

POA

Legal Advice Scheme – Northern Ireland



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POA

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1.0

General

- 1.1 The purpose of this document is to bring together in one place all issues relating to the Legal Aid Scheme. This circular will be updated on a regular basis to improve the service provided and to ensure the best use of resources.
- 1.2 This document contains both mandatory instructions and advice as to the best way to use the scheme. If you have any suggestions for changes or improvements then please put them in writing to the Secretary of the Legal Aid Committee at Cronin House and or the Area Secretary NI.
- 1.3 All applications for legal aid will be dealt with on the basis of this circular. All members who apply for assistance will be subject to the provisions of this document. Please ensure any member requesting legal advice has access to this circular to ensure that they are aware of their obligations and/or entitlements.
- 1.4 Please ensure that your branch copy of the Legal Advice Handbook is kept updated at all times and available for members, who must read its contents before submitting a claim. If for any reason the handbook is not up to date then please request copies of any missing editions from Cronin House or download them from the POA Website www.poauk.org.uk or Thompsons' website www.thompsons.law.co.uk
- 1.5 Any guidance notes are not a substitute for legal advice they are there to assist members and Branch Officials to decide which application form is appropriate. Members should read the relevant guidance note/s which can be viewed on the POA's website or Thompsons' website in respect of the complaint before completing an application form.
- 1.6 All evidence or supporting documentation, as is available at the time, should be forwarded to The Area Secretary at Castell House by email or post, (see contact section for details). Requests for further information must be complied with in accordance with the rules of the scheme.
- 1.7 All members applying for legal assistance in relation to a Personal Injury or Stress

Claim from the April 2018 **must** report these claims directly to the Unions Solicitors (Thompsons). Applications can be made by telephoning Thompsons free phone number on **0800 587 7515**.

2.0

The Rules

2.1

The basis upon which the Legal Aid Scheme is run is set out in the POA's Rules and Constitution.

For ease of reference the relevant rules are set out below and are as agreed at Annual Conference.

2.2

Rule 19 Legal Advice & Assistance

Legal Aid Committee

Rule 19.1 The Union will have a legal aid committee comprising;

- (a) A Vice Chair (as Chairman)
- (b) The General Secretary
- (c) A National Executive Committee member nominated by the National Executive Committee;
- (d) The Finance Officer; and
- (e) Any Assistant Secretary nominated by the General Secretary.

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

Administration

Rule 19.2 The Legal Aid Committee will:

- (a) administer the Union's legal advice and assistance scheme in accordance with these Rules;
- (b) deal with all queries and concerns relating to the legal advice and assistance scheme and individual cases.

Rule 19.3

If there is any query or concern relating to the legal advice and assistance scheme or an individual case:

- (a) it shall be referred first to the Legal Aid Committee; and
- (b) appeal from any decision of the Legal Aid Committee is to the National Executive Committee (whose decision is final).
- (c) If any member wishes to appeal the decision of the Legal Aid Committee they must do so within 3 months of the date of the written notification of the Legal Aid Committee's decision, by informing the General Secretary of the intention to appeal and supply the grounds for the appeal in writing.

Advice and Assistance

Rule 19.4

All requests for initial legal advice on any work-related matter will be considered by the Legal Aid Committee. The Legal Aid Committee will deal with disputes over whether initial legal advice on work related matters is appropriate, in accordance with Rule 19.3 if the Legal Aid Committee approves the application:

- (a) It will refer the matter to the Union's Solicitors, unless a conflict of interest makes this inappropriate; in which event it will refer the matter to other Solicitors agreed with the member, but subject to the Legal Aid Committee fixing an appropriate level of cost;
- (b) the advice will be preliminary only and the Union will not be liable for further costs, unless legal assistance is approved by the Legal Aid Committee under Rule 19.5.

Rule 19.5

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

Rule 19.6

The Legal Aid Committee has discretion to approve initial legal advice or legal assistance to:

- (a) a retired member;
- (b) an honorary life member;
- (c) the dependant of any member; or
- (d) the estate of any deceased member;

if the Legal Aid Committee considers this is in the interests of the Union.

Rule 19.7 The Legal Aid Committee may:

- (a) impose conditions (either of general application or relating to a particular case) on the provision of advice or assistance; and
- (b) withdraw advice or assistance when it considers appropriate.

