)
- b) Subject to these Rules the National Rules and the decisions of general meetings of the Executive Council, National Executive and Conference, the Officers’ Committee shall have full power and authority to take such action as it deems necessary for the conduct of the Executive Council affairs and the realisation of the object set out in Rule 2.

- 5.3 Mr Arbuckle claimed the NIEC Constitution does not permit the appointment of an honorary secretary without an election. He argued that the NIEC Constitution provided for 6 separate posts and it was his view that this meant that each post had to be held by a different person. He further argued that had the Union intended to allow one person to hold more than one post the rules would contain express provision for this. Mr Arbuckle said in over the 24 years of his experience he had never known of a situation where one officer held two posts, even temporarily.
- 5.4 On this basis he challenged the constitutionality of the 21 March 2003 meeting - because the 6 posts required had not been filled. He further claimed that the NIEC remained an unconstitutional body until the 2004 NIEC election procedure took effect, as the new honorary secretary who took office in 2003 did so out with the Northern Ireland Constitution/rules.
- 5.5 The relevant provisions of the 1995 Order and the Union’s rules are in Appendices 1 & 2 respectively.

My Decision

- 5.6 I have already decided that the Union did not breach rule 6(e)(iii) in the manner in which it sought nominations and carried out the election procedures to fill the post left vacant by Mr Arbuckle's suspension. I accept the Union's submission that the Ex – President undertook the secretarial functions of the Honorary Secretary's post temporarily. I do not accept that the Union is prevented from making arrangements to have the functions of Honorary Secretary performed on a temporary basis as Mr Arbuckle alleges (Northern Ireland rule 9(b) provides for this). In my view, the fact that nominations and subsequently a ballot were underway to fill this post, suggests to me that the Union accepted that this post was vacant and not filled or held by the ex – President. In reaching this view, I have considered rules 6(e) (i) & (ii) which provide for immediate replacement of the posts of President and Vice – president; this does not seem to have been considered necessary by the Union, for the other officer posts, including that of Honorary Secretary. Furthermore, rule 6(e), which provides for casual vacancies, does not provide that the Officers' Committee cannot meet constitutionally in the event of a casual vacancy. In my view, I would expect the NIEC to continue to meet on a regular basis for the realisation of the objects of the Union and in such circumstances I deem it reasonable for the committee to permit someone to carry out the functions, or at least some of the functions, of honorary secretary temporarily, pending the outcome of the ballot. Indeed it would be difficult to see how the procedures set out in rule 6(e)(iii) could be carried out without some secretarial function.
- 5.7 For the reasons above, I refuse to declare that the Union breached rule 6(e)(iii) of its Northern Ireland rules and Article 90A2.-(a) & (d) of the 1995 Order, by failing to apply proper procedures by permitting the NIEC Ex – President to assume the role of NIEC honorary secretary on 21 March 2003.

COMPLAINT 5

- 6.1 NIEC Officer's Committee meetings of 21 March, 11 & 16 April 2003 were improperly constituted, breaching rules 5 & 9 of the Union's Northern Ireland rules and, separately, the NIEC meeting held on 24 April 2003, was improperly constituted, breaching rule 4 of the Union's Northern Ireland rules and, in each case Articles 90A 2.-(a) & (d) of the 1995 Order were also breached.

Findings of Fact

- 6.2 The parties agree that the three meetings of the Officer's Committee and the NIEC meeting took place on the dates specified.

The Submissions

- 6.3 The Union said that these meetings were matters for NIEC Officers and that "the National Union had no involvement" in the convening, constitution or conduct of them.
- 6.4 Mr Arbuckle refuted the Union's position. He said the General Secretary had a duty under National rule 18a: '(a) The General Secretary shall conduct the business of the Association in accordance with these Rules and act under the instructions of Conference and the National Officers' Committee' to ensure that the Union was managed according to National and NIEC rules. Mr Arbuckle contended that all of these meetings were unconstitutional as posts were not filled in accordance with the NIEC Constitution.

- 6.5 The relevant provisions of the 1995 Order and the Union's rules are in Appendices 1 & 2 respectively.

My Decision

- 6.6 I have already decided that the Union did not breach its rules in the way it made arrangements to have the functions of the Honorary Secretary performed on a temporary basis due to Mr Arbuckle's suspension and that the Union is entitled to take such action whilst elections take place so as to allow the Union to continue to meet its objects.
- 6.7 Turning to the question of the constitutionality of the 3 NIEC Officers' committee meetings and 1 NIEC meeting held between 21 March and 24 April 2003, no evidence was presented to me to support the claim that rules 4, 5 and 9 had been breached or that they were unconstitutional and accordingly I refuse to declare that the Union breached rules 4, 5 and 9 of its Northern Ireland rules because the Officer's Committee meetings of 21 March, 11 & 16 April 2003 and the NIEC meeting held on 24 April 2003 were improperly constituted.

COMPLAINT 6

- 7.1 By failing to fill the vacant post of Ex-President of the NIEC, arising on 21 March 2003, the Union breached rules 6 (e)(iv), 7(c) & 9 (a) of its Northern Ireland rules and Article 90A 2-(a) of the 1995 Order.

Submissions

- 7.2 Mr O'Hara said that the Ex-President did not vacate his post; rather he took on the administrative caretaker duties of the vacant Honorary Secretary's post contemporaneously; this measure was taken merely for good management purposes to cater for the particular situation immediately following Mr Arbuckle's suspension.
- 7.3 He claimed that the Northern Ireland Constitution had been amended post adoption (27 April 2002) and the revised rules did not contain rule 6(e)(iv). Mr O'Hara told me that Mr O'Kane considered Rule 6(e)(iv) to be nonsensical and that he had required its deletion.
- 7.4 Mr Arbuckle asserted that under NIEC rule 5, all six posts on the Northern Ireland Officers' Committee must be filled by different people. He said rule 6 (e)(iv) of the NI Constitution prescribes the procedures of nominating and electing officers' committee members where vacancies arise. He reminded me of the evidence that the Northern Ireland Constitution had been adopted, without amendment. He said Rule 6(e)(iv) had not been deleted, as the Union had suggested. Whilst he acknowledged Mr O'Kane's views and his wish to have it deleted, Mr Arbuckle said the Union had not gone about having the desired amendment made in the proper manner and the simple fact remained that the Northern Ireland Constitution adopted on 27 April 2002 was extant; therefore, rules 7(c) and 9(a) of that constitution must be applied to the filling of the casual vacancy created by his suspension.
- 7.5 The relevant provisions of the 1995 Order and the Union's rules are in Appendices 1 & 2 respectively.

My Decision

- 7.6 I have already decided that the Northern Ireland Constitution, adopted in April 2002, was in force and that no subsequent amendments were made in accordance with rule. I have also already decided that the Ex-President did not vacate his post and no evidence was presented to me to support Mr Arbuckle's claim that he had. Accordingly, I refuse to make the declaration sought.

Direction

- 7.7 Evidence was presented by the Union that it had sought to amend the Northern Ireland rules at a meeting of the National Recruitment Committee on 5 July 2002 by deleting rules 6(e)(iv) and 12(g), but the Union did not follow the correct procedure set out at National rule 17. The Union subsequently published an amended set of rules although the amendment had not been properly ratified. This has caused confusion amongst members as to which set of rules apply and I hereby **DIRECT** the Union to remedy this by ratifying the published rules or publishing the correct rules.

Signed:

Scott McElrea
Assistant Certification Officer

The Trade Union and Labour Relations (Northern Ireland) Order 1995

Made 26th July 1995

BREACH OF RULES

Right to apply to Certification Officer

90A. —

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

(2) The matters are—

- (a) the appointment or election of a person to, or the removal of a person from, any office;
- (b) disciplinary proceedings by the union (including expulsion);
- (c) the balloting of members on any issue other than industrial action;
- (d) the constitution or proceedings of any executive committee or of any decision-making meeting;
- (e) such other matters as may be specified in an order made by the Department.

(3) The applicant must be a member of the union, or have been one at the time of the alleged breach or threatened breach.

(4) A person may not apply under paragraph (1) in relation to a claim if he is entitled to apply under Article 55 in relation to the claim.

(5) No application may be made regarding—

- (a) the dismissal of an employee of the union;
- (b) disciplinary proceedings against an employee of the union.

(6) An application must be made—

- (a) within the period of six months starting with the day on which the breach or threatened breach is alleged to have taken place, or
- (b) if within that period any internal complaints procedure of the union is invoked to resolve the claim, within the period of six months starting with the earlier of the days specified in paragraph (7).

(7) Those days are—

- (a) the day on which the procedure is concluded, and
- (b) the last day of the period of one year beginning with the day on which the procedure is invoked.

(8) The reference in paragraph (1) to the rules of a union includes references to the rules of any branch or section of the union.

(9) In paragraph (2)(c) "industrial action" means a strike or other industrial action by persons employed under contracts of employment.

(10) For the purposes of paragraph (2)(d) a committee is an executive committee if—

- (a) it is a committee of the union concerned and has power to make executive decisions on behalf of the union or on behalf of a constituent body,
- (b) it is a committee of a major constituent body and has power to make executive decisions on behalf of that body, or
- (c) it is a sub-committee of a committee falling within sub-paragraph (a) or (b).

(11) For the purposes of paragraph (2)(d) a decision-making meeting is—

- (a) a meeting of members of the union concerned (or the representatives of such members) which has power to make a decision on any matter which, under the rules of the union, is final as regards the union or which, under the rules of the union or a constituent body, is final as regards that body, or
- (b) a meeting of members of a major constituent body (or the representatives of such members) which has power to make a decision on any matter which, under the rules of the union or the body, is final as regards that body.

(12) For the purposes of paragraphs (10) and (11), in relation to the trade union concerned—

(a) a constituent body is any body which forms part of the union, including a branch, group, section or region;

(b) a major constituent body is such a body which has more than 1,000 members.

