

# Confederation of British Surgery (CBS)

## Introduction

1. The name of the Union shall be the “**Confederation of British Surgery**” (referred to in this constitution as “the CBS”).
  - The CBS was established on 1<sup>st</sup> January 2017.
  - The Registered Office of the Union shall be Mallard Green, 25, Hall Garth Lane, W Ayton, N. Yorks, YO13 9JA, or such other place as may be decided upon by the Executive Council.
  - 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.
  - The need for a representative trade union seeking to protect the interests of surgeons and their extended team follows extensive discussion over some years and recently corroborated by results from a survey commissioned by the Federation of Surgical Speciality Associations (FSSA) which had a response of over 1500 surgeons and which showed widespread support for this concept.
  - The primary aim of the CBS would be to act as a trade union for surgeons and all health professionals with an interest in surgery (e.g. non-medically qualified staff who work in surgically related posts such as pump technicians, surgical care practitioners) and to look after their interests irrespective of Surgical Royal Colleges or Surgical Specialty Association affiliation.
  - Such an association would be able to involve itself in matters germane to terms and conditions of service, contracts of employment, litigation, insurance and other matters which the majority of Surgical Colleges and the Specialty Associations are effectively excluded from on the basis of their charitable status.

## Mission Statement

2. The CBS has the following mission statement:

*“The aim of the CBS is to represent the interests of individual surgeons, or members of the surgical team, with respect to terms and conditions of service, their working environment in Trusts or independent sector, and to arbitrate on their behalf in the event of employment related disputes or litigation. By protecting the interests of individual members the CBS seeks to improve patient care”.*

## **Objectives**

3. The CBS shall have the following objectives:
- So far as may be lawful, to organise, recruit and represent workers (surgeons and all members of the extended surgical team) and act on behalf of members collectively.
  - To secure the complete organisation of all workers eligible for its membership within the United Kingdom.
  - To improve the conditions and protect the interests of its members.
  - To obtain and maintain reasonable hours of labour, proper rates of wages, and general conditions of service; to settle disputes between its members and their employers, and to regulate the relations between them by the withholding of labour or otherwise.
  - To promote equal opportunities and equal treatment for all members and oppose discrimination on grounds of sex, race, ethnic origin, disability, age, sexual orientation or religion.
  - To further the interest of its members by representation in the United Kingdom, European and Scottish Parliaments or the Welsh or Northern Irish Assemblies or on Local Governing Bodies, and to employ such portion of the Funds of the Union as may be subscribed in procuring such representation.
  - To provide assistance to members when out of employment through causes over which they have no control, or through unjust treatment, or through any dispute existing between an employer and a member or members of the Union.
  - To provide legal or other assistance when necessary in matters pertaining to the employment of members, or for securing compensation for members who suffer injury by accidents in their employment.
  - To provide educational facilities for members.
  - To make grants to, and share in the management, or take control of any institution from which members may derive benefit, and to have power to render, as occasion may arise, assistance to other trade unions, and for other lawful purposes; also to provide funds for the relief of members in sickness, disablement, distressful circumstances and for their internment.
  - To compile and keep a register of all members out of employment or desirous of a change of situation and submit names to employers who are making appointments.
  - To aid in, and join with any other union or group of unions having for their objects, or one of them the promotion of the interests of workpeople within the scope of the Trade Union Acts.
  - To provide legal assistance and/or independent professional advice to members subject to disciplinary procedures, litigation in the civil or criminal courts, or GMC enquiries.
  - To do all such other things as may in the opinion of the Executive Council be incidental or conducive to the attainment of these objects.

## **Membership**

4. The CBS shall be a general union and its membership is available to all who work in surgery or in surgically related professions. Medical qualification is not a prerequisite of membership. Membership is open to all workers without distinction of race, ethnic origin, religion, age, gender, disability or sexual orientation. The CBS may grant Fellow status to suitably qualified medical Practitioners and Member status to those in Allied Health Professions.
5. The qualifications for full membership of the Union shall be as follows:
  - (a) Without prejudice to the commencing membership of the Union, all workers employed in surgery or allied professions will be eligible. A majority of members are likely to be medically qualified individuals employed as surgeons in the UK and Ireland.