Limitations

Rule 19.8 Initial legal advice and legal assistance will not be provided to any new or re-joining member for any proceedings initiated (or subject to investigation) before the member joined or re-joined

Rule 19.9 The Union is not responsible for any costs incurred by any Branch or member in respect of legal advice or assistance:

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

Rule 19.10 The Union is not responsible for any costs or damages awarded against any Branch or member but the Union may agree to pay costs only awarded against a Branch or member where all of the following apply:

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

Note

By reason of Rule 19.9 and 19.10 if a member wilfully misrepresents or fails to disclose any material fact to the Union's Solicitors then he or she will become liable under the rules of the POA's Legal Aid Scheme for any costs which become payable to either the other sides Solicitor and/or to the Union's Solicitors where these costs are incurred as a result of the member's failure to disclose or his or her misrepresentation. The POA will not indemnify any member in these circumstances.

3.0

Requests for Legal Advice- Northern Ireland

3.1

Request for Assistance on LA100 Form

Requests for initial legal advice on work related matters (excluding Personal Injury and Stress Claims) must be submitted by using the LA100 form and the appropriate form from the Legal Advice Handbook. The member is responsible for providing sufficient information and documentation to identify the problem to allow the Legal Aid Committee to assess the merits of the request and allow the Secretary to the Legal Aid Committee and Solicitors to consider the facts relevant to the issue about which advice is sought. Members must be aware of the strict time limits when submitting applications for legal advice.

3.2

Application Forms

An application form from the Legal Advice Handbook must be fully completed, signed by the member and sent with an LA100 to Area Secretary Northern Ireland post or e-mail please or, in the case of a Personal Injury or Stress Claim, submitted to the Union's Solicitors directly using the free phone number **0800 587 7515, or via TUCH** see para 10 for contact details. Failure to comply will result in the application being returned and may affect whether the request for legal advice is approved by the Legal Aid Committee if re-submitted.

3.3

Documents

If there are any documents, which are relevant to the enquiry, then the documents must be copied and the copies sent with the LA100 and relevant form from the Legal Advice Handbook (with the exception of Personal Injury and Stress Claims). Members and Branch Official's must keep the originals safe in case the copies go astray in the post. Following the abolition of the statutory grievance procedures and the introduction of the ACAS Code on Disciplinary and Grievance Procedures on 6 April 2009 the POA still recommend that a member raises a grievance as to not do so could result in any compensation being reduced by up to 25%. If the member has submitted a grievance a copy of the grievance must be sent with the application.

3.4

Multiple Applications

If the request for initial legal advice is made on behalf of more than one member all the members' names should be entered on the LA100 form and each member must comply with the process as outlined in paragraphs 3.1 to 3.3 inclusive.

3.5

Dealing with Requests

Requests for legal assistance to pursue a claim will initially be considered by the Secretary to the

Legal Aid Committee, with the exception of Personal Injury and Stress Claims which must be directly reported to the Unions Solicitors (Thompsons) as of April 2013.

The Secretary to the Legal Aid Committee is responsible for the day to day administration of the Legal Aid Scheme, even if claims have been submitted directly to Union's Solicitors. He or she may approve the application on the basis of the authority delegated to him or her in which case the papers will be sent to the Union's Solicitors or he or she may return the application on the grounds that it does not comply with the requirements laid down in this circular (see paragraphs 3.2 to 3.4). He or she may also reject the application if it is clearly outside the scope of the scheme or he or she may refer the matter to the Legal Aid Committee who will determine whether the application will be processed.

The Solicitors will assess the merits of the claim and will report to the Legal Aid Committee. If the claim is progressed and at any time the prospects of success fall below the set criteria the Union's Solicitors are under a duty to report that fact to the Legal Aid Committee. The Union's appointed Solicitors are required to keep the Legal Aid Committee up to date with the progression of a case at all times and will provide it with any relevant documentation, including letters of advice and Counsel's opinions. Members will be required to sign any relevant documents as necessary, during proceedings. Such documentation provided to the Union will be kept securely and will only be used for the purpose of making decisions about the funding of legal proceedings.

3.6

Appeals to the Legal Aid Committee/National Executive Committee

Any eligible member whose request for assistance is refused at the outset or during the currency of the action has the right of an appeal to the Legal Aid Committee and the National Executive Committee, whose decision is final. In accordance with Rule 19, any appeal to the NEC must reach Cronin House (see para 10 contact details) within three months of the date of the written notification of the decision from the Legal Aid Secretary. It is the member's responsibility to ensure their position is protected by issuing their own legal proceedings or complying with any directions issued by a Tribunal/Court/third party pending the outcome of the appeal.

