



As of 12 May 2021

Constitution and Rule Book of the Psychotherapy and Counselling Union

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Constitution

1. Title

The Union shall be named the PSYCHOTHERAPY AND COUNSELLING UNION.

2. Aims

The aims of the Union shall be to improve the working conditions of psychotherapists, counsellors and allied trades (hereinafter, therapists) in the United Kingdom and to raise awareness of the contribution of therapists to society. To represent and advise its members in employment and contractual matters and with regard to complaints and grievances; to promote, protect and further the economic, social, emotional and legal interests of its members in their professional capacity; to achieve the best possible terms and conditions of work in all aspects in which our members are engaged; to propose and promote various

changes and improvements in the institutions and practices associated with therapy, and in aspects of society into which our work gives us insight; to secure these aims by organisation and all other effective methods of unity of action.

3. Membership

a) Membership of the Union shall be open i) to all therapists practising in the UK except where described in the Union Rules otherwise, and also ii) to retired and unemployed therapists and to trainees, and iii) to like-minded organisations, which will be treated as equivalent to individuals; members of any such organisations will not be members of the Union unless they join individually. Group ii) will pay a reduced subscription. Members of group i) may also apply to pay a reduced subscription if their circumstances require it.

b) Membership may be deemed to have lapsed only in case of failure to pay the annual subscription within 90 days after the date at which such subscriptions were due.

c) Members' Vested Rights - All right and interest in the Union and in the property thereof, shall be vested in the members for the time being, but on the cessation of membership by death, resignation or otherwise, neither the member nor their representative nor assignees shall have any right, title or interest in or claim upon the Funds of the Union.

d) Liability of members - Members shall have no financial liability beyond their liability for their annual subscription, except for a possible surcharge to meet some abnormal expenditure, providing that such expenditure has been in the first place approved at an Annual General Meeting, or at a Special General Meeting called for the purpose, with postal and electronic voting, by two-thirds of the members voting.

4. Groups

The life and energy of the Union is in its members. Members are encouraged to form whatever groups and sections they wish, based on shared factors like location, employment, modality, interests, and campaigning issues. These groups are free to organise and act as they see fit, with the proviso that any actions or statements using the name of the Union must be agreed in advance with the Executive Committee. They may also make proposals and suggestions to the Union as a whole, either via the Executive Committee, directly at general meetings, or by email to the membership.

5. The Executive Committee of the Union

a) The Union's business shall be managed by an Executive Committee required to carry out the decision of general meetings, consisting of up to twelve Executive Committee members including office bearers who shall be members of the Union, and who shall be elected directly by the members of the Union. The elections to the executive committee and for the specific positions of General Secretary and National President will be elected through a secret postal ballot of the whole membership. There will only be secret postal ballots for these positions if there are more than twelve members standing for the committee. There will only be secret postal ballot for the post of General Secretary if there is more than one member standing for the post. There will only be secret postal ballot for the post of National President if there is

more than one member standing for the post. The Executive Committee is empowered to make day to day decisions, and to carry out urgent actions, which may require later ratification by a general meeting.

The Executive committee will appoint independent scrutineers to run and over see any ballots for the positions in 5(a).

b) The Executive Committee's preferred means of reaching a decision shall be by consensus, at least to the extent that all members are willing to accept the majority decision even if they do not agree with it. If it is impossible to reach consensus, the proposal will be put to a vote; but any three members of the Executive Committee may require that the proposal be suspended and put to the next general meeting. In cases of tied voting in Executive Committee, the General Secretary shall have a casting as well as deliberative vote.

c) The Executive Committee shall also propose to general meetings such actions and policies as it sees fit.

d) The Executive Committee shall have the right to establish subcommittees for specific purposes and to co-opt into them as necessary members of the Union.

e) Office bearers shall be members of the Union and shall be elected by members of the Executive Committee at the first committee meeting after every Annual General Meeting. Except the posts of General Secretary and President which will be decided by a secret postal ballot of the whole membership. The office-bearers shall be -

(i) General Secretary who shall speak for the Union and chair meetings of the Executive committee and general meetings of the Union.

(ii) President who shall act to assist the General Secretary in her/his duties.

(iii) Membership Secretary who shall act as secretary in all matters affecting the Union.