(13) No order shall be made under paragraph (2)(e) unless a draft of it has been laid before and approved by resolution of the Assembly.

(14) If a person applies to the Certification Officer under this Article in relation to an alleged breach or threatened breach he may not apply to the High Court in relation to the breach or threatened breach; but nothing in this paragraph shall prevent such a person from exercising any right to appeal against or challenge the Certification Officer's decision on the application to him.

(15) If—

(a) a person applies to the High Court in relation to an alleged breach or threatened breach, and

(b) the breach or threatened breach is one in relation to which he could have made an application to the Certification Officer under this Article,

he may not apply to the Certification Officer under this Article in relation to the breach or threatened breach.

Declarations and orders

90B. —

(1) The Certification Officer may refuse to accept an application under Article 90A unless he is satisfied that the applicant has taken all reasonable steps to resolve the claim by the use of any internal complaints procedure of the union.

(2) If he accepts an application under Article 90A the Certification Officer—

(a) shall make such enquiries as he thinks fit,

(b) shall give the applicant and the union an opportunity to be heard,

(c) shall ensure that, so far as is reasonably practicable, the application is determined within six months of being made,

(d) may make or refuse the declaration asked for, and

(e) shall, whether he makes or refuses the declaration, give reasons for his decision in writing.

(3) Where the Certification Officer makes a declaration he shall also, unless he considers that to do so would be inappropriate, make an enforcement order, that is, an order imposing on the union one or both of the following requirements—

(a) to take such steps to remedy the breach, or withdraw the threat of a breach, as may be specified in the order;

(b) to abstain from such acts as may be so specified with a view to securing that a breach or threat of the same or a similar kind does not occur in future.

(4) The Certification Officer shall in an order imposing any such requirement as is mentioned in paragraph (3)(a) specify the period within which the union is to comply with the requirement.

(5) Where the Certification Officer requests a person to furnish information to him in connection with enquiries made by him under this Article, he shall specify the date by which that information is to be furnished and, unless he considers that it would be inappropriate to do so, shall proceed with his determination of the application notwithstanding that the information has not been furnished to him by the specified date.

(6) A declaration made by the Certification Officer under this Article may be relied on as if it were a declaration made by the High Court.

(7) Where an enforcement order has been made, any person who is a member of the union and was a member at the time it was made is entitled to enforce obedience to the order as if he had made the application on which the order was made.

(8) An enforcement order made by the Certification Officer under this Article may be enforced in the same way as an order of the High Court.

(9) An order under Article 90A(2)(e) may provide that, in relation to an application under Article 90A with regard to a prescribed matter, the preceding provisions of this Article shall apply with such omissions or modifications as may be specified in the order; and a prescribed matter is such matter specified under Article 90A(2)(e) as is prescribed under this paragraph.]

RULES OF THE NASUWT

RULES OF THE ASSOCIATION**1. Name**

The name of the Association shall be National Association of Schoolmasters Union of Women Teachers (NASUWT), and all references to "Association" in these Rules shall be construed accordingly.

2. Registered Office

The Registered Office of the Association shall be Hillscourt Education Centre, Rose Hill, Rednal, Birmingham B45 8RS, or at such other place as the Association may from time to time determine.

3. Objects

The Objects of the Association shall be:

- (i) to represent the interests of its members collectively and individually in negotiations with and submissions to employers, local and central government, and other relevant bodies;
- (ii) to regulate relations between members, and to facilitate good professional relations between members and other teachers and other employees in the education service;
- (iii) to promote equal opportunities for all members within the Association and in their employment irrespective of their gender, ethnic origin, disability, sexuality, religion, or age;
- (iv) to protect and promote the interests of its members generally and in particular to ensure that the salary scales encourage the recruitment to and retention in the teaching profession of men and women career teachers;
- (v) to protect and promote the interests of the education service;
- (vi) to secure the representation of the Association on public and private bodies concerned with matters of interest to the Association;
- (vii) to afford the Government, the Local Education Authorities and other bodies with an interest in the education service, the advice and experience of the Association and its members;
- (viii) to render legal advice and assistance in accordance with Rule 22;
- (ix) to provide educational and recreational facilities for members;
- (x) to render financial and other assistance whether through the NASUWT Benevolent Funds or otherwise;
- (xi) to provide directly or indirectly financial services to members including but not limited to financial advice, insurance, and loan arrangements;
- (xii) to participate in such commercial activity whether through the holding of shares in limited liability companies (including but not limited to majority shareholdings) or otherwise as the National Executive may consider appropriate and for the benefit of the Association or its membership;
- (xiii) to hold, purchase, lease, mortgage, sell or otherwise deal with land or other property;
- (xiv) to raise funds by borrowing money on any real or personal property of the Association;
- (xv) in furtherance of the foregoing objects, to originate direct debits, and execute any indemnity that may be required by the banks receiving such debits.

4. Membership

(a) *Full Membership*

- (i) All persons who are employed as qualified teachers and such other persons whose contract of employment requires them to teach, lecture or instruct whether on a full or part-time basis are eligible for Full Membership of the Association provided they support the Objects of the Association.
- (ii) The right to admit a candidate to membership of the Association shall be vested in the National Executive of the Association whose decision shall be final.
- (iii) On admission to the Association a member shall join the Local Association within whose area the member's workplace is situated. If a member has more than one workplace and such workplaces are situated in areas covered by more than one Local Association the member shall elect to join the Local Association which he/she considers he/she can serve most effectively. Where no Local Association exists the member shall be allocated to the list of centrally attached members.
- (iv) Unless the context otherwise so requires, in these Rules the word "member" shall mean "Full Member".

(b) *Retired Membership*

- (i) A Full Member who retires on pension may continue in membership as a Retired Member.
- (ii) A Retired Member may opt to hold membership with the same benefits, obligations and rights to vote and hold office as a Full Member until he/she reaches the age of 65 on payment of the same subscriptions as a Full Member.
- (iii) A Retired Member paying a Full Member subscription shall join the Local Association covering the area in which he/she lives or the Local Association with which he/she served when a Full Member, according to his/her wishes.
- (iv) Upon reaching the age of 65 or upon the Retired Member's election to pay the prescribed reduced subscription a Retired Member shall be entitled to receive:
 - benefits pursuant to Rule 23 in the discretion of the Central Benevolent Fund Committee;
 - at the discretion of the National Executive legal assistance in relation to any matter arising out of his/her former employment in the teaching profession at a time when the Retired Member held Full Membership;
 - and shall be subject to the provisions of Rule 25 but shall have no other rights under these Rules, and in particular shall have no voting rights nor shall he/she be eligible to hold office.
- (v) A Retired Member upon reaching the age of 65 or upon election to pay the prescribed reduced subscription shall join the Retired Members' Association covering the area in which he/she lives or the area in which he/she served when a Full Member; according to his/her wishes.

(c) *Honorary Life Membership*

- (i) The National Executive may recognise service rendered to the Association at national or local level by awarding Honorary Life Membership to any person who has previously held Full Membership of the Association.
- (ii) An Honorary Life Member who has retired from teaching shall have the same rights and obligations under these Rules as a reduced subscription Retired Member, save that an Honorary Life Member shall not be required to pay the prescribed reduced subscription to the Association.

- (iii) For the avoidance of doubt an Honorary Life Member may opt to hold membership with the same obligations, benefits and rights to vote and hold office as a Full Member until he/she reaches the age of 65 on payment of the same subscriptions as a Full Member.

(d) *Career Break Membership*

- (i) Any Full Member who leaves the profession with the intention of subsequently returning shall be entitled to become a Career Break Member and will remain a member of the same Local Association to which the Career Break Member belonged when a Full Member.
- (ii) A Career Break Member shall have the same rights and obligations as a Full Member save that he/she shall pay the reduced subscription prescribed and at the discretion of the National Executive shall be entitled to legal assistance only in relation to any matter arising out of his/her employment in the teaching profession at a time when the Career Break Member held Full Membership or arising out of his/her proposed re-employment in the teaching profession.

(e) *Student Membership*

- (i) A student preparing to enter the teaching service may join the Association as a Student Member.
- (ii) A Student Member shall pay the reduced subscription prescribed and shall be entitled to receive legal assistance in relation to any matter arising out of his/her proposed employment in the teaching profession in the discretion of the National Executive and shall be subject to the provisions of Rule 25 but shall have no other rights under these Rules, and in particular shall have no voting rights nor shall he/she be eligible to hold office.

(f) *Associate Membership*

- (h) A member of the Association who secures employment outside education without the intention of returning to teaching may continue as an Associate Member and will be attached to the Local Association covering the area in which he/she lives or the Local Association with which he/she served, according to his/her wishes.
- (i) An Associate Member shall pay the reduced subscription prescribed and shall be entitled to receive:
- benefits pursuant to Rule 23 in the discretion of the Central Benevolent Fund Committee;
 - at the discretion of the National Executive, legal assistance in relation to any matter arising out of his/her former employment in the teaching profession at a time when the Associate Member held Full Membership and shall be subject to the provisions of Rule 25 but shall have no other rights under these Rules, and in particular shall have no voting rights nor shall he/she be eligible to hold office.

(g) *Former Membership*

A person who previously held Full Membership who has resigned from such membership and who has not become a member of another teacher Trades Union since his/her resignation and who no longer holds membership in accordance with any of the membership categories set out in this Rule shall be entitled to receive:

- benefits pursuant to Rule 23 in the discretion of the Central Benevolent Fund Committee;

- in the discretion of the National Executive legal assistance in relation to any matter arising out of his/her former employment in the teaching profession at a time when the Former Member held Full Membership.

(h) Data Protection

A person being a member of the Association agrees to any processing of such personal data maintained and collected by the Association concerning the member (including the fact of membership) by both the Association, its employees and officers and any agents, contractors and other service providers for the purpose of directly or indirectly furthering any of the Association's objects under these Rules.