Medically qualified members shall be eligible to become Fellows and use the post nominals FCBS. Non medically qualified members shall be eligible to be Members and to use the post nominals MCBS.
  - (b) The Union will be subject in due course to any modifications of constitution or practice as will make it accord with any general plan of trade union reorganisation formulated by an authority set up by or under the assent of the Trade Union Congress, and which is made applicable to all trade union organisations alike.
  - (c) Applicants must, in accordance with the Trade Union Acts, be not less than 16 years of age.
6. CBS recognises that a worker means an individual who works or normally works or seeks to work in the following capacity:
  - (a) Under a contract of employment. Most commonly this will be an employing Trust, the responsible officer of which is the CEO acting on behalf of the NHS.
  - (b) Under any other contract (whether express or implied, and, if express, whether oral or in writing) whereby he/she undertakes to perform personally any work or services for another party such as hospitals in the independent sector or those who are self-employed.
  - (c) In employment under or for the purposes of a government department (otherwise that as member of the naval, military or air forces of the Crown in so far as any such employment does not fall within paragraph (a) or (b) above.
7. Any eligible person may apply for membership by completing the appropriate application form agreeing to be bound by the rules of the Confederation and submitting it to the Confederation office or by electronic means as may be provided for via the Union's website. An applicant shall become a member when his/her application has been approved and he/she has been entered into the register of members. Such approval process will require receipt by the Union of the current contribution applicable under these rules.
8. Each member must notify the Union's membership department of any subsequent change of address, and in the absence of such notice, the Union shall be entitled to treat the address shown on that member's application form as the member's address for all correspondence.
9. Each member must notify the Union's membership department of any subsequent change of workplace or contribution category status.
10. The annual membership contribution is set at £100 for medically qualified surgeons and £50 for non-medically qualified personnel working in surgically related areas, and this contribution may be revisable yearly as agreed by the Executive Council.
11. Admission of membership is at the discretion of the Executive Council.

## Contribution and Benefits

12. 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 1 year or more months in arrears shall break continuity of membership for the purpose of the qualification required to be a member registered by the Union set out in rule 10 save where a member establishes to the satisfaction of the Executive Council that the arrears arose through no fault of that member. A member whose contributions are recorded by the Union as more than 2 years 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 Council may consider appropriate.
13. The Executive Council shall determine the period of membership necessary prior to the member attaining eligibility for benefits, and any period during which contributions are in arrears which shall remove such eligibility.
14. The Executive Council shall determine the level of contributions for each member.
15. The Executive Council shall determine the scope and level of benefits.
16. The Union may pay dispute benefit in such circumstances and on such terms as are decided by the Executive Council from time to time.
17. The Union may provide legal assistance as follows:
18. A member who is entitled to benefit who suffers injury or disease arising out of or in connection with his/her employment shall be entitled to such legal advice and representation, and on such terms, as the Executive Council may consider appropriate.
19. A member seeking legal assistance must ensure that a request in the appropriate form is lodged at the appropriate Union office in sufficient time and with sufficient information to enable the request to be considered and appropriate action taken.
20. A member who required 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 the appropriate Regional Officer. 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 Council shall consider appropriate.
21. The Executive Council may provide such additional legal advice and representation to members in accordance to paragraph 28 of this Constitution rules.
22. The Executive Council may extend legal assistance to a member who is not otherwise entitled to benefits.
23. 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 members fails to do so or provided false or misleading information or fails to act upon the advice of those appointed to represent him/her, the Executive Council may at its absolute discretion annul all legal assistance or with draw any further legal assistance to that member.
24. The Executive Council shall have discretion to provide additional benefits.

