

guide to legal services

Revised 2015



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Introduction

This guide and the regulations contained within are produced to help members understand the various types of legal services provided by NIPSA and how to go about obtaining the service appropriate to their circumstances.

Three types of legal service are provided:

- (a)** Legal Advice (Personal Matters);
- (b)** Legal Assistance (Personal Injury);
and
- (c)** Legal Assistance (Employment Matters).

Each service is detailed in the pages that follow and how the service may be obtained is also explained. If in doubt as to which type of legal service is appropriate, consult with your local NIPSA representative or with the Executive Officer (Membership Services) at NIPSA Headquarters.

Legal services (other than legal advice) are available only for issues which arise since taking up membership of NIPSA. This guide and the regulations are based upon Rules 9.18 - 9.20 of the NIPSA Constitution

NIPSA may, from time to time, amend these Regulations.

NIPSA's Solicitors also provide a free Wills service for members and their spouses/partners subject to certain conditions. In addition, NIPSA's Solicitors provide a competitively priced conveyancing service for NIPSA members.

Legal Advice (Personal Matters)

What is Legal Advice?

Legal Advice is freely available to all paid up members of NIPSA. The advice sought can be on any matter which is not appropriate to either of the two Legal Assistance schemes. The Legal Advice scheme does not apply to any issue or matter related to your employment for which NIPSA membership is held.

Issues on which legal advice has been sought include the following:

- problems relating to tenancies;
- problems relating to hire purchase agreements;
- driving accidents with damage to the vehicle (for injury to a member see Legal Assistance (Personal Injury) scheme);
- matrimonial issues;
- disputes with neighbours;
- criminal injury/damage claims;
- consumer problems.

How is Legal Advice obtained?

The member or Branch representative should contact the Executive Officer (Membership Services) at NIPSA Headquarters, requesting a Legal Advice Form (Form LS1). A broad outline of the reason for which Legal Advice is being sought should be provided. This helps to ensure that the Legal Advice scheme is appropriate.

The form is also available as a pdf download from the NIPSA website.



What Information does NIPSA Headquarters need?

The following items of membership information are necessary:

- Member's Surname, Forenames, Title and Home Address.
- Employing Authority and Office Address.
- Branch Number and Membership Number.

Issue and Completion of Legal Advice Application

Following a membership check, a Legal Advice Form (LS1)

- (i) is issued directly to the member, from NIPSA Headquarters.

Upon receipt of form LS1 the member should carefully read the notes and then complete the form in full and forward any appropriate correspondence with the form to the Union's Solicitor. The address of the Solicitor is contained in the notes section of the form.

- (ii) if the form is downloaded from the NIPSA website;

www.nipsa.org.uk/How-to-use-the-union/Membership-Services

It should be completed as per above but must be returned to the Executive Officer (Membership Services) at NIPSA Headquarters to complete the membership check.

Solicitor's Action

Having considered the content of form LS1 the Solicitor may give advice by responding in writing directly to the member.

The Solicitor may however decide that an interview with the member is necessary and will then give oral advice. The Scheme does not provide for members to have an interview.

It is a matter for the Solicitor to decide if the nature of the problem is such that it requires oral advice.

Follow on Action

Any action taken as a result of the advice given is a matter between the member and the Solicitor. Costs are not met by NIPSA. However if the nature of the problem is such that Legal Assistance is appropriate and you are entitled to this, it may well be that the Solicitor will advise that a separate claim be made. NIPSA endeavours to provide the best advice possible, but liability is not accepted in giving such advice nor for the loss in transit of any papers, deeds or documents.



Legal Assistance (Personal Injury)

What is Legal Assistance (Personal Injury)?

The Legal Assistance (Personal Injury) service relates to accidents or disease whether arising out of or in the course of employment of a member or other personal injuries resulting from an accident caused by the negligence of a third party. The scheme operates under Regulations governing the grant of Legal Assistance (Personal Injury) (“the Regulations” are set out in Appendix 1).

Legal assistance has been given to members on a range of injuries and diseases and in most cases a successful settlement is reached either in or out of court.

Subject to certain exceptions contained in paragraph 1 of the Regulations, Legal Assistance may also be given to relatives of members, if injured in the same accident as the member, where the third party at fault is someone other than a NIPSA member.

How is Legal Assistance (Personal Injury) obtained?