(iv) Treasurer who shall have charge of membership subscriptions of the Union, and who shall ensure members are sent due reminders of subscriptions owing.

f) In its composition and choice of officers the Executive Committee should seek to be representative of the practices and geographic, ethnic, gender and other composition of the membership.

g) Sub-committees shall be responsible to the Executive Committee of the Union. Office-bearers shall be responsible to the Executive Committee of the Union. The Executive Committee shall be responsible to the Union's members in general meeting.

h) The executive committee shall ensure the union has trustees appointed.

i) The executive shall appoint auditors to scrutinise the finances of the union and prepare the annual report to members and the certification office.

j) The executive will ensure in the case of dissolution that the trustees are given all the assistance and information from the members as to how to dispose of union assets.

6. Terms of Office

a) Members of the Executive Committee shall serve for a minimum two-year term.

b) In the interests of both continuity and renewal of the Union's Executive, office-bearers may serve up to (but not more than) three consecutive terms in any one, or five consecutive terms in any combination, of the four posts. (For example, someone may be Treasurer for up to three years, and then General Secretary for a maximum of two further years, making a total of five years; and must then wait at least one year before taking office again.)

c) Office Bearers and Members of Executive Committee may be removed from office only by a vote of censure passed by members at a general meeting and receiving an absolute majority of the votes of all members voting, postal/electronic votes being allowed. Two weeks' notice must be given of the intention to bring a vote of censure.

d) Nominations for Executive Committee - Nominations for the vacancies on the Executive Committee shall be invited from members in the preliminary notice of the Annual General Meeting, which shall be posted to each member at least 28 days before the date of the Meeting, and such nominations must be with the Administrator at a given date. A member may nominate or second any member as a candidate. Nomination papers will be sent to every member before the Annual General Meeting giving sufficient time to allow voting in the selected method before the Meeting. At least one new Member should not have served before on the Executive Committee.

e) Failure to fulfil Executive Committee duties - Executive Committee Members who miss two consecutive meetings without giving due notice, or consistently fail to support the work of the Committee will, at the discretion of the General Secretary and Executive Committee, be invited to resign their position.

7. Paid Administrator and Staff

The Executive Committee shall be empowered to appoint an administrator or other paid staff as and when deemed necessary to assist with administrative duties of the Union. The Administrator or other paid staff shall act in accordance with the terms and conditions of employment laid down by the Executive Committee. They shall be able to attend meetings of the Executive Committee.

8. General Meetings

a) Form

(i) Annual general meetings must be held once a year, in an appropriate location, and members must receive two calendar months' notice of such meetings and receive an agenda and an abstract of accounts for the previous year not less than two weeks before the meeting.

(ii) Extraordinary general meetings may be requisitioned by an Application to the Executive Committee by any twenty one members of the Union. Within two weeks of receiving such an application, the Executive Committee must call a general meeting, giving members one month notice and providing an agenda for the meeting. In no event should there be more than two calendar months between the receipt by the Executive Committee of the requisition and the general meeting.

b) Purpose

(i) Only a general meeting of the members of the Union shall have the right to decide on matters of Union policy.

(ii) Only the general meeting shall have the right to amend any of the terms of this constitution, or to wind up the Union. In order to do so, members must be notified of the proposal/s two weeks in advance of the general meeting. Any member can make proposals to the general meeting, these need to be proposed and seconded by other union members, will be discussed and voted on at the general meeting. For the proposal to pass, it must receive a majority of the votes of those voting, postal/electronic votes being allowed.

(iii) The Treasurer of the Union shall be required, in the case of annual general meetings, to circulate with the agenda an abstract of accounts for the previous year and to present a report and answer questions at the meeting itself.

(iv) Subscription rates for the Union shall be fixed by general meetings and shall be open to review only at annual general meetings.

9. Quorums

a) General meetings A quorum shall be one tenth or twenty one of the members of the Union, whichever is the less. If a meeting is non-quorate, or if those indicating their intention to attend do not constitute a quorum, it shall be reconvened within two months with no quorum requirement.

b) Executive Committee Meetings A quorum shall be five members including at least two officers.