## **Obligations of Members**

25. 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.
26. 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.
27. 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.
28. 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.
29. A Member shall not bring the CBS or the profession into disrepute.

## **Finance of the CBS**

30. The financial year of the CBS shall be the calendar year but this may be changed by resolution of the Executive Council. The subscription/membership fee scale shall be set by the Executive Council. All members shall pay an annual subscription fixed by the Executive Council.

## **Meetings of the CBS**

31. The CBS shall hold an annual general meeting not later than four months after the end of each financial year. At least 5 members of the CBS or Executive Council may at any time require the Secretary to convene a general meeting of the CBS. In convening such a meeting, the Secretary shall give not less than 21 days' notice to members.
32. The meetings of the Executive Council shall be held as often as necessary at the Central Office or at such other places as may be most expedient for the transaction of the Union's business. A special meeting may be summoned on the requisition of a majority of the voting members of the Committee, which shall give six clear days' notice of such meeting, and shall state the object for which the meeting is called. No business shall be transacted other than that stated on the notice convening the special meeting. A special meeting may be called at any time when considered necessary by the General Secretary. For attendance at Executive Council meetings and for delegations within the United Kingdom, members of the Executive Council may from time to time decide, plus compensation for actual loss of wages.

## **Executive Council**

33. The affairs of the CBS shall be directed by an Executive Council comprising the five founding board members named:
  - John MacFie
  - Antony Narula
  - Nigel Mercer
  - Mark Speakman
  - Ian Winson
  - President FSSA (ex officio)

34. The Executive Council shall have full control of the business of the Union, and shall have power to do anything not inconsistent with these Rules or the Acts of Parliament under which the Union is certified as an independent trade union. In the event of any question arising on which the Rules are silent or obscure, the Executive Council shall have power to decide thereon.
35. The Executive Council may make bye-laws governing the conduct of elections including provision to phase retirements. Additional members co-opted by the Executive Council.
36. Each member of the Executive Council shall have one vote. The President shall have a second, or casting, vote in the event of equality.

### **President and Vice President**

37. The Executive Council shall, at its first meeting in each financial year, elect a President to hold office until the first meeting in the following financial year. All elections shall be by secret ballot. The Executive Council shall also elect a Vice President. No person may hold the office of President, or of Vice President, for more than three consecutive years. In the event of the President or the Vice President resigning or ceasing to be a member of the Executive Council, the Council shall have power to elect a replacement to serve for the remainder of the term, this period of office not counting for the purpose of the requirement in the previous sentence.

### **Publicity**

38. The Trade Union shall publish an annual report on its activities. This document will be published on the Trade Union's website.

### **Committees and Panels**

39. The Executive Council may establish and maintain sub-committees and project groups, and may delegate matters to them. The Executive Council may appoint technical panels to advise and assist it.

### **General Secretary**

40. The Executive Council shall appoint a General Secretary who shall be responsible to it for the management of the Trade Union and who shall also be the principal representative of the Trade Union and the principal policy adviser to the Executive Council.

### **Delegation**

41. The Executive Council and the General Secretary may delegate any of their powers.

## **Regional Structure**

### **42. General**

There shall be Regional Committees established. Regional Committee area and allocation of Branches to them shall be determined by the General Conference. Regional Committees would meet up to a minimum of 4 times each year.

### **43. Regional Committee Conditions**

Regional Committee shall adopt and operate the Model Constitution approved by the Executive Council. The Constitution of Regional Committees shall be subject to review and approval by the Executive Council from time to time as may be requisited and no Regional Committee shall amend or alter any terms of its Constitution without the approval of the Executive Council. No Regional Committee may adopt any by-law or standing order at variance with the Constitution approved by the Executive Council or at variance with these rules.

### **44. Authority and Functions**

- (a) The Authority and Functions of Regional Committees shall be incorporated within the Constitution of the Regional Committees.

Regional Committees may only exercise such powers, perform such functions and discharge such duties as may from time to time be delegated to them or each of them by the NEC or General Conference.