The member or Branch representative should contact the Executive Officer (Membership Services) at NIPSA Headquarters requesting a Legal Assistance Form (LS2). In doing so a broad outline of the reasons why Legal Assistance is being sought should be provided. This helps to ensure that the Legal Assistance (Personal Injury) Scheme is appropriate. The LS2 Form can be downloaded from the NIPSA Website www.nipsa.org.uk/How-to-use-the-union/Membership-Services

In road traffic accident claims please contact NIPSA’s Solicitors directly on free phone number **0800 7835079** or **028 9032 9801** for email: legal@mtb-law.co.uk.

What information does NIPSA Headquarters need?

The following items of membership information are necessary:

- Member's Surname, Forenames, Title and Home Address.
- Employing Authority and Office Address.
- Branch Number and Membership Number.

Issue and completion of Legal Assistance Application

Following a membership check a Legal Assistance (Personal Injury) Form (LS2) is issued directly to the member. If the LS2 is downloaded from the NIPSA website the membership check will be completed upon receipt of the form by NIPSA Headquarters.

Upon receipt of form LS2 the member should carefully read the rules governing the granting of Legal Assistance and the notes regarding particulars of non-fatal accidents or disease. (See Appendix 2 regarding reporting of accidents or a disease contracted at work).

It is most important that members comply with the Regulations especially those relating to:

- (a) not engaging a Solicitor (see Appendix 1, paragraphs 5 and 10); and
- (b) not entering into any correspondence or discussions that relate either directly or indirectly to the claim (other than the arrangements referred to in Appendix 2).

The completed form should be returned along with copies of any appropriate documents to the Executive Officer (Membership Services) at NIPSA Headquarters. **A member is bound by the Legal Assistance Regulations as set out in Appendix 1 upon submission of the LS2 application for Legal Assistance.**



NIPSA Headquarters and the Solicitor

Upon examining the completed form an acknowledgement is sent to the member by NIPSA Headquarters. If not completed correctly the form is returned to the member with a request for the appropriate information.

The form is then passed to the Union's Solicitors who shall contact the member and in most cases will invite the member to attend for an interview.

Having discussed the case with the member the Solicitor then advises NIPSA Headquarters of his/her opinion, which generally involves one of these options:

- (a)** no case exists
- (b)** further detail is necessary ie medical report, counsel's opinion, an engineer's report etc
- (c)** a prima facie case exists. (A prima facie case is one at which on first sight of evidence it is considered that a member may have a case in law).

NIPSA Action

Should the Solicitor consider that no case exists the member is advised, in writing, and the case closed.

If further detail is required Legal Assistance is granted in order to obtain the appropriate additional information. A full opinion is issued based on this information and a decision then taken in respect of the ongoing award of Legal Assistance.

If it is considered that a prima facie case exists the member is advised that Legal Assistance has been awarded.

Legal Action

Should Legal Assistance be granted the Solicitor is advised and the case then becomes his/her direct responsibility. Most cases progress without difficulty either to court or an out of court settlement.

In the event of any problems the Solicitor or the member should contact the Executive Officer (Membership Services) at NIPSA Headquarters.

Case Outcome

When cases are won or settled and costs awarded then no payment from a member's settlement figure is usually involved. If all the costs have not been awarded the member is required to refund to NIPSA or its Solicitors the appropriate amount from any settlement. (See Appendix 1, Regulation 7).

If the case is lost then NIPSA will meet the costs, subject to the full conditions in the Regulations (as detailed in Appendix 1) having been met by the member.

What happens in a personal injury case

Most personal injury cases that proceed will take up to 12 or 18 months to resolve although most cases will be settled or dealt with by the courts well within that timeframe. There will obviously be more complicated cases including medical negligence cases that may take four or five years to resolve. Usually the member will be required to attend for a medical examination organised by NIPSA's Solicitors. A follow-up medical examination may be required in a number of cases although not in the majority of cases. A lot of cases will be listed for trial in court. Most cases, however, settle without having to go into the court. A lot of cases settle at the door of the



court or in the days or weeks leading up to the court hearing.

It is the experience of NIPSA's Solicitors that most members are extremely concerned about going to court. The Solicitors are more than happy to meet with the member in advance of the court hearing to explain the various procedures. Normally a person who is bringing a personal injury claim goes to the court and meets the NIPSA Solicitor and barrister. There may then be negotiations. The member will be kept fully informed of all developments. If the case has to go into court the member will have to give evidence. Giving evidence in court is not, and should not be, a frightening experience. Most members have told our Solicitors that in fact the whole experience was one of the most boring of their lives as opposed to one of the most frightening.

