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Circular: 2019HOC0350AD

28 June 2019

**TO: ALL MEMBERS**

Dear Brother / Sister

**DECISION OF EXECUTIVE COUNCIL WHICH IS SUBJECT OF AN APPEAL: DEBARMENT OF EXECUTIVE COUNCIL MEMBER**

Many of you by now will be aware that a meeting of the Executive Council took place on 12 June 2019 to hear a case brought in accordance with the FBU's internal union disciplinary procedures (IUD) in respect of an Executive Council member, Brother Paul Embery.

The case comprised six complaints, four of which were found to be justified and two were dismissed as the executive council concluded that there was insufficient evidence. In respect of the four justified complaints, a range of penalties were awarded. These included a fine, two reprimands and, in respect of one complaint, the penalty awarded was to debar Brother Embery from office for two years.

In circumstances where a penalty of debarment is awarded, an Executive Council member has a right of appeal to the union's conference which may be an ordinary meeting (generally held in May) or an especially recalled conference.

The rules are very clear that a decision to debar an official will not be implemented until such time as an appeal has been heard (or the time limit for lodging an appeal has expired). For the avoidance of doubt, Brother Embery has not been debarred from office, his status is one of suspension until his appeal has been heard. This was brought to Brother Embery's attention at the hearing on 12 June and was confirmed in writing on 14 June.

Head Office has today received a notice of appeal from Brother Embery. Brother Embery has previously been notified that in the event of an appeal being lodged that it would be heard at a recalled conference to be convened in line with the requirements of the rules and the organisational steps that would need to be put in place. Arrangements are in hand to convene that recalled conference.

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## **INFORMATION TO MEMBERS**

IUD cases in the FBU are not common. Rarer still is the outcome reported widely within the union or information provided to those with no direct involvement in the hearing of the case or who are not impacted by the decision.

Correctly, the Union is prevented from circulating material or lobbying in order to convince anyone hearing the case to make a decision for or against the Defendant/ Appellant. Those hearing the case, whether at first hearing or an appeal, must be left to consider the documentation, the facts and presentation(s) objectively without interference from any party. This requirement also applies to all officials of the union so as to ensure a fair process.

We believe it is wrong for the union or anyone else, including the Appellant, to make any comment which might influence or sway those who could be called upon to hear an appeal. Understandably members want to know more details but quite rightly, in order to respect the IUD process, Head Office have refrained from providing that information and it would have been wrong to do have done so, even in the face of a great deal of provocation and the circulation of misinformation.

I have no doubt that it has been frustrating for the vast majority of members and officials who instinctively know that this Union does not pick on people and would have been meticulous in ensuring that the any member or official would be treated fairly and justly.

In ordinary circumstances, a short notice of the outcome with some brief details would have been reported to the membership. However, this case has been the subject of a great deal of social media comment instigated and prolonged, I am disappointed to say, by Brother Embery himself. The matter has also received attention in the mainstream media notably an article in the Daily Express and others in the Daily Mirror which were misleading. In response to media enquiries received by head office, we took the decision to issue a brief and measured media comment which confined itself to the following remarks and was not issued as a media release- it was only provided to journalists who made enquiries:

*“The Fire Brigades Union stands by its procedures and policies in relation to elected officials. The disciplinary process is ongoing, there is a right of appeal and the union will respect this part of the process. To ensure that all parties are treated fairly, the union will not be commenting any further.”*

Because the enquiries became more detailed, the comment to the media was updated; however it remained measured and continued only to be supplied to journalists who made enquiries:

*“Paul Embery faced a number of disciplinary matters concerning his role as an official of the union, which resulted in a number of sanctions, including being disbarred from holding office for two years. As stated in the union’s rules and procedures, disciplinary matters relating to elected officials are dealt with by the Executive Council.*

*The union stands by our procedures and policies in relation to elected officials. There is now a right of appeal, and we will continue to respect the ongoing disciplinary process to ensure that all parties are treated fairly. For this reason, it would be unfair to comment more fully on the allegations made against Paul Embery.”*

Whether the misinformation and false impression was imparted by design or by accident is a matter for members to judge for themselves.

It is wrong to provide information other than basic factual details because union officials at any level should do nothing to compromise the objective consideration that would be given by the delegates to our recalled conference. We have never done so before and we are not going to do so on this occasion.

It is a given that not only should no-one “noble the jury” but that everyone should do everything possible not to allow any suspicion to arise that anyone has attempted to do so. Members know that it is a fundamental principle.

**THE CASE WAS NOT BECAUSE OF BROTHER EMBERY’S POLITICAL BELIEFS, HIS VIEWS ON BREXIT OR HIS AIRING OF THOSE VIEWS**

For the reasons explained above, this circular will not provide any information in relation to the matter which will be considered, properly, at the appeal hearing. However, there has been much comment on social media and in the press stating that Brother Embery was disciplined for speaking in favour of leaving the EU and against remaining in the EU. This is totally false.

**None of the complaints against Brother Embery were made because of his politics, his views on Brexit or his airing of those views.**

**BROTHER EMBERY SOUGHT ASSURANCES THAT CONFIDENTIALITY WOULD BE MAINTAINED AND NOTHING WOULD BE DONE TO INTERFERE IN THE PROCESS**

FBU officials know that a hearing must be fair; heard without prejudice; objective and not pre-judged. Brother Embery sought assurance that confidentiality would be maintained in relation to his case. He contacted head office officials on 14 June 2019 and amongst other matters wrote:

*“I would also ask you to confirm that EC members should not discuss the details of the case within their regions in advance of any appeal to conference, and that this would be made clear to them by you. Plainly delegates to conference could not be 'mandated' on a discipline case - they should make a decision on the merits of the case as it is presented to them at annual conference.”*

In order to comply with this request, the Executive Council was immediately contacted as a group by the Assistant General Secretary. The message stated:

*“Dear all*

*This whatsapp [sic] group continues to include Paul Embery as his status is one of "on suspension" not debarred in line with Rule G2(6).*

*Though no appeal has been lodged we have to assume that one will be.*

*Paul has contacted head office and asked that the following is undertaken:*

*“I would also ask you to confirm that EC members should not discuss the details of the case within their regions in advance of any appeal to conference, and that this would be made clear to them by you. Plainly delegates to conference could not be 'mandated' on a discipline case - they should make a decision on the merits of the case as it is presented to them at annual conference.”*

*Though stating the obvious, I am (clearly) happy to do so.*

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*Equally, whilst I am aware that there has been a series of tweets (containing misleading content) that has been circulated on one Twitter account I am sure that you can be relied upon to make best efforts to ensure that the matter is not not [sic] subject of discussion or comment on social media.  
A”*

In short, at all times, the union has fully complied with the letter and spirit of the rules which govern all members.

**NEXT STEPS**

As above, the arrangements are now in hand for a recalled conference to be convened where the appeal will be heard. Members will be kept informed of developments.

Best wishes.

Yours fraternally

A handwritten signature in black ink, appearing to read 'Andy Dark', with a stylized, cursive script.

**ANDY DARK**  
**Assistant General Secretary**

AD/jh