3.7

Independent Solicitors

If a member believes that the Union's Solicitors should not provide the advice required because there is a potential conflict of interest, they should draw this to the Secretary to the Legal Aid Committee's attention when submitting the application, stating clearly why it is believed there is a conflict. The Legal Aid Committee will consider the request and decide whether it is appropriate for independent legal advice to be approved. The same procedure will apply if the Union's Solicitors believe there is a conflict of interest.

3.8

Appointment of Independent Solicitors

If independent legal advice is approved the member and the independent Solicitors appointed will be advised of the conditions applicable to their engagement and any conditions imposed in accordance with the Rules & Constitution.

3.9

Initial Advice

When the POA receives a properly completed LA100 form requesting initial legal advice, (with the exception of Personal Injury and Stress Claims) together with the appropriate form/s from the Legal Advice Handbook and supporting documentation the Union will allocate a reference number. In the case of Personal Injury and Stress Claims, following notification from the Unions Solicitors that a claim has been received, the Legal Department at Cronin House will then allocate a reference number to the file, having had the appropriate checks on membership completed. The POA will send an acknowledgement to the member and the branch. ***If an acknowledgment is not received within 10 working days of the member submitting their request they should contact a Branch Official, the Area Secretary NI and/or Cronin House to ensure the application has been received.*** If the advice has been requested by an individual the Solicitors will send the advice to the individual at the establishment from which the query arose or ***the home address if requested.*** The Solicitors will also send a copy of the advice to the Secretary to the Legal Aid Committee and Area Secretary NI. If the advice affects others then they may also receive copies of that advice.

3.10

Further Advice and Assistance

When the initial advice has been given no further legal advice will be authorised unless sanctioned by the Legal Aid Committee or its Secretary. If there is any doubt whether the case meets the current criteria then the matter will be referred to the Legal Aid Committee. The appeals procedure in respect of the decision on the continuing of legal assistance is the same as set out in paragraph 3.6 and as set out in the Rules & Constitution.

4.0 Police/NHS Fraud Investigations

Work related criminal matters

CRIMINAL LAW REPRESENTATION SCHEME STANDARD OF SERVICE PROTOCOL

1. All requests for representation in criminal proceedings will normally be received directly from the Legal Department of the POA and or the Area Secretary NI. Instructions may be received by letter, fax, telephone or email. Any instructions received out of normal working hours, via Thompsons 24-hour criminal help line on 0800 587 7530, this should be reported to the Legal Department by email the next working day.
2. Thompsons will acknowledge receipt of the instructions by email to the legal team at legal@poauk.org.uk and adminni@poauk.org.uk within 24 hours. The acknowledgement will be addressed to and will confirm which solicitor has conduct of the case, the contact details for that solicitor and Thompsons' case reference number.
3. Thompsons will make telephone contact with the member within 24 hours of receipt of the instructions and a letter confirming instructions to represent the member will be sent. This letter will confirm which solicitor has conduct of the case, the contact details of that solicitor and Thompsons case reference number. It may be necessary to change solicitor during a claim.
4. Following the member being charged or summonsed with a criminal offence, Thompsons will assist the member in the Courts and/or other criminal proceedings on work related matters.
5. Thompsons will notify both the member and the Legal Department immediately, in writing, if the Solicitor with responsibility for the case changes.
6. Thompsons will provide written reports to the Legal Department and Area Secretary NI at key stages in the case, namely;
 - Upon charge
 - Upon a plea being entered
 - Upon the member withdrawing his/her instruction
 - Within 7 days of the conclusion of the case.
7. Thompsons will quote the legal department reference number in all correspondence and on all invoices to the Union where appropriate.
8. This protocol will be reviewed after 6 months, and thereafter on a regular basis, to ensure that it continues to meet the quality of services and operational requirement of both parties.