Use of Social Media

Under no circumstances should you post anything on social media sites about your case.

You should not contact, speak with or write to representatives of the press or media. At all times you must cooperate with requests from the NIPSA Solicitor or NIPSA Headquarters for information and comments and for attendance at meetings, appointments consultative hearings, etc. In particular you must not make false or misleading statements or engage in unreasonable conduct.

If at any stage a member decides to involve another representative or organisation on his or her behalf or enters into negotiations on his or her case, without the knowledge and consent of the NIPSA Solicitor, NIPSA assistance will be deemed to have been terminated.

Legal Assistance

(Employment Matters)

What is Legal Assistance (Employment Matters)?

Legal assistance (Employment Matters) is a service provided by NIPSA to any member or retired member who, in the opinion of the General Council:

- (a)** Is involved in any action, cause or matter relating to his or her rights or duties as an employee or concerning any injury or wrong done to them in the course of or in connection with his or her employment; or
- (b)** Is involved in any action, cause or matter relating to his or her rights or duties as a member of NIPSA or concerning any injury or wrong done to them in the course of or in connection with his or her membership of NIPSA.

How is Legal Assistance (Employment Matters) obtained?

The member or group of members via their branch representative should contact their Seconded Officer or Headquarters Official for the completion of a Legal Assistance Form (LS3) by the Official. The LS3 form will then be considered by the relevant NIPSA Headquarters Official, who will assess if there is a need to refer the matter to NIPSA's Solicitors.

In respect of all individual cases the conditions for Headquarters Officials and Seconded Officers assisting members with Personal Cases must be satisfied, in particular the member must have signed the declaration (see Appendix 4).



Should the Seconded Officer or Headquarters Official consider legal assistance is necessary the Seconded Officer or Headquarters Official should complete the Legal Assistance Form (LS3). The LS3 form will then be considered by the relevant NIPSA Headquarters Official, who will assess if there is a need to refer the matter to NIPSA's Solicitors.

NIPSA Headquarters and the Solicitor

The Union's Solicitors will provide an opinion on the case to NIPSA. However, in some cases, the Union's Solicitor may invite the member or members to attend for an interview and thereafter will provide an opinion to NIPSA.

NIPSA Action

Should the Solicitor consider that no case exists NIPSA will be advised and this will be relayed to the member.

If it is considered that a prima facie case exists then NIPSA will consider whether legal funding is appropriate.

The case will be assessed by the relevant Headquarters Official under the following considerations:

- 1.** Is the legal issue of the case applicable to the broader membership of NIPSA?
- 2.** Is the case of strategic importance to NIPSA and/or its membership?

A full report is prepared to the General Council which may include a preliminary opinion. The General Council determines whether or not to grant Legal Assistance. It is important to note that a member may not approach the NIPSA Solicitors directly and must always seek Legal Assistance through the appropriate Seconded

Officer or Headquarters Official on employment matters. If Legal Action beyond that approved is required a further consideration of the case by the General Council will be necessary. NIPSA will advise the member of the General Council's decision.

Legal Action

Should legal assistance be granted the Solicitor is advised and the case then becomes his/her responsibility. Most cases progress without difficulty either to hearing or an out of court settlement.

Case Outcome

The Solicitor will account to NIPSA as to the outcome of the case.

When cases are won, settled or lost then NIPSA will meet the costs subject to the full conditions in the Regulations (as detailed in Appendix 3) having been met by the member.

Procedure and degree of Cover

The preceding paragraphs are a brief outline of the Legal Assistance (Employment Matters) Scheme, which is also linked to the Conditions for Assisting Members with Personal Cases. The Scheme itself is covered by regulations determined by the General Council, these are set out in Appendix 3, it is essential these are read in detail.



Wills

NIPSA's Solicitors provide a free Wills service for NIPSA members and their spouses/partners. The NIPSA Solicitors will be required, in each case, to take full and detailed instructions from the member and/or spouse/partner. The details requested are usually the parties' full names and addresses, the full names and addresses of executors of the Will, details of the member's intentions in relation to his or her estate and a number of other important items. A questionnaire is normally sent to the NIPSA member to complete. When this is received by the NIPSA Solicitors the Will will be drafted. The member and his or her spouse/partner will then be required to attend at the NIPSA Solicitors' office to execute the Will.