5. Subscriptions

- (a) The subscription rates for all classes of membership shall be determined by Conference and shall be payable in advance either:
 - (i) by direct debit payment, annually, quarterly, or monthly; or
 - (ii) by lump sum payment annually in advance; or
 - (iii) in such other manner as the National Executive shall provide.
- (b) (i) The Full Member subscription rate may include provision for a reduced rate of subscription for such Full Members as are employed part time.
- (ii) "Part time" for the purposes of this Rule shall apply to any person entitled to Full Membership whose contract of employment requires him/her to work for not more than that percentage of the school year or pro rata equivalent thereof from time to time determined by National Executive.
- (c) The Honorary Treasurer shall allocate to a member's Local Association the local apportionment agreed by Conference which shall be paid in such manner and at such intervals as the National Executive shall from time to time direct.
- (d) (i) Any member who allows his/her subscription to fall more than three calendar months in arrears shall forfeit all rights and title to the funds and properties of the Association, shall be ineligible for assistance and benefits under Rules 22, 23 and 24, shall forfeit the right to vote in any election or ballot and shall not be eligible to hold office in the Association.
- (ii) Any such member shall be notified by the Association that unless his/her arrears are cleared his/her name will be erased from the list of members of the Association.
- (iii) Any member in arrears of subscriptions who has not cleared his/her arrears within nine calendar months of the issue of notification of arrears under (ii) above shall be erased from the list of members of the Association and shall cease to have any rights whatsoever under these Rules or otherwise arising out of his/her membership of the Association so terminated.
- (e) A member wishing to resign from membership of the Association may do so only by giving notice in writing to the General Secretary.
- (f) The Honorary Treasurer shall be empowered to take any proceedings open to the Association in the name of the Association to recover the subscription due from any member who fails to pay the same in accordance with the Rules of the Association and to this end the Association shall indemnify the Honorary Treasurer against all legal or other costs and expenses reasonably incurred.

6. Conference

- (a) The annual meeting of the Association shall be Conference.
- (b) The supreme government of the Association shall be vested in Conference and the decisions of Conference and of any Special Conference held in accordance with Rule 6(j) shall be binding on all members irrespective of class of membership.
- (c) Conference shall normally be held during the school Easter holidays on such date or dates and at such place as appointed by the National Executive which date and place shall be published to the membership by the National Executive in such manner and at such time as the National Executive considers necessary for the efficient organisation of Conference.
- (d) Conference shall comprise the following representatives who shall have speaking and voting rights:
 - (i) The National Officers and National Officers elect of the Association;
 - (ii) National Executive members;
 - (iii) Past Presidents of the Association and Past Presidents of the National Association of Schoolmasters and of the Union of Women Teachers;
 - (iv) Two representatives elected by each Federation constituted under Rule 10;
 - (v) Two representatives elected by each Local Association constituted under Rule 8;
 - (vi) One additional representative elected by each Local Association constituted under Rule 8 for every hundred members over and above the first hundred members of that Local Association;
 - (vii) Two retired members' representatives, elected by the Federation of Retired Members' Associations constituted under Rule 9, to have speaking and voting rights on matters of specific concern to retired members.

The full names and addresses of the representatives elected by Local Associations and Federations under (iv), (v) and (vi) above shall be submitted to the General Secretary by the Federation or Local Association concerned to be received by the General Secretary not less than six weeks before the first day of Conference.

For the avoidance of doubt any representative elected under (iv), (v) or (vi) above shall be a member of or delegate to the Local Association or Federation electing him/her as the case may be.

- (e) Save for Past Presidents and Retired Members attending Conference in accordance with (d)(iii) and (d) (vii) above each representative shall be either a Full Member, Career Break Member, or a Retired Member paying a full member subscription.
- (f) The General Secretary and such staff as he/she may authorise may attend Conference but shall have no vote or speaking rights at Conference save that the General Secretary shall have the right to speak if so invited by the President.
- (g) The National Executive and the President may invite guests of the Association to attend Conference, but such guests shall have no vote at Conference and shall only have the right to speak if so invited by the President.
- (h) Conduct of business at Conference shall be in accordance with such Standing Orders as are approved by Conference from time to time. An amendment to the Standing Orders of Conference may be proposed by:
 - (i) the National Executive by giving notice to the Local Associations in writing of the proposed amendment to the Standing Orders of Conference not less than 3 months prior to the date of Conference;
 - (ii) 25 Local Associations giving notice to the General Secretary in writing of the proposed amendment to the Standing Orders of Conference not less than two months prior to the date of Conference.

Any amendments to the Standing Orders of Conference proposed in accordance with (h)(ii) above shall be circulated to the Local Associations by the National Executive not less than 21 days before the date of the Conference.

An amendment to Standing Orders shall require a two thirds majority of the votes cast at Conference.

- (i) A Standing Orders Committee consisting of two members elected by the National Executive and three members elected by Conference shall be elected annually. Members of the Standing Orders Committee shall serve from the conclusion of the Conference at which they are elected until the conclusion of the succeeding Conference.
- (j) A Special Conference shall be held:
 - (i) if the National Executive so considers necessary; or
 - (ii) on the request to the General Secretary of at least ten Local Associations together representing not less than one third of the membership of the Association; for the purposes of conducting such business as shall be specified by the National Executive or by the Local Associations concerned in their request for the Special Conference.
 - (iii) Twenty-one days' notice of a Special Conference shall be given to the Association.
 - (iv) A Special Conference shall comprise the same representatives as under (d) above. Notice of the full names and addresses of Local Association and Federation representatives shall be submitted to the General Secretary by the Federation or Local Association concerned to be received by the General Secretary not less than seven days before the first day of Conference.

7. The National Executive

- (a)
 - (i) The National Executive shall comprise the members of the National Officers' Committee and not more than forty-one members elected to represent Districts of the Association.
 - (ii) The General Secretary shall attend the National Executive to report on the business of the Association and shall have speaking rights at meetings of the National Executive but shall neither be a member of the National Executive nor have a vote.
 - (iii) No paid official or employee of the Association shall be eligible for election as a District member of the National Executive.
- (b) "The Districts of the Association for the purposes of membership of the National Executive shall be:

England:

- District 1** County Durham, Darlington, Gateshead, Newcastle, North Tyneside, Northumberland, South Tyneside, and Sunderland
- District 2** Middlesbrough, Hartlepool, Stockton-on-Tees, and Redcar & Cleveland
- District 3** Cumbria
- District 4** Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford, and Wigan
- District 5** Blackburn, Blackpool, and Lancashire
- District 6** Cheshire, Halton, Isle of Man, Knowsley, Liverpool, Sefton, St. Helens, Warrington and Wirral
- District 7** Bradford, Calderdale, Kirklees, Leeds, North Yorkshire, Wakefield, and York
- District 8** Barnsley, Doncaster, Rotherham, and Sheffield

APPENDIX 2 CONTINUED

- District 9** East Riding of Yorkshire, Kingston-upon-Hull, North East Lincolnshire, and North Lincolnshire
- District 10** Derby, and Derbyshire
- District 11** Leicester, Leicestershire, Northamptonshire, and Rutland
- District 12** Nottingham, Nottinghamshire, and Lincolnshire
- District 13** Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall, and Wolverhampton
- District 14** Staffordshire, and Stoke-on-Trent
- District 15** Herefordshire, Shropshire, Telford & Wrekin, Warwickshire, and Worcestershire
- District 16** Cambridgeshire, Norfolk, and Peterborough
- District 17** Essex, Southend, Suffolk, and Thurrock
- District 18** Bedfordshire, Hertfordshire, and Luton
- District 19** Bath & N.E. Somerset, Bristol, Gloucestershire, North Somerset, Somerset, and South Gloucestershire
- District 20** Bournemouth, Dorset, Poole, Swindon, and Wiltshire
- District 21** Cornwall, Devon, Isles of Scilly, Plymouth, and Torbay
- District 22** Barnet, Brent, Ealing, Enfield, Haringey, Harrow, Hillingdon, and Hounslow
- District 23** Camden, Corporation of London, Greenwich, Hackney, Hammersmith & Fulham, Islington, Kensington & Chelsea, Lambeth, Lewisham, Southwark, Tower Hamlets, Wandsworth, and Westminster
- District 24** Bexley, Bromley, Croydon, Kingston, Merton, Richmond, and Sutton
- District 25** Barking, Havering, Newham, Redbridge, and Waltham Forest
- District 26** Brighton & Hove, East Sussex, Surrey, and West Sussex
- District 27** Kent, and Medway Towns
- District 28** Buckinghamshire, Milton Keynes, and Oxfordshire
- District 29** Bracknell Forest, Guernsey, Hampshire, Isle of Wight, Jersey, Portsmouth, Reading, Slough, Southampton, West Berkshire, Windsor & Maidenhead and Wokingham

Wales:

- District 30** Conwy, Ynys Mon, Gwynedd, Denbighshire, Flintshire, and Wrexham
- District 31** Blaenau Gwent, Caerphilly, Cardiff, Monmouthshire, Newport, Powys, Torfaen, and Vale of Glamorgan
- District 32** Bridgend, Ceredigion, Carmarthenshire, Merthyr Tydfil, Neath & Port Talbot, Pembrokeshire, Rhondda Cynon Taff, and Swansea

Scotland:

- District 33** Aberdeen, Aberdeenshire, Angus, Argyll & Bute, Borders, Clackmannanshire, Dumfries & Galloway, Dundee, East Ayrshire, East Dunbartonshire, East Lothian, East Renfrewshire, Edinburgh, Falkirk, Fife, Glasgow, Highland, Inverclyde, Midlothian, Moray, North Ayrshire, North Lanarkshire, Orkney Islands, Perthshire & Kinross, Renfrewshire, Shetland Islands, South Ayrshire, South Lanarkshire, Stirling, West Dunbartonshire, Western Isles, and West Lothian