4.1

How to Start the Ball Rolling

Request for legal advice where there is a Police/NHS fraud investigation on work related criminal matters will often require immediate action. In such circumstance a Branch committee member or the member must complete the Pro Forma in the Legal Advice Handbook and the LA 100

form which can be faxed or emailed to Cronin House. In exceptional circumstances, where it is not possible to complete the forms the member or their representative should contact Cronin House, Area Secretary NI or Thompsons and the forms will be completed on their behalf provided this is during normal office hours. If contact is made with POA HQ in the first instance a member of staff will contact the Union's Solicitors who in turn will try to arrange the attendance at the appointed time for the interview. **If Cronin or Castell House is closed** or the request is made out of normal hours, members should contact **0800 587 7530**, available 24 hours. **Note assistance is only given where the member is interviewed under caution and the matter is work related. Anyone to be interviewed as a witness will not be represented unless there are exceptional circumstances and the matter has been approved by the Legal Aid Committee.**

4.2

Appointment of a Solicitor

If it is not possible for a Solicitor from Thompsons to attend at the interview, the member should be advised to request the assistance of the duty solicitor. The costs of the attending solicitor or agent will be paid for under The Northern Ireland Legal Aid Scheme.

4.3

The Information Needed

The minimum information required when requesting legal advice in relation to Police/NHS fraud investigations work related criminal matters is as follows:

1. Name of the member or members:
2. Member's contact details e.g. home phone or mobile number:
3. POA membership number or numbers:
4. Branch:
5. Name and contact number of the Official or committee member dealing with the application:
6. Date of the incident:
7. Brief details of the allegation:
8. Name of the inmate and Prison number or other person who has made the complaint:
9. The date of the proposed Police/NHS fraud on work related criminal matters interview:
10. Time of the proposed interview:
11. Place of the interview, preferably the Police station or other venue if it is NHS fraud investigation:
12. Interviewing officer's name:
13. Investigating Officer
14. Contact No for Investigating Officer:
15. Contact details of the local Official:
16. Members address
17. Date of Birth

4.4

After the Interview

When the interview has been carried out, if any immediate action needs to be taken at that stage the POA will be informed and arrangements made to ensure those steps are taken.

4.5

What Happens Next?

In most cases the Police/NHS Fraud Investigators will inform the member at interview that they intend to

carry out further enquiries and then report the facts to the The CPS or relevant agency. It is generally the CPS who will make the decision on whether to prosecute or not. The Solicitor will inform the member as soon as they know the outcome of the enquiry.

4.6

Local Protocols

Many prisons or local primary care trusts have agreed a local protocol, which defines the way in which allegations of assault etc are investigated in their area. You should obtain a copy of that protocol from the Police Liaison Officer or the Governor or from the HR department/HRBP so that you can provide the information to any member who is subjected to the process.

4.7

Delays in the Decision on Prosecution

After the interview has taken place there is often a delay before the Solicitor and the member are informed whether any criminal charges are to be pursued. If the member is concerned about the delay he or she should contact either the Solicitor, the Secretary to the Legal Aid Committee or Area Secretary NI who will attempt to obtain an update wherever possible.

4.8

If Charges are Laid

If the matter is to be prosecuted and proceeds to Trial in the Courts then the member's means may be accessed by the Court.

In exceptional circumstances where a member has to make a contribution to their defence by order of the Court, the member has the right to apply to the NEC to indemnify these costs.

5.0 Death in Custody

5.1

LA 490

In the event of a death in custody in the establishment it is essential that a member of the local committee completes the LA490 form without delay no matter what the circumstances of the death are, this document should be completed and sent to Cronin and or Castell House.

The local committee member should ensure that as much information as possible is provided when the form is submitted and that any further information is made available when the information is to hand or requested. The Official should retain a copy of any documents sent with the LA 490 for safe keeping. If an acknowledgment is not received within 10 working days of the Official submitting their request they should contact Cronin House to ensure the application has been received.

5.2

Dispatching the Form

The completed LA 490 should be sent to the Area Secretary NI or the Secretary to the Legal Aid Committee at Cronin House as soon as it is established that a death in custody has taken place. Please note that an LA490 form must always be completed when the inmate was in custody of the Prison Service even if the death occurred outside the establishment i.e in a hospital. Please ensure that all documentation that is available is copied and accompanies the form.

5.3

Natural Causes

If the Branch is aware or become aware that the death was down to natural causes this should be recorded on the LA490 and the Legal Department at Cronin House advised as soon as the information is known.

5.4

Staff Interviews

If staff are required to give a statement to the Governor, Police or an investigating officer, it is important that a chronological sequence of events is available to them to assist in completing their written statement. Staff should not be pressurised into giving a statement at a time when the trauma of the event is foremost in their minds. If any member is to be interviewed by the Police, they must refer to Section 4 of the Legal Advice Handbook and follow the procedure as laid down.

5.5

Appointment of Solicitors

Subsequent to completing and submitting the LA 490 form, the papers will be passed on to the Union's Solicitors who will, collate the information, liaise with the appropriate authorities to represent the member and provide legal advice at each stage as and when necessary.