This entire process is relatively straightforward and worthwhile.

Conveyancing

NIPSA's Solicitors provide a Conveyancing service for NIPSA members. A full conveyancing service is provided to members to ensure that each transaction is as pain free as possible. Normally the member will telephone the NIPSA Solicitors and obtain a quote. Competitive rates are available for conveyancing transactions especially for first time buyers.



Appendix 1

Regulations Governing the Grant of Legal Assistance (Personal Injury)

1. NIPSA will only consider applications from its members for Legal Assistance (personal injury) in connection with civil claims relating to:
 - (a) accidents or disease arising out of or in the course of the employment of the member or accidents or disease arising in the course of representing NIPSA.
 - (b) other personal injuries that occur within the jurisdiction of the United Kingdom or the Republic of Ireland and which are the result of an accident caused by the negligence of a third party. It is important to note that the law has now changed in the Republic of Ireland and all personal injury claims are dealt with by the Injuries Board. Initially an application must be made to the IB. If the parties do not accept the assessment the case will then be put back into the court system;
 - (c) personal injuries sustained by a relative of the member in the same accident or incident as that in which the member was injured as covered by (a) and (b) above. For the purpose of defining a relative of the member it shall include a member's partner, with whom there has been an established relationship of cohabitation, and any children or other relatives domiciled with the member or for whom the relative is regarded as next of kin.

- 2.** Any applicant desiring Legal Assistance (personal injury) must apply for it to the Executive Officer (Membership Services) at NIPSA Headquarters.
- 3.** The General Council reserves the right in its absolute discretion to grant or refuse Legal Assistance in any case or to grant Legal Assistance under any conditions which it may think proper. In particular an applicant may in the first case be granted Legal Assistance limited to the costs of making enquiries preliminary to action, and the right may be reserved to review the case before proceedings are instituted and to grant or refuse Legal Assistance. It should be noted that Legal Assistance will not normally be granted for the taking of proceedings where it appears that either:
 - (a)** the circumstances are such that the applicant is entitled to financial assistance from his/her employer, or
 - (b)** the means of the applicant are such as to entitle him/her to a legal aid certificate under the Access to Justice (NI) Order 2003 without any liability to contribute any part of the costs.
- 4.** The applicant shall supply the General Council with all the information it may require and co-operate with the General Council in investigating the claim either before or after the application is considered.
- 5.** NIPSA may grant Legal Assistance to a member where the member has initially already instructed other solicitors. Legal assistance will only be granted in these exceptional circumstances on the strict understanding that the member pays his/her previous solicitor's legal costs before the transfer of the file to the NIPSA Solicitor.



- 6.** Claims should be notified at the earliest possible opportunity as delay will probably prejudice the claim and delay of over three years will probably defeat a claim. If legal proceedings are not started within three years of the date of the occurrence of an accident the claim will probably be statute barred as being out of time.
- 7.** Legal assistance (personal injury), to be granted by NIPSA, is limited to the costs and expenses properly incurred by the NIPSA's Solicitors in the conduct of the enquiries and proceedings. The applicant must refund to NIPSA out of any damages recovered such expenses as may have been incurred on their behalf insofar as these are not recovered from the third party.
- 8.** If the solicitors advise NIPSA that the applicant has a reasonably good prima facie case, but the applicant is reluctant to proceed for reasons which NIPSA, in its absolute discretion, regard as capricious or frivolous, he/she must refund to NIPSA all costs incurred on their behalf up to the date on which they state in writing to the Solicitors that they do not wish to proceed.
- 9.** Where it becomes apparent that a Member has knowingly misled NIPSA or its Solicitors after NIPSA has granted Legal Assistance (Personal Injury) and as a result NIPSA subsequently incurs unnecessary legal costs then NIPSA reserves the absolute right retrospectively to revoke the said Legal Assistance and recover its costs from the member.
- 10.** If at any stage a member retains the services of another solicitor, whilst the NIPSA Solicitor has been instructed, then that member will be liable for all costs incurred up to that time by NIPSA and its Solicitors.