Northern Ireland:**District 34** Belfast, North Eastern, South Eastern, Southern, and Western"

- (c) Each District shall be represented by one member of the National Executive save that Districts 1, 4, 6, 7, 13, 23 and 34 shall be represented by two members.
- (d) The National Executive may between Conferences create a new District or Districts from existing Districts and may increase or reduce the number of members elected by each District so as to provide fair representation according to the number of members in each District subject to the overall limitation on the size of the National Executive referred to in Rule 7(a)(i).
- (e) In the event of the creation of a new District or any increase in the number of members of the National Executive for an existing District an election shall be held forthwith for the vacancy so created.
- (f) Any change in Districts or in representation of Districts shall be presented by the National Executive to the Conference immediately following the National Executive's decision to make such change as a proposed amendment to these Rules for approval by that Conference.
- (g) The period of office of a District member of the National Executive shall be one year commencing from the conclusion of Conference in the year the member was elected until the conclusion of Conference of the following year.
- (h) Any member of the National Executive who fails to attend three consecutive meetings of the National Executive without good cause acceptable to the National Executive shall be deemed to have resigned. For the avoidance of doubt the National Executive member so deemed to have resigned shall be eligible to stand for re-election to the vacancy.
- (i) In the event of a member of the National Executive ceasing to be a member of the Association or of a vacancy for any other reason a by-election shall be held forthwith to fill such vacancy which by-election shall be held in accordance with such arrangements as the National Executive shall prescribe.
- (j) The National Executive shall, subject to these Rules and to the decisions of Conference have full power and authority to take such action as it deems necessary for the conduct of the Association's affairs and the realisation of the objects set out in Rule 3.

Without prejudice to the generality of this power the National Executive shall:

- (i) subject to ratification at the Conference immediately following such decision, make such bye-laws and regulations as to the management of the Association not inconsistent with these Rules as the National Executive may consider desirable and to rule upon any question as to the construction of any Rule, bye-law or regulation;
- (ii) determine the remuneration and duties of the General Secretary;
- (iii) subject to ratification at the Conference immediately following such decision, appoint such officials, other than the General Secretary as the National Executive considers necessary for the good conduct of the affairs of the Association;
- (iv) determine the remuneration and duties of such officials as are appointed under (iii) above;
- (v) enter into deeds, guarantees and agreements in accordance with these Rules as agents of the Association;
- (vi) appoint such Committees with such powers and duties as the National Executive shall from time to time consider necessary;

- (vii) whether by itself or on the advice or with the assistance of agents invest or cause to be invested such of the assets of the Association and the income arising therefrom as shall not be required for the administration or other purposes of the Association in accordance with these Rules provided that the National Executive shall not be liable for the defaults of agents whom it may employ for this purpose.
- (k) National Officers and members of the National Executive shall be indemnified by the Association:
 - (i) in respect of expenses properly incurred by them in the performance of their duties as such National Officers or members of the National Executive as the case may be; and
 - (ii) in respect of all demands, claims, actions, proceedings and damages (and the costs and expenses thereof) made, brought or obtained against them arising out of the performance of their duties as such National Officers or members of the National Executive.

8. Local Associations

- (a) The National Executive shall have power to form, dissolve or amalgamate such Local Associations as it sees fit subject to such criteria as are approved by Conference from time to time. Any decision taken by the National Executive in accordance with this paragraph shall be reported for ratification to the Conference immediately following that decision.
- (b) The National Executive shall publish model rules for the conduct of Local Association business which rules shall be adopted by each Local Association save that the National Executive may approve any such local variations requested by a Local Association as it sees fit.
- (c) The funds of a Local Association shall be kept in an account opened in the name of that Local Association at a Bank, Post Office or Building Society. Withdrawals from the account shall be under the signature of at least two duly appointed local officers.
- (d) All Local Associations shall supply a statement of balances and an income and expenditure account to the Honorary Treasurer at the end of the financial year. The financial year is the calendar year.

9. Retired Members' Associations, and Federation

- (a) The National Executive shall have power to form, dissolve or amalgamate such Retired Members' Associations as it sees fit subject to such criteria as are approved by Conference from time to time. Any decision taken by the National Executive in accordance with this paragraph shall be ratified by the Conference immediately following that decision.
- (b) The National Executive shall publish model rules for the conduct of Retired Members' Association business which rules shall be adopted by each Retired Members' Association save that the National Executive may approve any such local variations requested by a Retired Members' Association as it sees fit.
- (c) The funds of a Retired Members' Association shall be kept in an account opened in the name of that Retired Members' Association at a Bank, Post Office or Building Society. Withdrawals from the account shall be under the signature of at least two duly appointed Retired Members' Association officers.
- (d) All Retired Members' Associations shall supply a statement of balances and an income and expenditure account to the Honorary Treasurer at the end of the financial year. The financial year is the calendar year.
- (e) All Retired Members' Associations shall combine to form the Retired Members' Federation which shall be consulted by the National Executive on such matters affecting retired members as the National Executive considers appropriate.

- (f) The National Executive shall publish model rules for the conduct of Retired Members' Federation business which rules shall be adopted by the Federation save that the Federation National Executive may approve such variations requested by the Federation as it sees fit.
- (g) A Retired Members' Association shall contribute to the Retired Members' Federation such proportion of its subscription apportionment and other income at such times and in such manner as shall be directed by resolution of the Federation from time to time.
- (h) The funds of the Retired Members' Federation shall be kept in an account opened in the name of the Retired Members' Federation at a Bank, Post Office or Building Society. Withdrawals from the account shall be under the signature of at least two duly appointed Retired Members' Federation officers.
- (i) The Retired Members' Federation shall supply a statement of balances and an income and expenditure account to the Honorary Treasurer at the end of the financial year. The financial year is the calendar year.

10. Federations

- (a) Where there is more than one Local Association within the area of a Local Education Authority the National Executive shall combine those Local Associations to form a Federation which shall be solely responsible for all negotiations with that Local Education Authority and such other employers as may be located within the area of that Local Education Authority.
- (b) The National Executive shall publish model rules for the conduct of Federation business which rules shall be adopted by each Federation save that the National Executive may approve such local variations requested by a Federation as it sees fit.
- (c) The funds of a Federation shall be kept in an account opened in the name of the Federation at a Bank, Post Office or Building Society. Withdrawals from the account shall be under the signature of at least two duly appointed Federation officers.
- (d) All Federations shall supply a statement of balances and an income and expenditure account to the Honorary Treasurer at the end of the financial year. The financial year is the calendar year.
- (e) A Local Association shall contribute to the Federation of which it is a member such proportion of its subscription apportionment and other income at such times and in such manner as shall be directed by resolution of the Federation from time to time.

11. Regional Executive Councils

- (a) In Northern Ireland, Scotland and Wales National Executive shall combine Local Associations and Federations to form Regional Executive Councils. These Executive Councils to be known as NASUWT Northern Ireland, NASUWT Scotland and NASUWT Cymru.
- (b) The National Executive shall publish model rules for the conduct of the Regional Executive Councils business which rules shall be adopted by each Regional Executive Council save that National Executive may approve such variations requested by a Regional Executive Council as it sees fit.
- (c) The funds of the Regional Executive Council shall be kept in an account opened in the name of the Regional Executive Council at a Bank, Post Office or Building Society. Withdrawals from the account shall be under the signature of at least two duly appointed Regional Executive Council officers.
- (d) All Regional Executive Councils shall supply a statement of balances and an income and expenditure account to the Honorary Treasurer at the end of the financial year. The financial year is the calendar year.

- (e) A Local Association shall contribute to the Regional Executive Council of which it is a member such proportion of its subscription apportionment and other income at such times and in such a manner as shall be directed by resolution of the Regional Executive Council from time to time.

12. National Officers' Committee

- (a) Membership of the National Officers' Committee shall be:
- (i) the Junior Vice-President;
 - (ii) the Senior Vice-President;
 - (iii) the President;
 - (iv) the Ex-President;
 - (v) the Honorary Treasurer;
- which Officers shall be known as the National Officers of the Association.
- (b) No paid official or employee of the Association shall be eligible for election to such National Offices.
- (c) Any National Officer who fails to attend three consecutive meetings of the National Officers' Committee without good cause acceptable to the Committee shall be reported by the President to the National Executive who may in their absolute discretion declare that the National Officer concerned shall be deemed to have resigned whereupon the casual vacancy procedure shall be commenced. For the avoidance of doubt the National Officer so deemed to have resigned shall be eligible to stand for election to National Office as and when an election is called.
- (d) Between meetings of the National Executive the National Officers' Committee shall conduct the business of the Association.
- (e) The National Officers' Committee may authorise a ballot for Industrial Action in accordance with Rule 21 (c).
- (f) The National Officers' Committee shall be bound by decisions of the National Executive.
- (g) The National Officers' Committee may make such recommendations to the National Executive for the conduct of the business of the Association as the National Officers' Committee sees fit.
- (h) The National Officers' Committee shall report to the National Executive such decisions as it makes for the conduct of the business of the Association between meetings of the National Executive.

13. The Presidency

- (a) There shall be an annual election for the four year term of office of the Presidency.
- (b) In the first year of office the member elected to the Presidency shall be known as the Junior Vice-President.
- (c) In the second year of office the member elected to the Presidency shall be known as the Senior Vice-President.
- (d) In the third year of office the member elected to the Presidency shall be known as the President.
- (e) In the fourth year of office the member elected to the Presidency shall be known as the Ex-President.
- (f) Each year of office for the purposes of this Rule shall commence on the first day of Conference in the relevant year and end on the first day of Conference in the following year.

14. Honorary Treasurer

- (a) The Honorary Treasurer shall be responsible for the financial affairs of the Association.