5.6

Employer's Solicitors

The major responsibility for representing the Prison Service at the Inquest rests with Employers Solicitor and their counsel. If there is no conflict of interest between the Northern Ireland Prison Service and the staff then there will be no requirement for separate legal representation and the Prison Service will arrange for representation for the members of staff through the Employers Solicitors. If, however, there is a potential for conflict then separate representation will be arranged where appropriate.

5.7

Prison Service Procedures

All members and local committees should ensure they are familiar with internal procedures and policies and draw these to the attention to their Solicitor.

5.8

Prison and Probation Ombudsman (PPO) Investigation and Report

It is fundamental that local Branch Officials attend the initial meeting with the PPO so that they can have input into the investigation and access to the report once completed. Local Committees should seek to introduce a local protocol with the local management team for dealing with a death in custody. A copy of the report will generally also be sent to the Union's Solicitors who will share the report with the branch where appropriate.

5.9

Deaths in a Non-Prison Workplace

Where a death occurs outside of a Prison, for example in a secure Healthcare Unit, and a member or members are involved, the employer's local procedures and policies should be made available to the Union's Solicitors as well as the completed LA490 form so that appropriate representation can be put in place. The principles outlined in 5.1 to 5.7 will apply.

6.0 Criminal Injuries Compensation Authority (CICA)

6.1

Limitation

The limitation period for submitting a CICA claim is two years from the date of the incident but the application must be received at CICA HQ before the two years limitation period expires.

6.2

Making a Claim

Any member who suffers an injury as a result of an assault at work should complete a CICA application form online at www.cica.gov.uk. A copy of the application should be forwarded to the Area Secretary NI and or Legal Department at Cronin House along with the CICA reference number.

6.3

The Paperwork

Additional documentation that may be required is:

A copy of the entry in the accident book:

DWP registration:

(The POA is not responsible for the representation of members at DWP appeals) Any witness statements:

Accident investigation report (HMPS Accident Assault or Near Miss Report):

Photographs or sketch plan:

Record of hearing and Adjudication form (HMPS F256):

Hospital or doctor's appointment card and any correspondence in relation to the treatment received and the hospital reference number:

The Crime Reference No: (the incident must be reported to the police as soon as is practicable)

6.4

Medical Treatment

It is important that members who are assaulted receive medical treatment from either their GP or a hospital and their treatment plan and aftercare complies with the requirements of the CICA scheme. Therefore, any member who has been assaulted should read the CICA guidance notes which outline the basic requirements for medical treatment following an assault. The guidance notes are available from the CICA website.

6.5

Submission to the CICA

It is important that once an application is completed on line at www.cica.gov.uk and that a copy of the application is forwarded to the Legal Department at Cronin House along with the CICA reference number.

6.6

The Award

When the matter has been considered the CICA will write to the POA and confirm their assessment of the award. That notification will be sent to the member with a covering letter which will explain:

the award can be accepted, or

if the member wants a review of the decision, upon receiving the members written request the papers will be sent to the Union's Solicitors for an opinion. The CICA allow 56 days to accept or appeal the decision. Any member seeking a review must advise the POA within the first 30 days. This is to facilitate an assessment by the Union's Solicitors who will normally advise the member within the next 30 days so that the member can either accept the award or for an appeal/review to be lodged within the 56 days limitation period. If the award is not accepted or the CICA do not receive notification of a review/appeal within the limitation period the award may be withdrawn by the CICA.

6.7

Applying for a Review and/or Appeal

If on receiving the advice the member decides to apply for a review the Union's Solicitors will write to the member setting out the procedures for the lodging and progressing the review and the POA's arrangements with regard to the costs of the review.

6.8

Funding of a Review and/or Appeal

Before pursuing the appeal, the member will be required to sign and return a copy of the letter signifying agreement to the funding arrangements. The letter specifies that the costs of pursuing the appeal will be met by the POA but that in the event that the appeal is successful costs in accordance with the scale set out below will be deducted from the award. Note that the amount deducted will never exceed the costs incurred in pursuing the appeal.

6.9

Scale of Recoverable Costs

Level of increase in the award £ 0 – 1,000 Nil

1,001 upwards

Costs contribution

The actual costs and disbursements incurred in pursuing the review up to a maximum of 50% of the increase of the award excluding the first £1,000 of such increase.