- 11.** The member is required to notify the NIPSA Solicitor of any material change in circumstances relating to his or her case and in particular is required to make available to the NIPSA Solicitor any fresh evidence, information or papers which is or might be relevant to the case.
- 12.** At all times the member must co-operate with requests from the NIPSA Solicitor for information and comments and for attendance at meetings, appointments consultative hearings, etc. In particular s/he must not make false or misleading statements or engage in unreasonable conduct.
- 13.** If at any stage a member decides to involve another representative or organisation on his or her behalf or enters into negotiations on his or her case, without the knowledge and consent of the NIPSA Solicitor, NIPSA assistance will be deemed to have been terminated and NIPSA will recover its costs from the member.
- 14.** The member must not contact, speak with or write to representatives of the press or media. The member must not post any details of the case on any social media.
- 15.** In the event of Legal Assistance being granted to any applicant the General Council shall appoint Solicitors to act in the matter and the applicant shall authorise the solicitors at all times to disclose any information relating to their case to NIPSA.
- 16.** The General Council reserves the right at any time in its absolute discretion to withdraw or revoke any grant of Legal Assistance. In particular Legal Assistance may be withdrawn if the member ceases for any reason to be a member of NIPSA or is suspended or expelled from membership of NIPSA.



Legal assistance may also be withdrawn if the applicant fails to co-operate with NIPSA's Solicitors or does not follow the advice of the appointed Solicitors or Counsel. If at any stage the Solicitor or Counsel advise that a case should be settled and the applicant unreasonably refuses to accept the advice given then NIPSA has the right to withdraw or revoke any grant of Legal Assistance and seek to recover costs incurred.

- 17.** In the case of the death of the applicant, the General Council may in its discretion grant Legal Assistance to his/her personal representatives to continue any legal proceedings and to bring legal proceedings where a member has died due to the negligence and breach of statutory duty of a third party.
- 18.** Legal assistance will not normally be provided in order to enable a member to bring a civil action when the third party is also a member of NIPSA except in certain circumstances such as a road traffic accident where the third party is insured.

Declaration

To: The Northern Ireland Public Service Alliance

I hereby apply for Legal Assistance under the NIPSA Legal Assistance (Personal Injury) Scheme (hereafter called “The Scheme”) to pursue a claim for damages in respect of the accident or incident of which particulars are set out in this form.

I authorise NIPSA to handle this claim on my behalf, and in particular to instruct Solicitors to act for me. I declare that I have not already instructed Solicitors in this matter nor issued proceedings, and I undertake that I will not, except with the consent of NIPSA, settle any action or proceedings or enter into any negotiations in connection with the claim (whether with my employers, their Insurance Company, or any other person).

I have read and agree to abide by the Regulations of the Scheme as set out in the “Regulations Governing the Grant of Legal Assistance (Personal Injury)” and I understand that I must refund to NIPSA, out of any damages obtained, such expenses as may have been incurred on my behalf by NIPSA or its Solicitors, insofar as these are not recovered from any third party, and I authorise NIPSA’s Solicitors to deduct same from any sums which they may recover.

I also understand, subject to the scheme regulations and the NIPSA Rule Book that I must refund to NIPSA such expenses as may have been incurred on my behalf by NIPSA or its Solicitors if (i) the Solicitors advise NIPSA that I have a prima facie case but I do not wish to proceed with the case, (ii) if at any stage I am advised by the Solicitors or Counsel engaged by NIPSA on my behalf that the case should be settled and I unreasonably refuse to accept the legal advice given to me or (iii) if at any stage I retain the services of another solicitor whilst the NIPSA Solicitor has been instructed. (iv) if I fail to fully comply with the scheme regulations.

Further, I accept that NIPSA has the right to either revoke or withdraw Legal Assistance at any stage.

Dated this: day of: 20

Signed: (Applicant)



Appendix 2

Reporting of an Injury or Disease Contracted at Work

1. However trivial the accident or disease contracted at work it should be reported immediately to:
 - (a) your Department or Employing Authority; and
 - (b) to your local NIPSA Health and Safety Representative.
2. A claim should be submitted to the DSD, Industrial Injuries Branch. Such a claim should be submitted under the Industrial Injuries Act regardless of whether or not incapacity has been caused.
3. Ensure that, if applicable, the terms of The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (Northern Ireland) 1997 are adhered to.
4. Further information regarding these regulations is available from:

**HSENI,
83 Ladas Drive,
Belfast BT6 9FR**

Tel: 028 9024 3249

Web: www.hseni.gov.uk

Note: If in doubt contact either your local NIPSA Health and Safety Representative or your local NIPSA Representative.