- (b) The Honorary Treasurer shall be elected annually and shall hold office from the conclusion of Conference of the year of his/her election until the conclusion of Conference in the following year.
- (c) The Honorary Treasurer shall cause proper accounts to be kept.
- (d) The Honorary Treasurer shall publish the audited accounts of the Association annually in sufficient time for consideration at Conference.
- (e) The Honorary Treasurer shall present a report to each meeting of the National Executive.
- (f) Whenever required by the National Executive the Honorary Treasurer shall provide to the National Executive a statement of the Association's accounts.
- (g) The Honorary Treasurer shall make such regulations and give such directions as may seem proper to him or her for:
 - (i) the day-to-day management of the financial affairs of the Association;
 - (ii) the collection of subscriptions;
 - (iii) the proper administration of a national imprest accounting system;
 - (iv) the holding of Local Association and Federation financial reserves centrally by the Association in the names of the Local Associations and, Federations.

15. Auditors

Chartered accountants shall be appointed annually by Conference to examine and audit the accounts of the Association.

16. Investment and Financial Affairs

- (a) Funds, assets and other property belonging to or held upon trust for the Association may with the consent of the National Executive be invested in or upon such shares, stocks, funds, securities or other investments in any part of the world and whether involving liability or not either in the names of the Trustees or in the name of a nominee on behalf of the Trustees as the National Executive shall in its absolute discretion think fit so that the National Executive shall be empowered to invest and transpose the investment of the said funds and other property of the Association in the same unrestricted manner as if they were the beneficial owners thereof.
- (b) All land, buildings, other property and assets of the Association shall be placed in the names of the Trustees or in the name(s) of a nominee or nominees on behalf of the Trustees approved by the National Executive or in the name of the Custodian Trustee or Public Trustee as the National Executive shall in its absolute discretion think fit to be held for and on behalf of the Association.
- (c) All monies held by or on behalf of the Association shall be paid into the bank accounts of the Association.
- (d) Local Association and Federation reserves shall be held centrally in the name of the Local Association or Federation concerned and shall be subject to the right of withdrawal on demand by the Local Association or Federation provided that any such withdrawal is for a specified amount authorised by Minute of a meeting of the Officers or Executive of the Local Association or Federation.
- (e) Local Association and Federation Officers, accredited school representatives, Health & Safety representatives, and such other Officers and representatives as may be approved by the National Executive from time to time shall be indemnified by the Association in respect of all demands, claims, actions, proceedings and damages and the costs and expenses thereof, made, brought or obtained against them arising out of the performance of their duties as such Officers or representatives.

17. Trustees

- (a) The President, Senior Vice-President, Junior Vice-President and Ex-President for the time being of the Association shall be trustees thereof.
- (b) The National Executive may appoint a Trust Corporation to be Custodian Trustee in accordance with Section 4 of the Public Trustee Act 1966.
- (c) The National Executive may transfer to the Public Trustee such funds or property of the Association and such stocks, shares or securities held by or on behalf of the Association as it sees fit.

18. General Secretary

- (a) The General Secretary shall conduct the business of the Association in accordance with these Rules and act under the instructions of Conference, the National Executive and the National Officers' Committee.
- (b) The General Secretary shall serve until he/she shall reach the age of 60 years when the General Secretary shall retire from office on the last day of the Conference immediately thereafter.
- (c) In the event of failure by the General Secretary to fulfil the terms of his/her contract of employment the National Executive may dismiss the General Secretary from office by resolution passed by a two thirds majority of the members of National Executive.
- (d) The General Secretary shall:
 - (i) have the conduct of the day-to-day administration of the Association;
 - (ii) manage the officials and staff of the Association and shall give such directions as to their work as he/she considers necessary;
 - (iii) convene meetings of the National Executive and its Committees and Sub-Committees as and when the National Executive or the National Officers shall require and as he/she deems necessary;
 - (iv) put before the National Executive such reports and recommendations as to Association policy, organisation and administration as he/she may deem necessary or as the National Executive may require.
- (e) Where the General Secretary is due to reach his/her retirement age within five years of the end of the term for which s/he has been elected, s/he shall, on otherwise satisfying the requirements of Section 58 of the Trade and Labour Relations (Consolidation) Act 1992, be entitled to continue in office without standing for re-election until s/he is required to retire under Rule 18(b).

19. Elections**(a) National Officers**

- (i) Each Local Association shall be entitled to nominate at a general meeting one member as candidate for the Presidency and one member as candidate for Honorary Treasurer.
- (ii) Any such nomination shall be made by resolution of the Local Association passed at a General Meeting the agenda for which meeting included as a separate item of business the consideration and making of nominations for the Presidency and Honorary Treasurer.
- (iii) Any such nomination shall be on the prescribed form which shall be countersigned by the nominee as notice of acceptance of nomination and thereafter submitted to the General Secretary.
- (iv) Any completed nomination form not received by the General Secretary on or before the 1st November in the year of the election concerned shall not be a valid nomination.

(b) National Executive

- (i) Each Local Association within a District shall be entitled to nominate one member of a Local Association within that District as a candidate for each vacancy for the National Executive for that District.
- (ii) Any such nomination shall be made by resolution of the Local Association passed at a General Meeting the agenda for which meeting included as a separate item of business the consideration and making of nominations for District members of the National Executive.
- (iii) Any such nomination shall be on the prescribed form which shall be countersigned by the nominee as notice of acceptance of nomination and thereafter submitted to the General Secretary.
- (iv) Any nomination form not received by the General Secretary on or before the 31st January in the year of the election concerned shall not be a valid nomination.

(c) General Secretary

- (i) Any election for the position of General Secretary shall be called by the National Executive who shall cause to be published a timetable for the election.
- (ii) The National Executive and each Local Association shall be entitled to nominate at a general meeting one candidate for General Secretary.
- (iii) Any such nomination shall be made by resolution of the Local Association passed at a General Meeting the agenda for which meeting included as a separate item of business the consideration and making of nominations for the General Secretary.
- (iv) Any such nomination shall be on the prescribed form which shall be countersigned by the nominee as notice of acceptance of nomination and thereafter submitted to the President.
- (v) Any nomination form not received by the President on or before the closing date for nominations as prescribed by the National Executive shall not be a valid nomination.
- (vi) For acceptance as a candidate for the post of General Secretary a prospective candidate shall be nominated either by the National Executive or by a minimum of 25 Local Associations or by both in accordance with the procedure set out in this Rule.

(d) Canvassing

- (i) No member holding any category of membership shall distribute, or cause to be distributed, any material seeking support for the nomination of any prospective candidate earlier than one calendar month prior to the closing date for nominations.
- (ii) Upon request to the General Secretary (or in the event of an election for General Secretary, the President) a prospective candidate shall be provided with one set of labels setting out the addresses for correspondence of Local Associations relevant to the election concerned, not earlier than five weeks prior to the closing date for nominations for the sole purpose of corresponding with Local Associations to seek nomination.
- (iii) After close of nominations no material other than the election address referred to in this Rule shall be distributed on behalf of any candidate.

(e) Ballots

- (i) In the event of there being more than one candidate for the position of the Presidency, Honorary Treasurer, or General Secretary, a ballot shall be held amongst the members of the Association. Each member of the Association shall be entitled to one vote in each contested election and the candidate with the greatest number of votes cast shall be declared elected.
- (ii) In the event of there being more candidates for nomination to the National Executive than the number of members of the National Executive prescribed for a District there shall be a ballot held of the members of the Local Associations in the District concerned. Each member of a Local Association in a District where a contested National Executive election is held shall be entitled to one vote for each vacancy and the candidate (or if more than one vacancy, candidates) with the greatest number of votes cast shall be declared elected.

(f) Election Address

- (i) Validly nominated candidates shall be entitled to submit to the General Secretary (or the President in the event of an election for the General Secretary) an election address not exceeding 300 words on one side of A4 paper which may set out biographical details of the candidate and the work he/she has performed or proposes to perform on behalf of the Association only. The election address may include a photograph and a list of nominating Local Associations (and in the event of election for the General Secretary, any nomination of the National Executive) which list of nominations shall not be taken into account for the purposes of the 300 words limit set by this Rule.
- (ii) The election address shall be distributed at no cost to the candidate to those members who are entitled to vote in the election concerned at the same time as the ballot paper is despatched to those members.

(g) Balloting Procedures

- (i) Ballot papers accompanied by election addresses shall be distributed by post to members eligible to vote within one calendar month after the closing date for nominations.
- (ii) The ballot paper shall include on it the date by which the ballot paper to be valid shall be received by the Association's returning officer which date shall be 21 days after the date of distribution of the ballot papers referred to above.
- (iii) The National Executive shall appoint an independent scrutineer for each election whose duties shall be those set out in the Trade Union and Labour Relations (Consolidation) Act 1992 and as amended by any subsequent legislation.

(h) Election Misconduct

- (i) Any complaint of election misconduct shall be made by a member in writing to the General Secretary (or to the President in the case of an election for General Secretary) to be received within 28 days of the act or omission, the subject of the complaint.
- (ii) The General Secretary (or the President in the case of an election for General Secretary) shall have power to dismiss a complaint he/she considers to be frivolous. The General Secretary (or the President as the case may be) shall report the dismissal of such a complaint to the National Officers' Committee Meeting immediately following his/her decision.