Regional Committees shall not instruct, authorise or permit an Officer of the Regional Committee to do any act which is contrary to these Rules, or to refrain from doing any act which he/she is required under the Rules to perform.

No Regional Committee shall have read to it any unauthorised circular or address relating to the conduct of the Union or its business or to the conduct of its Officers or members.

A Regional Committee shall on receipt of an unauthorised circular or address send both the envelope and the circular to the General Secretary immediately.

Regional Committees will have an entitlement to submit items for General and Rules Revision Conferences but this will be subject to a review after the first year by the EC and anytime after that as required by the EC.

- (b) **Regional Committee Officers**

The Officers of the Regional Committee shall be the Chair, Secretary, Assistant Secretary. The duties of the Regional Officers shall be detailed within the Regional Committee Constitution.

- (c) **Election Procedures**

- i. **Regional Chair and Secretary:** The appropriate CBS department shall invite nominations from members in a Region. The election period will be for three years. If an election is necessary, a timetable shall be published and ballot papers issued and sent to home or email addresses of all members in the region. The timetable shall aim to conclude prior to the appropriate Annual General Meeting. To be elected to these positions a candidate must have received a simple majority of the total votes cast.

- ii. **Assistant Secretary:** The election of the Assistant Secretary shall take place at the appropriate AGM. If a ballot is necessary the Regional Secretary shall act as the Returning Officer. All branches shall be eligible to vote and shall be allocated a vote in accordance with membership size.

Nominations for the post of Assistant Secretary shall be allowed from either constituency. The successful candidate will be the individual who receives a majority of overall votes, including a majority within their own constituency.

(d) **Meetings**

The Regional Committee shall meet up to four times in each year. Additional meetings shall be held if authorised by the NEC in response to a written request from a Regional Committee to meet special circumstances or emergency developments. Decisions of the meeting will be by consensus of those branches in attendance. This will be subject to a review after the first year by the Executive Council and anytime thereafter as required by the Executive Council.

(e) **Composition**

The Regional Committee shall be composed of Regional Chair, Regional Secretary, Assistant Secretary and delegates from Branches (the delegation strength of each Branch shall be detailed in each Regional Committee Constitution).

(f) **Conferences**

Regional Secretaries when they are not Branch delegates shall attend the General Conference and Industrial Conferences in an ex-officio capacity having the right to speak but not vote. They may participate in the discussion at General Conference or Industrial Conferences on the specific request of their Regional Committee or of a Branch within that Committee.

(g) **Financial Arrangements**

When attending meetings of the Regional Committee or engaged on other authorised Union business, the Chairs, Secretaries, Assistant Secretaries may be paid travel and subsistence entitlements.

**Right To Be Accompanied – Section 10 of the Employment Relations Act 1999**

45. All members have the right to be accompanied at a grievance and discipline hearing by a Badged Trade Union Officer.
46. CBS maintain that it does not intend to badge members as officials so that they can make use of Section 10 of the Employment Relations Act 1999, to accompany works for commercial gain.

**Workplace Representation**

47. At each workplace, the members employed at that workplace, shall elect from amongst themselves, at least every two years, one or more of the following representatives: Workplace representatives; Safety representatives; Learning representatives; Equality representatives.
48. Election to one representative role shall not preclude election to another such role within the same workplace.
49. The method of election shall be by such means as authorised by relevant guidance which shall be issued by the Executive Council from time to time.



50. The Executive Council may group workplaces together for the purposes of representation where the number of members at each workplace is so small that representation and bargaining for the individual workplaces is not, in the opinion of the Executive Council, practicable.
51. The constituency of a workplace representative shall be the workplace from which they were elected, or such grouping of workplaces as was defined by the Executive Council.
52. Following election of a workplace representative, the appropriate Regional Officer shall be informed of the election by the elected representative without delay. The Regional Officer shall ensure that the Regional Industrial Sector Committee and the Union's membership department are informed of the date of the election and the identity, constituency and contact details of the elected workplace representative.
53. The Executive Council may issue guidance on the powers and procedures of the Regional Industrial Sector Committee in relation to ratification of such election. The Regional Industrial Sector Committee shall ensure compliance with such procedures.

