

**D/03/2025**

**Decision of The Certification Officer for Northern Ireland**

**In the matter of an application pursuant to Articles 12-22 and 90A of The Trade Union and Labour Relations (Northern Ireland) Order 1995 ('the 1995 Order')**

**Mr David Stanley (Applicant)**

**V**

**Northern Ireland Public Service Alliance (NIPSA)  
(Respondent)**

**Date of Decision:**

**16 June 2025**

**DECISION**

Upon application by Mr David Stanley (the Applicant) under Articles 12-22 and 90A of the 1995 Order a total of five complaints were raised.

The following complaints have been determined:

**Complaint number 1**

Breach of Articles 12-22 of the 1995 Order which imposes a statutory duty to hold elections for certain positions.

### **Complaint number 2**

Breach of Article 90A (2)(a) of the 1995 Order and NIPSA's Constitution in failing to hold elections to the Public Officers Group Executive (POGE).

### **Complaint number 3**

Breach of Article 90A (2)(a) of the 1995 Order in failing to hold elections to the NIPSA's Education Panel.

### **Complaint number 4**

Breach of Article 90A (2)(a) of the 1995 Order in failing to elect Joint Negotiating Committee (JNC) representatives.

### **Complaint number 5**

Breach of Article 90A (2)(d) of the 1992 Order in failing to establish a Disputes Committee.

My decisions on the complaints are as follows:

Complaint 1: Not Upheld

Complaint 2: Upheld

Complaint 3: Upheld

Complaint 4: Upheld

Complaint 5: Upheld

## **DECLARATION**

I hereby issue a declaration that the Respondent breached Articles 90A(2)(a) and 90A(2)(d) of the 1995 Order.

## **REASONS**

### **General Background**

1. Mr David Stanley (the Applicant) is a member of NIPSA's Education Branch 517 and registered five complaints with my office on 31 July 2023.
2. It has taken a considerable period to bring these matters to a conclusion; due in part to my agreement to stay determination of the case to allow the parties to explore the potential to resolve their differences informally.
3. I have held separate meetings with the Applicant and the Respondent to better understand the issues in dispute and to set out for the parties the parameters for any informal resolution of the complaints.
4. My staff have also had many discussions with the Applicant and the Respondent to seek to facilitate a mediated settlement of the complaints.
5. Regrettably, after an extensive series of engagements that ended in April 2025, the parties were unable to reach a consensus that would have encouraged the Applicant to withdraw his complaint.
6. I therefore assessed the Applicant's five complaints against the following tests:
  - Were the complaints lodged within the statutory time limits.
  - Did the complaints fall within the scope of governing legislations (the 1992 and 1995 Orders, and
  - Based on the evidence provided by the parties was there a potential case to answer.
7. I determined that all five complaints were lodged within the statutory time limits, fell within the scope of the 1995 Order and that the Applicant had presented an arguable case.

8. All five complaints focus on the non-compliance of the Public Officers Group (POG) with NIPSA's rules.
9. The POG represents NIPSA members working in District Councils, Education, Northern Ireland Housing Executive and Health and Social Care.
10. The Applicant is of the view that the current POG structure is fit for purpose and that the General Council have failed to ensure that the Public Officers Group Executive (POGE), the Education Panel and the branches representing members working in the education sector fulfil their responsibilities as set out in NIPSA's rulebook.
11. The Respondent has argued that the current structure within the POG does not reflect the way in which the individual constituencies within the group are currently operating, and that a new structure is required.
12. My role is not to assess the efficacy of a trade union's organisational structures but, on receipt of a complaint, to adjudicate on its compliance with the governing legislation and its rule book.

### **Complaint number 1**

13. The first complaint relies on Articles 12-20 (Elections for Certain Positions) of the 1995 Order which covers elections to the General Council and election of the President and General Secretary. The Applicant has stated that no elections have been held for the POG since 2017.
14. The Applicant has posited the view that the Article 12-20 provisions should extend to the POGE given that it has executive responsibility for a significant percentage of NIPSA's membership. He also cites the Education Panel's constitution as further evidence that elections to the POGE should be subject to the election provisions of the 1995 Order.
15. I must be guided by the governing legislation when determining whether a complaint is in scope. The interpretation provisions (Article 2 of the 1995 Order) are unequivocal on this issue in defining the meaning of executive as 'the principal committee of the union'.