- (iii) The National Officers' Committee (with the exclusion of an individual whose election is the subject of complaint) shall consider any complaint of misconduct not ruled frivolous.
- (iv) The National Officers' Committee in investigating a complaint of misconduct may set up a tribunal of inquiry to investigate the complaint which tribunal shall comprise either three members of the National Executive or three past Presidents or a combination thereof (save that any individual whose election is the subject of complaint shall not be eligible to serve on such tribunal).
- (v) A tribunal of inquiry constituted under this Rule shall have power to investigate such matters as it believes relevant, and to question such witnesses and to call for such documents as it considers necessary.
- (vi) A tribunal of inquiry shall report to the National Officers' Committee in writing. The National Officers' Committee shall provide a copy of such report to the complainant(s) and to any individual(s), the subject of the complaint.
- (vii) Upon receipt of a report of a tribunal of inquiry the National Officers' Committee shall consider the report and thereafter either uphold the election or declare the election invalid and set a date for a new election, subject to confirmation by the National Executive.
- (viii) The National Officers' Committee shall have power to suspend an election if it so considers necessary for the good management of the Association.
- (ix) The National Officers' Committee, subject to confirmation by the National Executive shall make such arrangements as it considers necessary to ensure the good management of the Association should an election be suspended, which power includes the nomination of a member to perform the duties of the post, the subject of the contested election until the conclusion of that election.
- (x) In the absence of the suspension of an election by the National Officers' Committee, the election, the subject of complaint, shall proceed and the candidate(s) receiving the highest number of votes shall be declared elected and shall hold office unless and until the election is declared invalid on the grounds of electoral misconduct by the National Officers' Committee.
- (xi) Nothing in this Rule shall be seen as a bar to internal Association discipline pursuant to Rule 25.

20. Casual Vacancies

- (a) In the event of the President ceasing to be a member of the Association or the office of President falling vacant for any other reason the Senior Vice-President shall vacate the office of Senior Vice-President and shall progress to the office of President and shall hold that office for the remainder of the unexpired year of office in addition to his/her year in office as President.
- (b) In the event of the Senior Vice-President ceasing to be a member of the Association or the office of Senior Vice-President falling vacant for any other reason the Junior Vice-President shall vacate the office of Junior Vice-President and shall progress to the office of Senior Vice-President and shall hold that office for the remainder of the unexpired year of office in addition to his/her year in office as Senior Vice-President.
- (c) In the event of the Ex-President ceasing to be a member of the Association or the office of Ex-President becoming vacant for any other reason, the National Executive shall appoint from amongst its number a member of the National Executive to carry out the duties of Ex-President.

- (d) In the event of the Honorary Treasurer ceasing to be a member of the Association or the office of Honorary Treasurer becoming vacant for any other reason, the National Executive shall appoint from amongst its number a member of the National Executive to carry out the duties of Treasurer for the remainder of the unexpired year of office.
- (e) In the event of the Junior Vice-President ceasing to be a member of the Association or the office of Junior Vice-President becoming vacant for any other reason, the National Executive shall as soon as reasonable call an election to fill the vacancy for the remainder of the unexpired year of office which election shall be held in accordance with Rule 19 save that the National Executive may appoint such dates for the conduct of the election as it sees fit.

21. Industrial Action

- (a) The following, and only the following, are authorised to call upon members to participate in industrial action:
The General Secretary; and in his/her absence the Deputy General Secretary; and in his/her absence the Assistant General Secretary.
- (b) The National Executive may authorise a ballot for industrial action of the whole membership or such section of the membership as it considers necessary.
- (c) The National Officers' Committee may authorise a ballot for industrial action of the whole membership or such section of the membership as it considers necessary.
- (d) On receipt of a request for a ballot for industrial action from a National Executive member, Federation Secretary or Local Association Secretary, the General Secretary shall:
 - (i) authorise a ballot and thereafter report such authorisation to the National Officers' Committee; or
 - (ii) reject the request for a ballot and thereafter report such rejection to the National Officers' Committee; or
 - (iii) report such request to the National Officers' Committee for decision.

22. Casework Assistance

- (a) Casework assistance shall be granted at the complete discretion of the Association to any Full Member and, to the extent permitted by Rule 4, retired, honorary life, career break, student, associate and former members.
- (b) Casework assistance may be granted in relation to:
 - (i) any matter arising out of or occurring in the course of the member's employment;
 - (ii) any matter affecting the professional or other rights, welfare or interests of members or the teaching profession in general.
- (c) Casework assistance may be withdrawn by the Association if an assisted person whose case has been supported by the Association:
 - (i) fails to act on or accept the advice of the Association or the caseworker; or
 - (ii) fails to co-operate in the provision or collection of information relevant to the case; or
 - (iii) has wilfully provided false or misleading information; or
 - (iv) is 3 months or more in arrears with membership contributions; or
 - (v) in any other circumstances where withdrawal is deemed to be necessary by the National Executive.
- (d) "Casework assistance" for the purpose of this Rule means assistance provided by an officer, official or employee of the Association to a person in a matter concerning that person.

23. Legal Assistance

- (a) Legal Assistance shall be granted in the complete discretion of the National Executive.
- (b) The following shall be eligible for legal assistance:
 - (i) Full Members working in the British Isles.
 - (ii) Full Members working overseas employed by or under the auspices of the Overseas Development Administration, the Ministry of Defence, or such other Government Department as the National Executive shall from time to time approve.
 - (iii) Full Members working overseas pursuant to any other appointment approved by the National Executive.
 - (iv) Retired, Honorary Life, Career Break, Student, Associate and Former Members to the extent permitted by Rule 4.
- (c) Subject to Rule 4, legal assistance may be granted in relation to:
 - (i) any matter arising out of or occurring in the course of a member's employment;
 - (ii) any matter affecting the professional or other rights, welfare, or interests of members or the teaching profession in general.
- (d) Legal Assistance may be withdrawn by the National Executive if an assisted person whose case has been supported by the Association:
 - (i) fails to act on or accept the advice of the Association or its legal advisers; or
 - (ii) fails to co-operate in the provision or collection of information relevant to the case; or
 - (iii) has wilfully provided false or misleading information; or
 - (iv) is three months or more in arrears of membership contributions; or
 - (v) in any other circumstances where withdrawal is deemed to be necessary by the National Executive.
- (e) If legal assistance is withdrawn pursuant to this Rule the assisted person shall be fully responsible for all legal costs incurred by the Association or by any other party to litigation in which the Association has supported the assisted person.

24. Benevolent Fund

There shall be a separate charitable fund known as the "NASUWT Benevolent Funds" which shall have such separate Rules as are approved by Conference from time to time with the consent of the Charity Commissioners which Rules shall provide for but shall not be limited to the objects, benefits, constitution, and administration of the fund.

25. Insurance and Other Member Benefits

- (a) The National Executive shall in its discretion make arrangements to indemnify members against such accidental or criminal injury, loss or damage by way of contract of insurance or otherwise as it sees fit.
- (b) The extent of cover under (a) above shall be determined by the National Executive in its discretion but shall include provision for:
 - (i) accidental death;
 - (ii) accidental loss of sight of one or both eyes;
 - (iii) accidental loss of one or more limbs;
 - (iv) accidental permanent total disablement from engaging in being occupied with or giving attention to employment or occupation within the teaching profession;
 - (v) damage by fire to or loss by theft of members' personal property pertaining to the teaching profession on school premises under such conditions as shall be determined by the National Executive from time to time.
- (c) The levels of benefit under this Rule shall be determined by the National Executive in its discretion which levels of benefit may vary according to:

- (i) class of membership;
- (ii) the circumstances giving rise to the claim; subject to such maximum limit as is provided for by Section 467 of the Income and Corporation Taxes Act 1988 and any amendment or re-enactment thereof.

26. Internal Association Discipline

(1) Offences

A member of the Association commits a disciplinary offence if that member:

- (a) wrongly or fraudulently receives or misapplies funds of the Association;
- (b) fails to participate in official industrial action;
- (c) acts contrary to or fails to carry out lawful instructions of the National Executive;
- (d) discriminates against or harasses another member on the grounds of gender, ethnic origin, disability, sexuality, religion or age;
- (e) fails to pay any fine imposed under this Rule within two months of the conclusion of proceedings, without good and sufficient reason;
- (f) acts contrary to or fails to carry out the policies of the Association;
- (g) acts in any way prejudicial to the interests of the Association.

(2) Disciplinary Complaint

- (a) If a member believes another member (the respondent), has committed a disciplinary offence and that member wishes to make a complaint, he/she shall submit his/her complaint in writing setting out details of the respondent's conduct to the General Secretary.
- (b) Upon receipt of such a complaint the General Secretary shall send a copy of the complaint to the respondent who shall within 14 days of the date it was sent to him/her notify the General Secretary in writing whether the complaint is admitted or denied.
- (c)
 - (i) Upon receipt of a denial under (b) above, or upon the expiry of 14 days if no response to the complaint from the respondent is received the General Secretary shall refer the complaint to the Ex-President who shall consider whether a preliminary investigation of the complaint is necessary.
 - (ii) If the Ex-President is of the opinion that a preliminary investigation is necessary he/she shall conduct such an investigation.
 - (iii) If the Ex-President is of the opinion that a preliminary investigation is not necessary he/she shall instruct the General Secretary to convene a Disciplinary Committee meeting for the purpose of a hearing to consider the complaint, save that if the Ex-President is of the view that the complaint is frivolous or vexatious he shall instruct the General Secretary to notify the member who submitted the complaint and the respondent that no further action will be taken.
- (d) Upon conclusion of a preliminary investigation under (c)(ii) above the Ex-President shall report in writing to the General Secretary that: either
 - (i) in the opinion of the Ex-President there are insufficient grounds to proceed with the complaint further whereupon the General Secretary shall notify the member who submitted the complaint and the respondent that no further action will be taken; or
 - (ii) that in the opinion of the Ex-President the complaint should proceed further whereupon the General Secretary shall convene a Disciplinary Committee meeting for the purpose of a hearing to consider the complaint.
- (e) Upon receipt of an admission under (b) above the General Secretary shall convene a Disciplinary Committee meeting for the purpose of a hearing to consider the complaint.