### **Legal Services**

54. At CBS we recognise that one of the key reasons members will join the union is to benefit from the legal services which may be provided. We aim to provide a full range of legal services, such as employment related advice and representation, help plan the future by providing a will writing service, Powers of Attorney and Living Wills and seeking personal injury compensation.
55. Some of the services provided are free, some are provided at a discounted rate.
56. All our services will be provided by expert legal advisers from a panel of law firms instructed by CBS.
57. CBS will ensure that the law firms have extensive work experience working with unions; return 100% of compensation awarded to members in their claims; use law firms that understand the member workplace; law firms that have a close relationship with CBS and its activities.

### **Revision of the Constitution**

58. This Constitution shall be amended by the CBS provided that at least 75% of the members of the CBS present at the meeting vote in favour of amendments of which prior notice has been given.

### **Funds**

59. The General Secretary and employees of the Union authorised by him/her shall subject to the endorsement of the Executive Council have authority to open and operate such bank accounts on behalf of the Union as he/she may consider appropriate.
60. The funds of the Union may be used in accordance with the provision of these rules for the payment of provident benefits as defined in Section 467(2) Income and Corporation Taxes Act 1988, as that section may be amended, consolidated or re-enacted from time to time. Such provident benefits shall include the provision of legal advice and assistance.
61. No member shall be entitled to sums in excess of the limits set out in section 467(1) of the Income and Corporation Taxes Act 1988 as that section may be amended, consolidated or re-enacted from time to time.
62. There shall be a provident benefits fund which shall only be used for paying provident benefits expressly authorised by these rules.

63. The Executive Council shall publish an annual financial report providing details of the Union's income and expenditure in the previous year.
64. The Executive Council shall cause to be kept proper accounting records with respect to the Union's transactions, assets and liabilities and establish and maintain a satisfactory system of control of its accounting records, its cash holdings and all receipts and payments in accordance with Sections 28 and 29 of the Trade Union and Labour Relations (Consolidation) Act 1992.
65. The Accounts of the Union shall be audited at least once a year. The auditor shall be qualified in accordance with Section 34 of the Trade Union and Labour Relations Act (Consolidation) 1992. The appointment and removal of the auditor shall be subject to the provisions Section 35 of the Trade Union and Labour Relations (Consolidation) Act 1992.
66. No member or members, or Branch, or any committee of members shall be permitted to use the name of the Union, or any machinery of the Union, in connection with any appeal for funds or establishment of any subsidiary benefit connected with a Branch, unless the conditions stated hereunder are accepted and the requisite official sanction obtained:
67. That the accounts of such funds and all documents in connection therewith shall be open at all times to inspection by the Union accountants.
68. That in the case of a regional or local appeal, the permission and sanction of the Regional Committee shall be first obtained, and thereafter is subject to the endorsement of the Executive Council.
69. That in the case of a national appeal, the permission and sanction of the Executive Council shall be first obtained.
70. Where such funds are properly raised they are included in the consolidated accounts of the Union.
71. In accordance with Section 30 of the Trade Union and Labour Relations (Consolidation) Act 1992, any member of the Union has the right to access to any accounting records of the Union which are available for inspection and which related to periods including a time when that person was a member of the Union.

### **Assets and Trustee Provisions**

72. All property of the Union shall be held by a trustee company specified by the Executive Council (hereinafter called the Trustee Company) in trust for the Union in accordance with the provisions of these rules. For the avoidance of doubt, the property of the Union includes all funds and assets of the Union and its constituent bodies.
73. The Trustee Company shall invest, dispose of, or otherwise deal with the funds and other assets of the Union in accordance with the instructions of the Executive Council. Subject to the provision of these rules, the Executive Council shall have complete discretion how to instruct the Trustee Company to invest, dispose of or otherwise deal with the property of the Union.
74. The Trustee Company is the trustee of the Union.
75. The Executive Council may appoint and remove a second trustee where necessary to facilitate disposal of Union property, and solely for such purpose.