10. Investment of Funds

Any cash balance of any kind accruing to the Union from whatever source shall be invested by the Treasurer or Administrator in the name of the Union in Securities authorised by law for investment of Trust Funds or placed on deposit receipt or invested in a Savings Account or in a Savings Bank.

Rules

Rule 1: Title and Registered Office

1.1 The Union formed under these rules (hereinafter called the Union) shall be known by the title of "Psychotherapy and Counselling Union (PCU)".

1.2 This Rule Book applies to all members of the Union, and represents the entirety of the rules applicable to members of the Union, save as explicitly provided for under this Rule Book.

1.3 The rules contained in the Rule book must be read in conjunction with the PCU Constitution. If there is a contradiction between the Rule Book and the Constitution, the Constitution is supreme. The caveat to the supremacy of the constitution over this rule book is to be found in section 5(e) regarding the election of officers. The elections will be done in accordance with section 46 of the Trade Union and labour Relations Act 1992. All executive committee and all officer positions will be decided by a vote of the whole membership.

1.4 The Registered Office of the Union shall be 34 King Edward Road, Northampton, NN1 5LU or such other place as may be decided upon by the Executive Committee.

Rule 2: Objectives of the Union

2.1 The principal aims and objects of the Union shall be to:

2.1.1 Improve and protect the terms and conditions of the members;

2.1.2 Improve maintain and protect members' professional standing;

2.1.3 Represent and advise members in employment and contractual matters;

2.1.4 Support, represent (where appropriate) and advise on complaints and grievances;

2.1.5 Promote the primacy of members own decision making in all matters covered by the Rules of the Union, and in the development of its policies;

2.1.6 Preserve, protect and promote the independence of the Union and its members; settle disputes between the members and their employers; regulate the relations between the members and their employers through collective bargaining, withdrawal of labour, or otherwise; conduct negotiations;

2.1.7 Initiate movements for increased rates of pay, or improved conditions of employment, on behalf of the members;

2.1.8 Cooperate, directly or indirectly, with the work of any organisation, local, national or international, who hold objects or policies which are similar to those of the Union;

2.1.9 Engage in communications and publishing, for the purposes of furthering the policy of the Union or its members;

2.1.10 Work for the relief of mental health and wellbeing;

2.1.11 Engage with the membership bodies of the profession to further the aims of the union;

Rule 3: Membership

3.1 The Union shall consist of, and membership of the Union shall be open to, all who identify as therapists and accept the principles, objective and Rules of the Union, Applications for membership can be accepted by any officer authorised for the purpose.

3.2 Every application for membership of the Union shall be made in a form approved by the Union.

3.3 An applicant for membership whose application has been rejected by the union may appeal to the Executive Committee which may grant admission to membership, or refuse the application, at its discretion.

3.4 The Union AGM may, at its discretion, admit any Person as an Honorary Member of the Union.

3.5 Those overtly or covertly practicing 'conversion therapy' will not be accepted as members of the PCU and will not be represented by PCU.

Rule 4: Membership Constitution and Benefits

4.1 The Executive Committee shall establish a General Account into which all membership fees, all contributions and/or subscriptions will be paid, administered and then directed, as appropriate. Further, a savings account shall be established to hold all monies that are not required for day to day running of the union.

4.2 Membership fees shall be established by Executive Committee and voted on at the next AGM.

4.3 The Executive committee shall establish a fighting fund for the sole purpose of assisting members who may need the services of a legal advocate to prosecute a case in an industrial tribunal. For a member to be eligible to access financial assistance from the fighting fund they will have to be in receipt of advice from the unions solicitors (Truth Solicitors). The Executive Committee will decide, on application by the member, whether to grant financial assistance. No assistance will be granted to members whose case has been conducted by a private solicitor or not been conducted by the unions solicitors.

4.4 It shall be the personal responsibility of the member to maintain contributions and avoid arrears in all circumstances. Any period during which a member's contributions are 90 days or more in arrears shall break continuity of membership for the purpose of the qualification required to be an officer of the Union. A member whose contributions are recorded by the Union as more than 90 days in arrears may be excluded from membership by the Union posting notice to that effect to the member. A member so excluded from membership may apply for reinstatement which may be allowed on such terms as to the payment of outstanding arrears as the Executive Committee may consider appropriate.