(3) Discipline at Disciplinary Committee Level

- (a) The Disciplinary Committee shall be a Committee of the National Executive and shall comprise two members of the National Executive as nominated by the National Executive from time to time and the Senior Vice-President who shall chair meetings of the Committee.
- (b) The Disciplinary Committee may resolve to:
 - (i) dismiss the complaint; or
 - (ii) find the complaint justified.
- (c) If the Disciplinary Committee passes a resolution in accordance with (b)(ii) above, or the respondent has admitted the complaint under (2)(b) above, the Disciplinary Committee shall resolve:
 - (i) to impose no penalty; or
 - (ii) to penalise the respondent.
- (d) The penalties available to the Disciplinary Committee shall be:
 - (i) a reprimand;
 - (ii) a fine not exceeding five times the full annual subscription of a Full Member of the Association;
 - (iii) to suspend the respondent from membership of the Association for a specified period not exceeding one year;
 - (iv) to expel the respondent from membership of the Association;
 - (v) if the respondent is an Officer of the Association, to debar the respondent permanently or for a specified period from holding office in the Association.
- (e) As soon as is practicable, the General Secretary shall notify the respondent in writing of the resolution(s) of the Disciplinary Committee and of any right of appeal.

(4) Appeals

- (a) There shall be a right of appeal from the Disciplinary Committee to the Appeals Committee when the Disciplinary Committee has imposed any of the penalties in Rule 25 (3) (d).
- (b) Appeals Committee
 - (i) The Appeals Committee shall be a Committee of the National Executive and shall comprise four members of the National Executive as nominated by the National Executive from time to time and the President who shall chair meetings of the Committee.
 - (ii) No member of the National Executive who was a member of the Disciplinary Committee against whose resolution(s) the appeal has been made shall be a member of the Appeals Committee considering that appeal.
- (c) The Appeal
 - (i) The respondent shall submit the appeal in writing (Notice of Appeal) specifying the grounds of the appeal to the General Secretary;
 - (ii) The time limit for an appeal shall be 14 days from the date the written notice of the resolution(s) against which the appeal lies was sent to the respondent;
 - (iii) It is the respondent's responsibility to ensure that the Notice of Appeal complies with this Rule and is received by the General Secretary within the time limit;
 - (iv) Upon receipt of a Notice of Appeal the General Secretary shall convene a meeting of the Appeals Committee for the purpose of a hearing to consider the appeal;
 - (v) The Appeals Committee may resolve to dismiss the appeal or uphold the appeal and it may not substitute its own penalty;
 - (vi) Any decision of the Appeals Committee shall be final;
 - (vii) As soon as is practicable, the General Secretary shall notify the respondent in writing of the resolutions of the Appeals Committee.

(5) Convening of Meetings

- (a) Whenever the convening of a meeting is required by this Rule, the procedure set out below shall be followed.
- (b) The General Secretary shall send to the respondent at his/her last known address written notice of the meeting by ordinary first-class post not less than 21 days before the date of the meeting.
- (c) The notice of the meeting sent to the respondent shall be dated and shall specify:
 - (i) the date, time and place of the meeting;
 - (ii) the purpose of the hearing;
 - (iii) details of the complaint sufficient to enable the respondent to appreciate the nature of the case against him/her;
 - (iv) his/her right to attend, make verbal submissions, call witnesses and submit documentary evidence;
 - (v) his/her right to make written submissions;
 - (vi) that his/her reasonable travelling expenses will be met;
 - (vii) that the proceedings may ultimately lead to his/her expulsion from membership of the Association, and that if the respondent is an Officer of the Association that the proceedings may lead to him/her being permanently debarred from office;
 - (viii) that the meeting may proceed in his/her absence unless he/she submits written reasons showing good cause why he/she cannot attend;
 - (ix) that he/she is required to acknowledge receipt and state within 10 days of the date of the notice whether he/she intends to attend at the meeting;
 - (x) that he/she is requested to forward copies of any documents to which he/she will refer to the General Secretary; and shall enclose a copy of any report submitted by the Ex-President under (2)(d)(ii) above.
- (d) If, in the opinion of the General Secretary, the respondent has submitted written good cause why he/she cannot attend, the hearing shall be adjourned to a future date.
- (e) Copies of the complaint, relevant minutes of any previous hearing, and any documentary evidence in his/her possession shall be sent to the respondent by the General Secretary as soon as is practicable and in any event at least seven days before the meeting.
- (f) The General Secretary shall send written notice of the meeting at least seven days before the meeting to the complainant and to those who are members of the Committee holding the meeting. This notice shall include copies of the notice sent to the respondent, any Notice of Appeal, the complaint, relevant minutes of any previous hearing and any documentary evidence in the General Secretary's possession.

(6) Hearings

- (a) For the purpose of all hearings under this Rule the provisions set out below shall apply.
- (b) The complainant shall be a member appointed by the National Executive to put the case in support of the complaint.
- (c) The General Secretary or his/her nominee shall attend all hearings under this Rule to advise on procedure and to keep a record of the proceedings.
- (d)
 - (i) The respondent may be represented at any hearing under this Rule by another member of the Association if that member is willing to act as his/her representative.
 - (ii) The respondent shall notify the General Secretary of the name and address of his/her representative as soon as is practicable, and in any event at least seven days before the hearing.

- (e) The complainant, respondent, respondent's representative and witnesses shall withdraw from the hearing upon the conclusion of the presentation of evidence and submissions on behalf of both sides and shall not play any part in the discussion or debate upon the resolution(s) before the Committee holding the hearing.
- (f) All appeal hearings shall be by way of full rehearing and new evidence shall be admissible at the discretion of the Chairperson.
- (7) Where a disciplinary resolution passed under this Rule may be the subject of an appeal, it shall not take effect until either the time limit for appeal has expired and no appeal has been entered or an appeal has been dismissed. In all other cases the decision shall have immediate effect.
- (8) For the avoidance of doubt, if any Officer of the Association cannot participate in disciplinary proceedings as required by this Rule by reason of personal involvement in the matters referred to in the complaint or for any other good reason the National Executive shall nominate another Officer to replace him/her.

27. Amendment to Rules

- (a) An amendment to these Rules may be proposed by:
 - (i) The National Executive by giving notice to the Local Associations in writing of the proposed amendment to these Rules not less than three months prior to the date of Conference or any Special Conference called to consider amendments to these Rules.
 - (ii) By 25 Local Associations giving notice to the General Secretary in writing of the proposed amendment to these Rules not less than two months prior to the date of Conference or any Special Conference called to consider amendments to these Rules.
- (b) Any amendments to these Rules proposed in accordance with (a) (ii) above shall be circulated to the Local Associations by the National Executive not less than 21 days before the date of the Conference or Special Conference.
- (c) An amendment to these Rules shall be made only by Conference or a Special Conference and shall require a two-thirds majority of the votes cast at that Conference.

28. Dissolution of the Association

- (a) A proposal to dissolve the Association may be made by:
 - (i) a resolution of the National Executive passed by a two-thirds majority of the members of the National Executive;
 - (ii) Local Associations representing not less than half the Full Membership of the Association.
- (b) Any proposal made in accordance with (a) above shall be put to a postal ballot of Full Members and Retired Members paying the Full Member subscription.
- (c) The Association shall be dissolved if not less than two-thirds of the members referred to in (b) above vote in favour of such dissolution.
- (d) Upon a successful ballot to dissolve the Association, notice of dissolution shall be served in the manner prescribed by statute to the Certification Officer for Trade Unions and Employers' Associations and the funds and property of the Association shall (after discharge of all its liabilities) be divisible equally among the members of the Association referred to in (b) above or in such other manner as Conference may determine and as permitted by law.

NASUWT has a Political Fund.

The Rules of the Political Fund are available separately.

Please contact NASUWT Headquarters on 0121 453 6150.

CONSTITUTION FOR NASUWT
IN NORTHERN IRELAND
ADOPTED BY FEDERATION COUNCIL
27 APRIL 2002

1. NAME

The name shall be the Northern Ireland Executive Council of the NASUWT.

2. OBJECT

- i) The object of the Executive Council shall be to further the objects of the NASUWT as set out in rule 3 of the National Rules in the area represented by the Executive Council as specified in the resolution of the National Executive forming the Executive Council.
- ii) The objects of the Council shall be those of the NASUWT and in particular to co-ordinate the action and policies of the NASUWT local associations in Northern Ireland with special responsibilities for representing their collective views to the Department of Education in Northern Ireland and other employing authorities.

3. AFFILIATION

- a) The following local associations of the NASUWT shall be affiliated to the Executive council:

Armagh/Craigavon
Belfast
Derry City and District
East Antrim
East Down
Erne
Lisburn
North Down
North East
Omagh
South Down/South Armagh
Strabane
Tyrone East

4. EXECUTIVE COUNCIL

- a) An Executive Council to be known as the Northern Ireland Executive Council NASUWT shall be formed, known thereafter as Executive Council.
- b) Each Local association shall be represented at an Executive Council meeting by delegates elected by that local association from the membership of the local association as set out below.

Delegates shall be elected on the numerical strength of their local association based on the totals of fully paid up membership as listed on records in the Regional Office as of 31 December and using the following criteria:

Two Executive Council delegates for under 500 members and one Executive Council delegate for each additional 500 members or part thereof.

- c) A local association may elect at its Annual General Meeting up to 3 alternative delegates to attend in the place of any delegates unable to attend the meeting of the Executive Council.
- d) In the event of a local association delegates being elected as an Officer of the Executive Council specified in Rule 5 below, the local association may elect an additional delegate in accordance with casual vacancy procedure to replace that delegate.

5. OFFICERS

- a) Each year an Officers' Committee, elected in accordance with Rules 6 and 7 shall take office. The Officers' Committee shall consist of President; Vice-President; Junior Vice-President; Ex-President; Honorary Secretary and Honorary Treasurer.
- b) The National Executives members shall attend the Officers' Committee as ex-officio, non-voting members.
- c) The Regional Official (Policy) shall attend the Officers' Committee as an ex-officio, non-voting member.
- d) The Regional Official (Policy) shall act as a chief spokesperson and the lead negotiator, enacting NI Executive Council Policy, in those institutions and on those issues which are the responsibility of the devolved Government.
- e) All elected members of the Officers' committee shall be ex-officio members of all standing Committees of the Executive Council.