## **Expenses**

76. A lay member engaged on Union business shall be entitled to such reasonable expenses and in such circumstances as may be decided by the Executive Council provided that the method of calculating such expenses and any subsequent alteration thereto must be reported to and shall cease to have effect unless ratified by the next Policy Conference of the Union.

## **Political Organisation**

77. The CBS will not be affiliated to any particular political party.
78. Neither the Union, nor any constituent part of the Union, shall affiliate to or give support to the candidates of any political party.
79. No portion of the Union's funds (local or national) shall be expended either directly or indirectly under this Rule or otherwise in furtherance of any of the political objects defined in the Trade Union and Labour Relations (Consolidation) Act 1992 as amended, and set out in Section 1 (a) of Rule 35, (Part 1 of the Rule Book), unless and until the provisions of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended, have been complied with and Rules under the Act are duly in force.

## **Membership Discipline**

80. A member may be charged with:
- (a) 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, a holder of a lay office or a representative of the Union.
  - (b) Being a party to any fraud on the Union or any misappropriation or misuse of its funds or property.
  - (c) 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.
  - (d) Inciting, espousing or practising discrimination or intolerance amongst members on grounds of race, ethnic origin, religion, age, gender, disability or sexual orientation.
  - (e) Bringing about injury to or discredit upon the Union or any member of the Union.
  - (f) Obtaining membership of the Union by false statement material to their admission into the Union or any evasion in that regard.
81. Disciplinary Hearings shall be organised and conducted under directions issued by the Executive Committee. These directions ensure that the process is fair and conducted in accordance with the principles of natural justice.
82. A charge under this rule may be heard by the Executive Council or delegated to a Regional Committee.

### **Official Announcements**

83. The Union shall maintain a website and posting information on this website shall be the official means of making announcements to members on matters of general interest concerning the affairs of the Union.

### **Balloting of Members and Industrial Action**

84. The Executive Council, a Conference or a properly convened Branch Meeting may in furtherance of the Union's objectives decide to authorise, endorse, call or take industrial action, including strike action. All such action must be within the law and in accordance with, and in compliance of, all statutory obligations, inclusive of ballots, etc. Where a Branch decided to take action to protect immediate local interests, the General Secretary and Executive Council must be informed.
85. It is important to confirm that nothing contained in these Rules empowers a Branch or any other person, committee, group or body of persons to authorise, endorse, call or take industrial action without there being a statutory ballot and compliance in all other respects with the requirements of Part V of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended or replaced from time to time.

### **Voluntary Dissolution**

86. The Union may be dissolved by a resolution supported by not less than 80% of votes cast in a postal ballot of all the members.
87. After discharging all debts and liabilities, the remaining assets of the Union, if any, shall be distributed equally between the members at the date of dissolution unless the members when voting for dissolution shall have resolved to the contrary.

**SCHEDULE OF Foundation Members**

<b>No.</b>	<b>NAME</b>	<b>ADDRESS</b>	<b>DATE</b>
	Professor John MacFie	25 Hallgarth Lane, West Ayton, Scarborough, YO13 9JA	<b>31 May 2017</b>
	Mr Graham Cooper	Brough House Barn, Brough, Bradwell, Derbyshire, S33 9HG	<b>31 May 2017</b>
	Mr Nigel Mercer	15 The Keg Store, 1 Bath Street, Bristol, BS1 6HL	<b>31 May 2017</b>
	Professor Antony Narula	Loddon Reach House, Loddon Drive, Wargrave, Berkshire, RG10 8HL	<b>31 May 2017</b>