Appendix 3

Regulations Governing the Grant of Legal Assistance (Employment Matters)

- 1.** NIPSA may grant Legal Assistance to any member, or retired member who, in the opinion of the General Council:
 - (a)** is involved in any action, cause or matter relating to his or her rights or duties as an employee or concerning any injury or wrong done to them in the course of or in connection with his or her employment; or
 - (b)** is involved in any action, cause or matter relating to his or her rights or duties as a member of NIPSA or concerning any injury or wrong done to them in the course of or in connection with his or her membership of NIPSA.
- 2.** The General Council has an absolute discretion to decide whether Legal Assistance may be given to a member in civil proceedings. In reaching a decision the General Council may take into account the estimated cost of granting assistance as against the estimated damages which might be obtained.
- 3.** In any case supported by NIPSA, the General Council may decide to settle in whole or part any costs, charges disbursements or other expenses incurred by or on behalf of the member (including any damages awarded against the member by a court of law or which, with the approval of the General Council, the member has agreed to pay in settlement of a claim) may be defrayed by NIPSA.



4. The General Council shall not be accountable for any such costs, charges or other payments incurred or made by or on behalf of the member without the consent of the General Council.
5. (a) In every case where an application for assistance is granted the General Council shall be entitled to nominate solicitors to act for the member and every application shall be granted on the understanding that the General Council may withdraw its support if the member does not follow the advice of solicitors and counsel so nominated.
(b) The General Council reserves the right to withdraw its support in any case where continued support might result in conflict with the policy from time to time of NIPSA. In any such case the General Council shall nevertheless indemnify the member in respect of any liabilities incurred by the member on the General Council's authority up to the date of withdrawal of support.
6. Where assistance is sought under these regulations from two or more members involved in the same dispute or other matter falling within Rule 1 above and if it appears that a conflict of interest exists or is likely to exist between any two or more members the General Council may arrange for each or any member to be afforded separate legal or other representation.
7. Where assistance has been given to a member and they subsequently cease to be a member, consideration will be given to continuing the grant of assistance, until the case is finally would up.

- 8.** In civil cases the scope of assistance is not limited in any way provided that the matter is connected with the employment of a member or his or her membership of NIPSA. Where however there is an application for assistance in a criminal case the following factors will be relevant:
- (a)** The case must be related to the members employment or his or her membership of NIPSA. Members are not entitled to assistance as of right.
 - (b)**
 - i.** Subject to (a) above where a member is concerned in a criminal case as a prosecutor, assistance may be given from the outset to the conclusion of the case.
 - ii.** Subject to (a) above where a member is or is likely to be involved in police enquiries, support may be afforded up to the time the member is charged by the police.
 - (c)** Where a member has been charged by the police the General Council may, if satisfied that the member because of his or her employment or membership of NIPSA is particularly exposed to the risk of being accused of having committed a criminal offence, guarantee the members costs up to crown court level, when the case will be reviewed should s/he be found guilty and an appeal is contemplated.
 - (d)** If an appeal is contemplated and the General Council decide that Continuing assistance is not justified the case will be reviewed following The appeal. If the member is found not guilty, his or her costs will Normally be reimbursed, but not otherwise.



- 9.** Where a member is charged by the police an application for State Legal Aid must be made as a matter of course in order to avoid unnecessary drain on NIPSA funds if NIPSA assistance is granted and to protect members interests where it is not.
- 10.** Legal assistance at Industrial Tribunals and other Tribunals will be provided only in the most exceptional circumstances and be subject to the Conditions for Assisting Members with Personal Cases (see Appendix 4).
- 11.** Legal assistance will not normally be provided in order to enable a member to bring a civil action when the third party is also a member of NIPSA.
- 12.** In addition to these regulations the member will also be bound by the conditions for Headquarter Officials and Seconded Officers assisting members with personal cases, as set out in the NIPSA Rule Book (see Appendix 4).