4.5 The Executive Council shall determine the period of membership necessary prior to the member attaining eligibility for benefits, legal assistance and any period during which contributions are in arrears which shall remove such eligibility.

4.6 The Union will provide legal assistance, as follows:

4.6.1 A member who is entitled to benefit who suffers injury or disease arising out of or in connection with his/her employment (or the dependants of such a member who has died) shall be entitled to such legal advice and representation, and on such terms, as the Executive Committee may consider appropriate.

4.6.2 A member seeking legal assistance must ensure that a request in the appropriate form is lodged with the appropriate Union official (National Treasurer) in sufficient time and with sufficient information to enable the request to be considered and referred to the unions' solicitors for appropriate action.

4.6.3 A member who requires advice and/or representation on a problem relating to the member's employment which first arose at a time when the member was entitled to benefit and which cannot be resolved through the member's workplace representative should refer the matter to an Executive Committee member. The Union may provide such advice and/or representation as the Executive Council shall consider appropriate, whether by a full time officer or otherwise, and on such terms as the Executive Committee shall consider appropriate.

4.6.4 A member who is given advice and/or representation under this rule shall provide all relevant information and co-operate fully with the compilation of evidence for any legal proceedings and shall comply with any other obligations and/or conditions set out in any arrangements for the provision of legal assistance.

If a member fails to do so or provides false or misleading information or fails to act upon the advice of those appointed to represent him/her, the Executive Committee may at its absolute discretion annul all legal assistance or withdraw any further legal assistance to that member.

4.7 Legal assistance will not be offered to members if the issue requiring legal assistance happen before the member joined the union or while the member was in subscription arrears.

4.8 Members will be fully paid up members for no less than three months before they are able to benefit from membership support from PCU.

5. Financial Arrangements

5.1 The PCU's financial year shall be from 1st January to 31st December.

5.2 The membership subscription shall be a periodic sum as fixed by the Committee which shall be paid either monthly or in one lump sum. Changes to the membership fee should be supported by a costed business case.

5.3 All administration expenses of the PCU shall be defrayed out of the funds of the PCU.

5.4 The Representatives of the PCU are entitled to claim from the PCU approved expenses and other pecuniary loss incurred by reason of their being required by the PCU to attend any meeting or function.

5.5 Any member shall be entitled to inspect the accounting records of the PCU on giving notice to the Treasurer.

5.6 The PCU's funds shall be kept in an account in the name of the PCU at an agreed Bank or other appropriate financial institution (subject to Paragraph 5.8 below)

5.7 The Executive Officers are to be made account signatories for the PCU's accounts. All cheques must be signed by two designated account signatories, normally the Treasurer and the President. Other Executives may only sign cheques with the explicit prior written permission of the President.

5.8 Funds surplus to immediate requirements may be invested in low-risk areas in the PCU's name at the discretion of the Treasurer, with the approval of the Executive Committee.

5.9 The legal fighting fund can only be used for member legal representation as agreed by the Executive Committee.

5.10 The PCU's funds are to be applied solely for the administration of The PCU and for the furtherance of the PCU aims and objectives.

Rule 6: Obligations of members

6.1 A member of the Union must comply with these rules and with any duty or obligation imposed on that member by or pursuant to these rules whether in his/her capacity as a member, a holder of a lay office or as a full time officer.

6.2 A member must not knowingly, recklessly or in bad faith provide the Union with false or misleading information relating to a member or any aspect of the Union's activities.

6.3 A motion shall not be submitted by or on behalf of the Union or any group or body within the Union to an organisation or body outside the Union if that motion is inconsistent with existing Union policy.

6.4 When acting as a representative of the Union at a meeting of an organisation or body outside the Union a member shall speak and vote in accordance with the policy of the Union and with any decision taken by the Union's representatives at that meeting which is consistent with the union's policy.

Rule 7: Lay Office

7.1 The Executive Committee shall make provision to ensure accountability of Executive Committee members.

7.2 In order to be eligible to be a candidate for election to, or hold office on, the Executive Committee and/or any committee, council, or other body of the Union provided for by these rules, the member in question must be a fully paid up member.

7.4 It is further required that a fair procedure be developed by the Executive Committee to deal sympathetically with cases where a member's eligibility to stand for election or continue to hold office may be affected by employer victimisation.