16. The singular meaning of this legal definition leads me to determine that NIPSA's General Council is the only executive body covered by Articles 12-20 of the 1995 Order; and this Article 12-20 complaint is therefore out of scope.
17. The Respondent's submission on this issue makes the very same point and provided substantive evidence that Article 12-20 was complied with in the election process for the 2024/25 General Council, NIPSA's principal committee.

## **Complaint number 2**

18. The second complaint is in effect a rehearsal of the first complaint, the difference being that the Applicant is now relying on Article 90A of the 1995 Order. The Applicant has asserted that the Respondent has breached its Article 90A duty in failing to hold elections for the POGE since 2017 in accordance with the union's rule book.
19. The Respondent has accepted that elections to the POGE have not been held since 2017 which is contrary to NIPSA's rule book.
20. The Respondent has cited mitigating factors for the breach; contending that the POGE has become irrelevant because of the divergence in terms and conditions affecting members from the four sectors represented by the POG. The Respondent has also suggested that a review of the POG constitution is underway.
21. Given the admission of culpability by the Respondent I have no option but to uphold the complaint. I acknowledge that the Respondent has committed to a programme of reform, but this is long overdue and needs to be actioned as soon as is practicable to avoid further Article 90A complaints.

## **Complaint number 3**

22. The Applicant asserts that the Respondent has breached NIPSA's rules because elections to/meetings of the Education Panel have not taken place since 2019.
23. Given the Applicant's assertion that there has been an Article 90A breach I conducted a detailed review of NIPSA's rule book to understand the role and governance arrangements that apply to the Education Panel.

24. There are a small number of references to panels in the main body of the rule book.

- Section 6.9 vests power in the General Council to establish/close branches/panels and committees.
- Section 6.15 states that the Chairperson of a relevant panel will be invited to join a disputes committee.
- Section 8 deals with groups that may be established from within the membership, but there is no mention of panels.

25. The constitution of the POG at Annex D of NIPSA's rule book does set out in very brief terms the governance arrangements that apply to panels:

- Rule 6 provides for panels to be established to enable branches to cooperate on common issues, with members being nominated by branches. and that
- The Constitution of a panel will not conflict with the POG constitution.

26. The NIPSA rule book does not bestow any governance responsibilities on panels such as providing nominations to the General Council, POGE and Standing Orders Committees.

27. Conversely, the rule book establishes that branches have a critical role in all aspects of the union's operations and decision making, evidenced in Section 4 (Branches), Annex A (Duties of branch officers) and Annex B (Model Branch Rules) of NIPSA's rule book.

28. Given that the POG has 20,000+ members it is surprising that there are no explicit directions in the rule book relating to how panels should operate.

29. The Applicant and the Respondent have both referred to the Education Panel's Constitution and in particular clause 5(i) that requires the Chairperson and the Vice-Chairperson to be elected annually at the annual meeting.

30. The Applicant asserts that the Education Panel's constitution requires a HQ Official to call a meeting to elect office holders and has failed to do so since 2019. The Respondent argues that it is for the five branches within the education sector to nominate delegates and then a meeting could be called to elect office holders.

31. What both parties agree is that the Education Panel constitution requires an annual election of office holders, and this has not happened since 2019.

32. In determining whether an Article 90A breach has occurred I have to be directed by NIPSA's rule book. I have already highlighted the limited references to panels in the current rule book.
33. The Applicant and the Respondent have both signposted the Education Panel's constitution as the critical governance document, but it is not included in the rule book.
34. However, rule six of the POG constitution does state that the constitution of a panel will not conflict with its own constitution.
35. This may be a very tenuous link to NIPSA's rule book but given the scale of the POG membership I would have expected the Respondent to have addressed this breach that has persisted since 2019.
36. I therefore uphold this complaint.

#### **Complaint number 4**

37. The Applicant asserts that no Joint Negotiating Committee (JNC) representatives have been elected since 2019. It is accepted by both parties that the Education Panel is responsible for the appointment of JNC representatives.
38. The Respondent acknowledges that this breach is a consequence of the Education Panel not meeting since 2019 and that steps are now being taken to resolve the current impasse within the POG.
39. Given the length of time that NIPSA have been in breach of their own rules I must uphold this complaint.