6. ELECTION OF JUNIOR VICE-PRESIDENT, HONORARY TREASURER AND HONORARY SECRETARY

- a) On or before 31 December each year local associations shall be entitled to nominate members as candidates for the offices of Junior Vice-President, Honorary Treasurer and Honorary Secretary.

- b) In the event of them being more than one person nominated for the positions of Junior Vice-President, Honorary Treasurer and Honorary Secretary, a secret ballot shall be held among the members of affiliated local associations in accordance with such procedures as may be prescribed by the National Executive for the conduct of such ballots.
- c) In the event of an uncontested election, the candidates for the Offices concerned shall be declared elected unopposed at the Annual Conference of the Executive Council.
- d) In the event of no nomination for one or more of the offices to which this Rule refers nominations shall again be called for and subject to procedure set out in a) and b) above save that the opening and closing date for the nominations shall be 28 days and 14 days before the date of the next Executive Council meeting.
- e) Any casual vacancy for the offices to which this Rule refers shall be filled in accordance with the procedures set out below:
 - i) President by the Vice-President
 - ii) Vice President by the Junior Vice-President
 - iii) Honorary Treasurer, Ex-President and Honorary Secretary by election at the next Executive Council Meeting following nomination by local associations. In the event of there being more than one person nominated for position, a secret ballot shall be held among members of affiliated local associations in accordance with such procedures as may be prescribed by the National Executive for the conduct of such ballots. The opening and closing date for nominations shall be 28 days and 14 days respectively.
 - iv) Executive Council will nominate and elect officer members of the Officers' Committee in the event of council vacancies arising.

7. PRESIDENT AND EX-PRESIDENT

- a) At annual Conference the incoming Junior Vice-President shall assume the office of Vice-President; and the outgoing Vice-President shall assume the office of President and the outgoing President shall assume the office of Ex-President.
- b) In the event of a casual vacancy for President, the Vice-President shall assume the office of President for the remainder of that term of office, in addition to his/her own term of office as President. The Junior Vice-President shall assume the office of Vice-President for the remainder of that term of office in addition to his/her term of office as Vice-President. The casual vacancy for Junior Vice-President so caused shall be filled in accordance with procedures set out in Rule 6 (e).
- c)
 - i) In the event of a casual vacancy for the Ex-President there shall be filled in accordance with the procedures set out in Rule 6 (e) (iv)
 - ii) The other officer shall hold office for the remainder of the term of Office of The Ex-President and should carry out the duties of the Ex-President but shall not remain a delegate for him/her.

8) THE HONORARY TREASURER

- a) The Honorary Treasurer shall cause adequate financial records to be kept and shall be responsible for the proper administration of the Executive Council's financial affairs.
- b) The Honorary Treasurer shall conduct the financial affairs of the Executive Council in accordance with such instructions as may be given by the National Treasurer from time to time.
- c) The funds of the Executive Council shall be kept in an account opened in the name of the Executive Council at a bank/post office/building society. Withdrawals from the account shall be under the signature of at least two duly appointed Executive Council Officers.
- d) An affiliated local association shall contribute to the Executive Council such proportion of its subscription apportionment and other income at such times and in such manner as shall be directed by resolution of the Executive Council from time to time.
- e) The Honorary Treasurer shall submit a statement of balances and an income and expenditure account to an Executive Council meeting held no later than 25 March in the year following that to which the accounts relate.
- f) The Honorary Treasurer shall submit a statement of balances and an income and expenditure account to the National Treasurer at the end of the financial year. The financial year is a calendar year.

9. THE OFFICERS' COMMITTEE

- a) The Officers' Committee shall be constituted as set out in Rule 5.
- b) Subject to these Rules the National Rules and the decisions of general meetings of the Executive Council, National Executive and Conference, the Officers' Committee shall have full power and authority to take such action as it deems necessary for the conduct of the Executive Council affairs and the realisation of the object set out in Rule 2.
- c) For the avoidance of doubt all members of the Officers' Committee, with the exception of the Regional Official (Policy), shall each be an ex-officio delegate to the Executive Council, with the same powers and duties as if elected as a delegate by a local association for the purposes of Rules 4 (b) and 1 (b).
- d) A majority of members, excluding the Regional Official (Policy), shall constitute a quorum.

10. ANNUAL CONFERENCE

- a) The Northern Ireland Executive Council shall hold a meeting called Annual Conference before the end of March each year. The place of the meeting shall be decided by the Officers' Committee.
- b) Each local Association shall be represented by its Executive Council delegate(s) and an additional number of delegates derived from the trebling of its Executive Council's representation.

- c) The Secretary shall send notice of the above and agenda of the Annual Conference to all local association delegates and the National Executive members for the Executives Council's area not less than 14 days before the date of Annual Conference.
- d) The Officers' Committee shall present a report of the work of the Executive Council during the proceeding year to Annual Conference.
- e) The quorum shall be a majority of the members entitled to vote.

11. EXECUTIVE COUNCIL MEETINGS

- a) A minimum of 6 Council Meetings shall be held each year.
- b) The Honorary Secretary shall send notice of an agenda for the Executive Council meetings to all local association delegates and the National Executive members for the Executive Councils area not less than 7 days before the date of the Executive Council Meeting.
- c) The quorum shall be the majority of the members entitled to vote.
- d) Special Committee may be constituted at any Executive Council meeting, with such terms of reference as may be prescribed at the Executive Council meeting. The membership of any Special Committee so constituted shall be prescribed by the Executive Council meeting.

12. STANDING COMMITTEE AND CONVENORS

- a) All Executive Council delegates will serve on at least one committee.
- b) Before the end of Annual Conference of the Northern Ireland Executive Council of NASUWT, incoming delegates will indicate their preferences in writing as to the committee on which they wish to serve. The committees shall be as follows:
 - i) Salaries and Conditions of Service (to include Training Schools and Further Education);
 - ii) Education (to include Special Education)
 - iii) Membership Recruitment and Services (to include benevolence)
 - iv) Training
 - v) Equal Opportunities
 - vi) Casework
- c) Following indication of preferences by delegates the Officers' Committee will decide the membership of the Standing Committees.
- d) At the first meeting of each Standing Committee, the members will elect a convenor.

- e) Each Standing Committee may co-opt up to a maximum of 4 members of NASUWT subject to the approval of the Officers' Committee.
- f) The Casework Committee will additionally meet and report to the Officers' Committee as appropriate.
- g) The Regional Official (Casework) shall attend meetings of the Casework Committee to advise and inform the Committee.

13. REPRESENTATION ON OUTSIDE BODIES

- a) Representation on outside bodies shall be determined as follows:
 - i) Northern Ireland Teachers' Council (NITC); Regional Official (Policy); President; Convenor of Salaries and Conditions of Service Committee; two National Executive members
 - ii) Salaries and Conditions of Service Negotiating Committees (schools), Regional Official (Policy) and one other from 13a (1) above
- b) The rest of the outside representation shall be determined by the Officers' Committee or the appropriate Standing Committee as Follows:
 - i) Irish Congress of Trade Unions; Officers and Standing Committee.
 - ii) Colleagues Employers' Forum; Salaries and Conditions of Service.
 - iii) Secondary Standing Conference Education.
 - iv) Primary Teachers' Council; Education.
 - v) CCMS: Officers' Committee and Salaries and Conditions of Service.
 - vi) Primary Standing Conference; Education.
 - vii) Special Education Standing Conference: Education.

14. EXECUTIVE COUNCIL MEETINGS

- a) Special Executive Council Meetings may be held any time provided these are:
 - i) At the request of the Officers' Committee or;
 - ii) At the request of three or more local associations.

- b) The Honorary Secretary shall send notice of an agenda of the Executive Council meeting to all local association delegates and the National Executive members for the Executive Council's area not less than seven days before the date of the Executive Council meeting.
- c) The quorum shall be a majority of the members entitled to vote.

15. CONDUCT OF BUSINESS

- a) Conduct of business at meetings shall be in accordance with such requirements as may be issued by National Executive from time to time.
- b) Meetings shall be chaired by the president and in his/her absence by the Vice-President
- c) When a vote is called by the chairperson, delegates who, for this purpose, shall have one vote for each, shall indicate their assent or dissent by raising one hand for or against as appropriate. The chairperson shall ascertain the result of the vote by making a judgement as to the number of hands raised respectively for and against and shall declare the result of the vote accordingly which result shall be finalised unless not less than one-fifth of the delegates present rise from their places and claim a card vote.
- d) For the purposes of a card vote, each local association shall be entitled to one vote for each member of that local association as defined in Rule 4. These votes may be divided amongst the local association delegates, where appropriate by agreement with those delegates.
- e) On close of a current vote the Honorary Secretary shall count the votes cast. On completion of the count, the Honorary Secretary shall sign and hand to the chairperson a certificate stating the total votes cast and votes cast for and against, which certificate shall be conclusive as a result of the card vote.
- f) In the event of a tie in a card vote, the chairperson shall have a casting vote, adhering to his/her original vote which must have been cast.
- g) The National Executive members for the Executive Council's area shall have the right to attend all meetings of the Executive Council.

16. NATIONAL CONFERENCE

- a) The Executive Council shall be represented by the President and Honorary Secretary at National Conference and at any national Special Conferences.
- b) In the event of one or other or both being unable to attend, the Executive Council will appoint substitutes.

17. AMENDMENTS TO THESE RULES

- a) No alteration to there Rules may be made except at:
 - i) The Annual Conference of Northern Ireland Executive Council of NASUWT;
 - ii) A special meeting of Northern Ireland Executive Council convened for that purpose.
- b) Members shall receive 21 days notice of such meeting and its purpose
- c) Amendment to these Rules shall require:
 - i) A two-thirds majority of those present and voting at the Annual Conference; and
 - ii) The consent of the National Executive

18. CONFLICT

In the event of conflict between these Rules and the national Rules of NASUWT, the national Rules shall have procedure.