7.5 The electoral period to hold lay office shall be two years unless otherwise provided for under these rules.

7.6 The union will hold elections for the Executive committee in accordance with section 46 of the Trade Union and Relations act 1992 (see Appendix I).

7.7 No ballot will be held if an election is uncontested because there is only one candidate or only enough candidates to fill the number of positions.

Rule 8: General Data Protection regulation (GDPR) statement

8.1 The union will maintain and display their GDPR statement on its website for members to view.

Rule 9: Structure of the Union.

9.1 The rules will determine the composition and constitution of the national executive.

9.2 Twelve voting members elected by a secret ballot of the whole membership. The national Treasurer, Secretary and Membership Secretary will be decided and elected by the Executive Committee at its first meeting after the AGM.

9.3 The National President will be elected by a secret ballot of the whole membership. The Union will strive to ensure that the make-up of the Executive Committee reflects the make-up of the membership.

9.4 The Executive Committee will be empowered to co-op members onto the committee as it sees fit in order to fulfil the union's aims and objectives.

9.5 The union structure will be decided by local members, who may for example set up groups to campaign, discuss therapy issues, and decide policy. These groups will be autonomous and self-regulating while still abiding by the unions rules. Any public campaigns or communication to outside bodies in the unions name will first need approval from the Executive Committee.

Rule 10: Appointment of Trustees

10.1 There shall be three Trustees of the Union, who shall be appointed by the Executive Committee from the members for the time being of the Union.

10.2 A Trustee shall hold office until either (a) the Trustee ceases to be a member of the Union, or (b) the Trustee decides to retire as Trustee, or (c) the Trustee is removed from office by the Executive Committee.

10.3 If a Trustee ceases to hold office, the Executive Committee shall appoint a new Trustee in their place.

10.4 The Trustees shall act only as directed by the Executive Committee, and in particular in the case of dissolution they shall assist in the disposal of Union assets in accordance with the directions of the Executive Committee and information from the members.

Rule 11: Appointment of Auditors.

11.1 The Executive Committee shall in respect of each accounting period appoint an auditor or auditors to audit the accounts contained in its annual return.

11.2 An “accounting period” means any period in relation to which it is required to send a return to the Certification Officer.

Rule 12: Dissolution

12.1 The Union shall be dissolved if either (a) the number of fully paid-up members of the Union is less than 50 for a continuous period of more than 28 days, or (b) a resolution to dissolve the Union is approved by not less than two-thirds of those voting in a ballot of all fully paid-up members.

12.2 After discharging all debts and liabilities the remaining assets of the Union, if any, shall be distributed equally between former members who were fully paid-up on the day of dissolution provided the amount is not less than £1.00 per member; otherwise the residue shall be donated to a recognised charity determined by former members who were fully paid-up on the day of dissolution.

Rule 13: Rules Amendment

13.1 These rules may be amended by a two thirds majority of voting executive committee members, subsequently approved by a simple majority at the next AGM.

13.2 Members may submit rule changes for discussion at the AGM, approval, by a simple majority of voters at an AGM.

Rule 14: Membership Discipline

14.1 All complaints concerning any member of the union will in the first instance be made in confidence to the union administrator.

14.2. The Executive Committee will from time to time appoint one of its members to be an investigating officer for the purpose of receiving complaints submitted to the union administrator.

14.2.1 Where the Executive Committee is unable to make an appointment from the committee or there is a conflict of interest in doing so, they may make another appropriate appointment from the Membership.

14.3 Upon receipt of any written complaint concerning a union member the union administrator will refer the case to the designated investigating officer to investigate the complaint confidentially.

14.4 The investigating officer has the sole authority to decide whether to charge the member with any disciplinary offence referred below.

14.5 A member may be charged with:

14.5.1 Acting in any way contrary to the rules or any duty or obligation imposed on that member by or pursuant to these rules whether in his/her capacity as a member or a representative of the Union.

14.5.2 Being a party to any fraud on the Union or any misappropriation or misuse of its funds or property.

14.5.3 Knowingly, recklessly or in bad faith providing the Union with false or misleading information relating to a member or any other aspect of the Union's activities.