Appendix 4

Conditions for Headquarters Officials and Seconded Officers assisting Members with Personal Cases

- 1.** The assistance of NIPSA is available to members on matters related to their employment. Normally this assistance will be obtained from an officer or representative of the branch to which a member belongs, but the assistance of NIPSA Headquarters Officials or members seconded to NIPSA (Seconded Officers) is available on the basis set out below.
- 2.** Headquarters Officials or Seconded Officers will give a member assistance on the basis that it is consistent with:
 - (a)** NIPSA's rules,
 - (b)** NIPSA policies, and
 - (c)** good trade union practice.
- 3.** With regard to 2(a) above, under NIPSA rules assistance from a Headquarters Official or Seconded Officer cannot be given beyond initial advice and guidance, unless either:
 - (a)** the branch to which the member belongs has referred it to the Headquarters Official or Seconded Officer, or
 - (b)** after a direct approach by the member, the Headquarters Official or Seconded Officer has successfully sought the approval of the branch to which the member belongs to give the member assistance.
- 4.** The process of consultation on references to NIPSA Headquarters are set out in the NIPSA circular on "**Handling**



Branch Issues and Personal Cases” issued to branches on 11 December 1997. In accordance with that circular the branch must give the Headquarters Official or Seconded Officer full authority to conduct the case without reference back to the branch, if either of these officials is to render assistance.

5. On assuming responsibility for a case the Headquarters Official or Seconded Officer must have sufficient time to review any action to date. As a result of his or her review of the case the Headquarters Official or Seconded Officer must have authority to decide on a different course of action in consultation with the member concerned.
6. Tribunal proceedings can only be instituted by the NIPSA Headquarters/Seconded Official, cases must therefore be presented to the relevant official in a timeous manner to provide for possible consideration of a tribunal application. Under no circumstances should NIPSA or a NIPSA Headquarters/Seconded Official be named in connection with any tribunal proceedings without prior approval. NIPSA retains the absolute right not to become involved in any proceedings that do not comply with the terms of this document and the rules for Legal Representation (Employment Matters).
7. The member is required to notify the Headquarters Official or Seconded Officer of any material change in circumstances relating to his or her case and in particular is required to make available to the Headquarters Official or Seconded Officer any fresh evidence, information or papers which is or might be relevant to the case.
8. At all times the member must co-operate with requests from the Headquarters Official or Seconded Officer for information and comments and for attendance at meetings, tribunal

hearings, etc. In particular s/he must not make false or misleading statements or engage in unreasonable conduct.

- 9.** If at any stage a member decides to involve another representative or organisation on his or her behalf or enters into negotiations on his or her case, without knowledge or consent of the Headquarters Official or Seconded Officer, NIPSA assistance will be deemed to have been terminated.
- 10.** In accordance with the regulations on NIPSA's legal assistance (employment matters) if it considered that legal advice may be necessary, the case must be referred to the appropriate NIPSA Headquarters Official. Having reviewed the case s/he will decide if legal advice is needed.
- 11.** NIPSA does not normally provide Legal Representation at Tribunals, save in the most exceptional circumstances. The rules for provision of Legal Representation (Employment Matters) are detailed in the NIPSA Guide to Legal Services. Nothing in this document can set aside the rules for Legal Representation nor the ultimate authority of the General Council.
- 12.** Information or papers obtained for the purpose of legal proceedings, such as an Industrial Tribunal, must not be disclosed outside of these proceedings and must not be used for any other purpose.
- 13.** The member should not contact, speak with or write to representatives of the press or media without prior notification and consultation with the Headquarters Official or Seconded Officer.
- 14.** The assistance of Headquarters Officials or Seconded Officers is subject to review and periodically an assessment will be made of the merits of the case and the likelihood of it succeeding.



15. The assistance of a Headquarters Official or Seconded Officer may be withdrawn after a review, particularly if there has been a breach of any of the conditions herein.
16. If assistance is withdrawn the member will be informed and given the reasons for the withdrawal in writing. The member will also be made aware that s/he can ask for a further review by the NIPSA Deputy General Secretary or the appropriate NIPSA Assistant General Secretary to decide whether or not the assistance of the Headquarters Official or Seconded Officer should continue.
17. NIPSA will not meet any costs awarded against a member by a Tribunal or court or as a result of other legal proceedings. Where costs, including legal costs, have been properly authorised by NIPSA, they will be met from NIPSA funds for the period up to the conclusion of the case or the withdrawal of the assistance of a Headquarters Official or Seconded Officer.

I (Name):
(the Applicant)

Of (Address):

.....
am a fully paid-up member of NIPSA. I have read and fully understand the above conditions and I accept the offer of NIPSA to grant assistance on the conditions set out above.

Signature:
(Applicant)

Date:



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Supporting Public Servants

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