6.10

Changes to the CICA Scheme

The current 2012 scheme has introduced a number of new eligibility criteria in relation to claims. There are also reductions in the scope and levels of award made under the scheme.

Eligibility will depend on establishing that an incident falls within the definitions of the scheme. There are also requirements in relation to the residency and conduct of an applicant and the reporting of an incident. Failure to specifically report the incident to the police as soon as is reasonably practicable will disqualify a claim.

The basis and extent upon which claims for loss of earnings can be made has also been significantly restricted. The CICA can also deduct £50 from an award for the costs of obtaining medical evidence.

7.0

Personal Injury and Stress claims

7.1

The Limitation Period

The time limit for submitting a personal injury claim is three years from the date of the incident, but to allow the unions solicitors to assess the merits of any claim, members must report the claim as soon as possible and no later than two years and six months after the incident directly to the Unions Solicitors (Thompsons) by ringing the free phone telephone number **0800 587 7515**. If you cannot obtain all of the requested information as outlined in paragraph 7.2 the application should not be delayed.

7.2

The Paperwork

Any member who wishes to make a claim should report the incident and or illness including stress to the Unions Solicitors by telephoning the Thompsons Free phone number on **0800 587 7515**.

Accident book entry:

DWP registration:

(The POA is not responsible for the representation of members at DWP appeals) Witness statements describing the incident:

Accident investigation report (HMPS Accident Assault or Near Miss Report):

Photographs/sketches:

Details of lost wages or expenses incurred by reason of the accident:

Details of the medical person consulted as a result of this incident together with any relevant reference number:

Any other information that is relevant to the claim

7.3

Progressing the Claim

The Union's Solicitors are required to keep the Legal Aid Committee up to date with the progression of a case at all times and will provide it with any relevant documentation. It is in the member's interests to supply any information requested by the Union's Solicitor as quickly as possible or advise them if the member is unable to obtain the information from their employer. In these circumstances the Union's Solicitors will try and obtain the information.

8.0

Employment Law Claims

8.1

The Limitation Period

The time limit for most employment law claims is **three months less a day**. **ALL APPLICATIONS MUST BE SUBMITTED TO CRONIN or CASTELL HOUSE WITHIN TWO MONTHS, OTHERWISE YOUR CLAIM MAY BE REJECTED.**

8.2

Use of the Grievance Procedure

Since 6 April 2009 it is no longer a requirement that the Grievance Procedure has to be engaged before a claim is issued in an Employment Tribunal. However, members who fail to comply with the new ACAS Code on Disciplinary and Grievance Procedures by not raising a grievance with their employer in writing before a claim is issued in an Employment Tribunal may result in any award of compensation, reduced by up to 25%. It is the Union's position that members should raise a grievance in relation to any work-related matter.

8.3

Forms to be Completed

When a member wants to make a claim in relation to an employment law issue an LA100 and the appropriate employment law application form must be completed. The LA100 and a fully completed application form and copies of all relevant documents must be submitted to Cronin or Castell House as soon as it has been completed.

8.4

Member -v- Member

The Union's Equal Opportunities policy makes it plain the POA opposes all forms of discrimination. In pursuance of that policy the POA will support any member who wishes to take proceedings through a court or tribunal against either the employer or the employer and the harasser(s) in respect of an act or acts of unlawful discrimination. All requests for assistance will be submitted to the Union's Solicitors who will advise the Legal Aid Committee on the merits of the claim on the basis of the papers submitted. The Legal Aid Committee, or the Secretary to the Committee in cases of urgency, will consider the assessment of the claim provided by the Solicitors and then make a decision on whether to grant assistance in accordance with Rule 19.7 and on the basis of the merits of the claim.

8.5

Support for One Side Only

Once the POA has decided to support one party to a claim it will not offer support, other than for initial advice under rule 19.4, to another party to that action unless funding is approved by the National Executive Committee on appeal by the member.

9.0

The Legal Aid Committee

9.1

Constitution

The constitution and remit of the Legal Aid Committee is set out in the Rules. See Rule 19.1. It is responsible for administering the Legal Aid Scheme and dealing with all matters and issues arising from the operation of the scheme. The Secretary to the Legal Aid Committee is appointed to administer the scheme on a day-to-day basis and act as Secretary to the Committee.