14.5.4 Inciting, espousing or practising discrimination or intolerance amongst members on grounds of race, ethnic origin, religion, age, gender, disability or sexual orientation.

14.5.5 Obtaining membership of the Union by false statement material to their admission into the Union or any evasion in that regard.

14.5.6 Breach of the Union's policies on diversity, bullying and harassment, which will include cyber bullying and harassment.

14.6 A charge under this rule will be heard by a Disciplinary Subcommittee of the Executive Committee.

14.7 Allegations which are subsequently shown to be vexatious, malicious or defamatory may be considered a breach of Rule and liable to be referred to this disciplinary procedure.

14.8 The Executive Committee may suspend a member charged under this rule from holding any office or representing the Union in any capacity pending its decision. A member shall be given written notice (or, if the member was informed verbally confirmation in writing) of any such suspension as soon as is reasonably practicable. In cases of a serious nature, as a precautionary measure, a member under investigation prior to disciplinary charges being laid may be suspended from holding office or representing the union in any capacity.

14.9 If allegations against a member are proven to be unfounded they will be restored in good standing.

14.10 The range of disciplinary sanctions shall include the following:

14.10.1 censure;

14.10.2 removal from office;

14.10.3 barring from holding office and

14.10.4 expulsion.

14.11 The full range of disciplinary sanctions shall be available to the Disciplinary Subcommittee of the Executive Committee.

14.12 Appeals

14.12.1 A member shall have the right to appeal against any disciplinary sanctions.

14.12.2 The appeal shall be to an Appeals Committee appointed from the Executive Committee who have not taken part in the original discipline hearing.

14.13 At all times all proceeding will be conducted so as to ensure that the principles of natural justice are adhered to.

14.14 Every member has the right not to be unjustifiably disciplined as referred to in Appendix II.

Appendices

Appendix I

Trade Union and Labour Relations (Consolidation) Act 1992, Section 46

46 Duty to hold elections for certain positions.

(1) A trade union shall secure—

(a) that every person who holds a position in the union to which this Chapter applies does so by virtue of having been elected to it at an election satisfying the requirements of this Chapter, and

(b) that no person continues to hold such a position for more than five years without being re-elected at such an election.

(2) The positions to which this Chapter applies (subject as mentioned below) are—

(a) member of the executive,

(b) any position by virtue of which a person is a member of the executive,

(c) president, and

(d) general secretary;

(3) In this Chapter “member of the executive” includes any person who, under the rules or practice of the union, may attend and speak at some or all of the meetings of the executive, otherwise than for the purpose of providing the committee with factual information or with technical or professional advice with respect to matters taken into account by the executive in carrying out its functions.

(4) This Chapter does not apply to the position of president or general secretary if the holder of that position—

(a) is not, in respect of that position, either a voting member of the executive or an employee of the union,

(b) holds that position for a period which under the rules of the union cannot end more than 13 months after he took it up, and

(c) has not held either position at any time in the period of twelve months ending with the day before he took up that position.

(4A) This Chapter also does not apply to the position of president if—

(a) the holder of that position was elected or appointed to it in accordance with the rules of the union,

(b) at the time of his election or appointment as president he held a position mentioned in paragraph (a), (b) or (d) of subsection (2) by virtue of having been elected to it at a qualifying election,

(c) it is no more than five years since—

(i) he was elected, or re-elected, to the position mentioned in paragraph (b) which he held at the time of his election or appointment as president, or

(ii) he was elected to another position of a kind mentioned in that paragraph at a qualifying election held after his election or appointment as president of the union, and

(d) he has, at all times since his election or appointment as president, held a position mentioned in paragraph (a), (b) or (d) of subsection (2) by virtue of having been elected to it at a qualifying election.]

(5) In subsection (4) a “voting member of the executive” means a person entitled in his own right to attend meetings of the executive and to vote on matters on which votes are taken by the executive (whether or not he is entitled to attend all such meetings or to vote on all such matters or in all circumstances).

(5A) In subsection (4A) “qualifying election” means an election satisfying the requirements of this Chapter.

(5B) The “requirements of this Chapter” referred to in subsections (1) and (5A) are those set out in sections 47 to 52 below.