#### **Complaint number 5**

40. The Applicant asserts that the current NIPSA Disputes Committee is unconstitutional because there is no valid Chairperson of the Education Panel for disputes impacting the education sector of the POG.
41. This follows on from complaints 3 & 4 which has already established that there have been no elections to the POGE since 2017 or the Education Panel since 2019.

42. Rule 6.15 states that industrial action must be endorsed by the General Council, or by a Disputes Committee acting under delegated powers, following a ballot of the members impacted by that decision.
43. The Respondent has indicated that an amendment to rule 6.15 was passed at the 2023 Annual Delegate Conference relating to the composition of any Disputes Committee to demonstrate NIPSA's commitment to modernise its constitution.
44. The net impact is that for those disputes affecting members of the POG the Chairperson of the relevant panel should be a member of the Disputes Committee.
45. The Respondent offered this clarification to demonstrate NIPSA's genuine commitment to make the POG fit for purpose. What it does in the short term is to reaffirm the need to move quickly to elect a Chairperson to the POG panels.
46. Based on the submissions by both parties I must uphold the complaint.

### **Final Conclusions**

47. Having upheld four of the Applicant's five complaints I am required under Article 90B(3) to consider whether it is appropriate to make an enforcement order.
48. I have reviewed the submissions from the parties and the many engagements with my office.
49. There is no doubt that the Applicant remains firmly of the view that the current POG structures are fit for purpose; that the Respondent has failed in its legal duty to ensure that elections at all levels within the POG take place; and that I should issue an enforcement order requiring the Respondent to reinstate the POG operations.
50. I must also reflect the equally strong view expressed by the Respondent that the current POG structure does not meet the needs of its members going forward.
51. As I have already indicated in my earlier remarks (para 12) my role is not to pass judgment on a union's organisational structures.
52. I also referred in my opening remarks about the efforts made by the parties to resolve the matters in dispute informally. That process came to a less than satisfactory end when the Applicant decided not to attend a meeting that he had



arranged, to be held at his employer's offices on 9 May 2025, without giving any prior notice to the Respondent.

53. The Applicant had agreed to the meeting to also involve his branch secretary as a support to him, with the General Secretary and one of her Deputy General Secretaries attending on behalf of the Respondent.
54. The meeting arrangements were agreed by the Parties via an exchange of nine separate emails between 31 March and 4 April. My Office was unaware of this development when one of my staff contacted the Applicant on 8 April to enquire if there had been any progress following the Respondent's initial offer to meet on a 1-2-1 basis.
55. The Applicant's response was that the General Secretary had never indicated what she wanted to discuss and that he was content for the Certification Officer to move immediately to determine the complaint. The Applicant never mentioned that a meeting had already been arranged for 9 May. If he had done so my Office would have reached out to the Respondent.
56. My Office was only made aware of the planned meeting when the Respondent made contact on 9 May to say that they had turned up for the meeting to find that the Applicant had cancelled the meeting without any prior notice.
57. I wrote to the Applicant, copied to the Respondent, expressing my disappointment with the way in which the meeting was cancelled. I advised that I would refer to this incident in my written decision but did emphasise that it would have no bearing on my determination of the five complaints.
58. The Applicant did respond indicating that he thought my Office would have been aware of the planned meeting, which I am not prepared to accept.
59. Having upheld four of the complaints it would be reasonable to expect me to exercise my legal duty under Article 90B(3) and issue an enforcement order requiring the Respondent to take steps to remedy the breaches.
60. I have been struck by the Respondent's consistent pleadings that the current structure is not reflective of current practice across the POG, and that the General Council is committed to implement a programme of reform.

61. The Respondent did offer in mitigation for the current breaches the fact that COVID had created unique challenges and the very prolonged public sector pay disputes had also diverted the union away from internal priorities.
62. I do acknowledge that these were significant challenges, but the breaches go back to 2017 which I had to reflect on in reaching a determination on the five complaints.
63. The Respondent has now taken action to implement a programme of reform. I attended the Respondent's Annual Delegate Conference in May 2025 where a substantive motion was carried which reforms the POG structure and makes very substantive changes to NIPSA's rule book.
64. The Respondent has also advised that the Education Panel has had its first meeting since 2017.
65. I have therefore determined that an enforcement order is not appropriate given these recent developments.

**Tom Evans**

**Certification Officer for Northern Ireland**