9.2

Meetings

The Legal Aid Committee normally meets on a monthly basis to consider any issues relevant to the Legal Aid Scheme. If you have any suggestions, proposals or complaints about any aspect of the Legal Aid Scheme or in relation to a particular case then please write to the Secretary to the Committee at Cronin House, or the Area Secretary NI at Castell House. Your correspondence will be placed on the agenda for the next meeting of the Committee for its consideration. If you endeavour to raise any issue relating to the Legal Aid Scheme in any other forum without first raising it through the Legal Aid Committee the matter will be referred by the person or body to whom you have complained to the Legal Aid Committee.

9.3

Exercise of Discretion

In administering the Legal Aid Scheme, the Committee has a constitutional responsibility to ensure that the POA receives the best possible value for money and that the members' subscriptions are not wasted on pursuing fruitless claims. In order to be able to assess the merits of the issues, which they need to decide the Legal Aid Committee will be provided with all relevant information for them to decide upon the issues. To assist the Committee in exercising the powers delegated to it the Committee has developed a number of principles, which it will follow when exercising its discretion. It should be noted that these are merely guidelines and they do not cover all the circumstances, which may arise.

9.4

Guidelines

Subject to exceptional circumstances, either related to the general importance of the issues or the facts of a particular case, legal assistance will not generally be granted or continued where:

The prospects of succeeding in the claim do not warrant support.

The claim is one that would be dealt with under the small claims procedure in the County Court.

The member has not pursued the internal remedies available.

The member has refused without good cause to engage in mediation of the dispute or the member wishes to take proceedings against, the Union itself or the Union's Solicitors.

The member wishes to pursue a course of action in circumstances where there was or is an

equally effective or cheaper course of action available.

The purpose of the advice is to assist in relation to a complaint to the Certification Officer.

The member wishes to change his legal representative where the Legal Aid Committee is of the view that there is no good reason for such a change.

The cost of pursuing the claim is disproportionate to the benefit to be gained from the action.

The member has failed to co-operate with the Solicitor or the Legal Aid Committee.

The member is subject to internal disciplinary proceedings.

The member is abusive to any staff employed or seconded to the Union or the Union's Solicitors

Note:

For the avoidance of doubt, the criteria to support member's legal claims in respect of employment law issues are as follows,

The value of the claim must be £1000.

The claim must have a better than 50% chance of succeeding.

The value of the claim must not be disproportionate to proceedings.

The Legal Aid Committee and or National Executive Committee in accordance with the Rules may exercise discretion on any claim they see fit.

Note:

The exercise of the Legal Aid Committee's discretion not to grant assistance or not to continue support for a claim, does not prevent the member from continuing with the claim on his/her own behalf or through other Solicitors at his or her own expense. Furthermore, a refusal or withdrawal of support does not mean that the individual does not have a claim that he/she could pursue, it merely means that the claim no longer meets the criteria laid down by the Committee.

A member may appeal against any decision of the Legal Aid Committee to the National Executive Committee whose decision is final.

10.0

POA HQ Contact Details:

Secretary to the Legal Aid Committee:Glyn Travis

**Address: Cronin House
245 Church Street
Edmonton
London
N9 9HW**

Phone: 0208 8030255

Mobile: 07968 324045

Fax: 0208 8031761

Email: legal@poauk.org.uk

Northern Ireland Contact Details

Area Secretary June Robinson

**Address:Castell House
116 Ballywalter Road
Millisle
Co Down
BT22 2HS**

Direct line: 02891861928

Mobile: 07971 838649

E-Mail: adminni@poauk.org.uk

Thompsons Office

**Address:Thompsons Solicitors
171 Victoria Street
Belfast
BT1 4HS**

Telephone: 0800 138 6880

EMPLOYMENT LAW Form 1
POA Application Form Employment Law Services

Office use only

Thompsons ref:

POA ref: LA/

Personal Details

Full name:

Home Address:

Contact Telephone number(s):

Email address:

Date of Birth:

Employment Details

Employer name:

Employer Head Office Address:

Workplace Address:

Job Title:

Date commenced
employment:

Date employment ended

(if applicable):

Basic pay per month:

Case Details:

Date of incident (or most recent incident) which is the subject of this case: _____

Please give as much as detail as possible (continue on separate sheet if necessary). Please include dates of all incidents, meetings, conversations and include the full names and job titles of those involved. If a meeting or a hearing about the issue has been arranged or has recently taken place please give details below. Please attach copies of all correspondence and relevant documentation.

What would be a solution to your problem?

Acas Early Conciliation

Have you or anyone on your behalf triggered Acas Early Conciliation: Yes No

If yes, when did you trigger Acas Early Conciliation?