(6) The provisions of this Chapter apply notwithstanding anything in the rules or practice of the union; and the terms and conditions on which a person is employed by the union shall be disregarded in so far as they would prevent the union from complying with the provisions of this Chapter.

Appendix II

Trade Union and Labour Relations (Consolidation) Act 1992, Section 65

65 Meaning of “unjustifiably disciplined”.

(1) An individual is unjustifiably disciplined by a trade union if the actual or supposed conduct which constitutes the reason, or one of the reasons, for disciplining him is—

(a) conduct to which this section applies, or

(b) something which is believed by the union to amount to such conduct;

but subject to subsection (6) (cases of bad faith in relation to assertion of wrongdoing).

(2) This section applies to conduct which consists in—

(a) failing to participate in or support a strike or other industrial action (whether by members of the union or by others), or indicating opposition to or a lack of support for such action;

(b) failing to contravene, for a purpose connected with such a strike or other industrial action, a requirement imposed on him by or under a contract of employment;

(c) asserting (whether by bringing proceedings or otherwise) that the union, any official or representative of it or a trustee of its property has contravened, or is proposing to contravene, a requirement which is, or is thought to be, imposed by or under the rules of the union or any other agreement or by or under any enactment (whenever passed) or any rule of law;

(d) encouraging or assisting a person—

(i) to perform an obligation imposed on him by a contract of employment, or

(ii) to make or attempt to vindicate any such assertion as is mentioned in paragraph (c);

(e) contravening a requirement imposed by or in consequence of a determination which infringes the individual's or another individual's right not to be unjustifiably disciplined.

(f) failing to agree, or withdrawing agreement, to the making from his wages (in accordance with arrangements between his employer and the union) of deductions representing payments to the union in respect of his membership,

(g) resigning or proposing to resign from the union or from another union, becoming or proposing to become a member of another union, refusing to become a member of another union, or being a member of another union,

(h) working with, or proposing to work with, individuals who are not members of the union or who are or are not members of another union,

(i) working for, or proposing to work for, an employer who employs or who has employed individuals who are not members of the union or who are or are not members of another union, or

(j) requiring the union to do an act which the union is, by any provision of this Act, required to do on the requisition of a member.

(3) This section applies to conduct which involves the Certification Officer being consulted or asked to provide advice or assistance with respect to any matter whatever, or which involves any person being consulted or asked to provide advice or assistance with respect to a matter which forms, or might form, the subject-matter of any such assertion as is mentioned in subsection (2)(c) above.

(4) This section also applies to conduct which consists in proposing to engage in, or doing anything preparatory or incidental to, conduct falling within subsection (2) or (3).

(5) This section does not apply to an act, omission or statement comprised in conduct falling within subsection (2), (3) or (4) above if it is shown that the act, omission or statement is one in respect of which individuals would be disciplined by the union irrespective of whether their acts, omissions or statements were in connection with conduct within subsection (2) or (3) above.

(6) An individual is not unjustifiably disciplined if it is shown—

(a) that the reason for disciplining him, or one of them, is that he made such an assertion as is mentioned in subsection (2)(c), or encouraged or assisted another person to make or attempt to vindicate such an assertion,

(b) that the assertion was false, and

(c) that he made the assertion, or encouraged or assisted another person to make or attempt to vindicate it, in the belief that it was false or otherwise in bad faith,

and that there was no other reason for disciplining him or that the only other reasons were reasons in respect of which he does not fall to be treated as unjustifiably disciplined.

(7) In this section—

“conduct” includes statements, acts and omissions;

“contract of employment”, in relation to an individual, includes any agreement between that individual and a person for whom he works or normally works;

“employer” includes such a person and related expressions shall be construed accordingly;

“representative”, in relation to a union, means a person acting or purporting to act—

(a) in his capacity as a member of the union, or

(b) on the instructions or advice of a person acting or purporting to act in that capacity or in the capacity of an official of the union.

“require” (on the part of an individual) includes request or apply for, and “requisition” shall be construed accordingly and

“wages” shall be construed in accordance with the definitions of “contract of employment”, “employer” and related expressions.

(8) Where a person holds any office or employment under the Crown on terms which do not constitute a contract of employment between him and the Crown, those terms shall nevertheless be deemed to constitute such a contract for the purposes of this section.