If the period of Acas Early Conciliation has come to an end, when were you issued with the Early Conciliation Certificate?

Please record the Early Conciliation Certificate number here:

Undertaking

I have read the guidance notes relating to my claim and the POA circular set out in the Legal Advice Handbook which outlines the Rules of the Legal Aid Scheme.

If the Legal Aid Committee agrees to refer my case to the Union's Solicitors, I undertake not to discuss or settle my case without reference to them. I agree to abide by such Regulations as the POA from time to time introduces in relation to the conduct of legal work on behalf of members of the POA.

Signed: _____

Dated: _____

Office use only

Thompsons

POA

LA/

You can access the Legal Advice Handbook via the POA's website www.poauk.org.uk or Thompsons' website www.thompsons.law.co.uk.

This form is to be completed if the member is aware of the enquiry/investigation. If a member is arrested and a Solicitor cannot be appointed the duty Solicitor must always be used and the forms completed after the initial interview.

If Cronin and or Castell House is closed or the request is made out of normal hours, members should contact **0800 587 7530**, 24 hours helpline

Name:

Address:

Date of Birth:

Home phone/Mobile number:

Membership No:

Branch:

Name and contact number of the Official or Committee member dealing with the application:

Date of the incident:

Brief details of the allegation:

Name of the inmate or other person who has made the complaint:

The date of the proposed Police/NHS fraud interview:

Time of the proposed interview:

Place of the interview, *preferably the Police station or other venue if it is a NHS fraud investigation*

Interviewing Officer's name:

Investigating Officer:

Contact No for Investigating Officer:

Contact details of the local Official dealing with the member or the details for another member of the Committee if you are not going to be available:

During normal office hours please ring Cronin House on 02088030255, Castell House 02891 861928 or Thompsons direct 0800 587 7515 to arrange a solicitor; should you require a solicitor out of office hours contact 0800 587 7530 to arrange a solicitor

Death in Custody

Form 3

Office use only

Thompsons

POA

LA/

Name of Establishment:

Name of Deceased:

Prison Number of Deceased:

Prisoner Details

Date of Birth:

Was the prisoner? on remand

awaiting sentence

convicted

(Please tick as appropriate).

Has a date been set for the inquest?

Yes

No

If so, when will this take place?

What is the name and address of the local Coroners Court /Coroners Officer?

Date and time of death:

Where found?

Who was the prisoner found by?

Was the prisoner on a special watch?

Yes

No

Do you believe that there will be a conflict of interest between the position of the POA members involved and the Prison Service which will mean that separate representation will be needed? If so please briefly state why you believe there will be a conflict.

List the names and membership numbers of staff who were or who may be involved:

Date

POA Legal Aid Application N/Ireland (reference LA/100)

Cronin House, 245 Church Street, Edmonton, London, N9 9HW Tel: 020 8803 0255 Fax: 020 8803 1761

Branch	<input type="text"/>	Date	<input type="text"/>
Name	<input type="text"/>		
Signature	<input type="text"/>		
Name of Branch Official authorising application	<input type="text"/>		

LA	<input type="text"/>
Date	<input type="text"/>
Entered	<input type="text"/>
Office use only	

Membership Details	
Surname & Initials	Membership Number
<input type="text"/>	<input type="text"/>

Prisoner/s involved	
Surname & Initials	Prison Number
<input type="text"/>	<input type="text"/>

Reason for request *(please tick as appropriate)*

**Employment Advice
(Work Related)**

Send copies of all relevant documents and completed application form to Cronin House, accompanied by this completed form. Photocopy all documentation for your files

**POLICE NHS FRAUD INVESTIGATION
work related criminal matters**

Send all copies of all relevant documents to Cronin House, accompanied by this completed form. Photocopy all documentation for your files.

Death in Custody

Send completed LA490. Any documents not previously supplied should be copied to Cronin House accompanied by this form. Photocopy for your files.

CICA CLAIM/REVIEW

Complete CICA form. Provide the following documents and forward to Cronin House: DSS Registration, Copy of Incident Report, Witness Statements, Photographs. Sketch. Photocopy all documentation for your files.

Please ensure the appropriate application form is completed and sent with this form. An LA100 form will not be referred to the Unions Solicitors unless an application form has been completed and is attached, **except in the case of Personal Injury and Stress Claims, which should be sent directly to: Thompsons Solicitors at TUCH, Synergy Building, Campo Lane, Sheffield, S1 2EL.**

