Wear the badge on the outside.
Feel the pride on the inside.
‘Working within the scope of your role, promoting equality and diversity, recording your activity and developing your skills and knowledge’
## CONTENTS

Section 1: Introduction and Overview .................................................. page 4

Section 2: Signposting Activities......................................................page 7
  First steps....................................................................................page 7
  Signposting members to information as required......................... page 8

Section 3: Organising and Campaigning Activities .............................. page 10
  Organising in the workplace – working with your Brand ............ page 11
  Recruitment ..............................................................................page 12
  Contributing to RCN campaigning activity.................................page 13
  RCN Congress............................................................................page 13

Section 4: Supporting and/or Representing Activities............................ page 14
  Representing members..............................................................page 14
  Representing skills ....................................................................page 18
  Planning and preparation – define the objective ......................... page 20
  Representation – investigatory meetings and interviews ............. page 23
  Representation – grievances and disputes .................................page 25
  Representation – disciplinary action ....................................... page 27
  Representation – sickness absence and ill health .....................page 31

Section 5: Questioning and Influencing ............................................. page 37

Section 6: Conclusion........................................................................page 40
SECTION 1: INTRODUCTION AND OVERVIEW

Introduction

Congratulations and thank you for becoming a steward for the Royal College of Nursing (RCN).

As an RCN steward you will make a difference to the working lives of RCN members as well as opening up new opportunities for yourself.

You are now part of a national network of active members; safety representatives, learning representatives, branch officers and forum members who are working in every part of healthcare, both in the private and public sector.

With a membership of over 430,000 registered nurses, midwives, health visitors, nursing students and health care assistants, the RCN is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent and voluntary sector. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the government, the UK parliaments and other national, European and international political institutions, trade unions, professional bodies and voluntary organisations.

As a steward you are offering essential support to RCN members.

You will have undergone a quality-assured programme of learning and development designed to ensure that you not only have the right skills to be a representative but, more importantly, you are able to apply those skills in a range of circumstances. Continuing learning and development will be offered to you and it is important that you take up as many opportunities as possible to remain updated and to keep the confidence of your members and your RCN Branch.

This is called ‘Active Representation’ and includes

- signposting
- organising and campaigning
- supporting and/or representing
- questioning and influencing.
Being an RCN steward is not only about representing members in discipline and grievance procedures. It is equally as important to ensure that we are negotiating with employers on a wide range of employment issues and that we are challenging poor employment practices and praising good ones.

The UK stewards’ national committee (UKSC) supports an electronic resource for all representatives. This resource offers current and responsive material, and is updated regularly to support your role in a dynamic and challenging workplace.

This handbook provides the supporting resources for the Stewards’ pathway. It has been developed from the most current information available but, like all things, events may necessitate updates so it is important to continue to check for any developments. Keep an eye out for individual updates on specific items either through the RCN website, your RCN country/region, the employment relations department or from the UK Stewards Committee.

We appreciate that you are willing to give up some of your time and energy to offer essential support that affect the lives of both colleagues and ultimately patients. It is therefore our responsibility to support you in the best way possible to undertake your role.

You have been elected by RCN members as their representative. They have confidence in you to support them in the workplace and to listen and take their concerns forward. As you are now an accredited trade union representative you are legally entitled to ‘facility time’ (paid time off for trade union duties). You are also entitled to time off for trade union ‘activities’ without pay. The phrase ‘time off’ does not truly reflect what you will be doing. In general it is more accurate to describe this as time away from the workplace. Information from ACAS on facility time can be found here:

If you work in the NHS Section 25 ‘Time off and facilities for trades union representatives’ sets out how such facility time agreements might be constructed. In Scotland the Staff Governance Standard applies and this also covers ‘facility time’.


We will do everything we can to support you in this role. Your conduct and behaviour should always be in line with the RCN Dignity Charter. It is vital to remain professional in your role as an ambassador for the RCN and its members.


The RCN simply could not function without its representatives and each of you is integral to the work that we do as the largest professional nursing union in the world.
SECTION 2: SIGNPOSTING ACTIVITIES

No-one can know everything.

While many issues that members (or employers) may raise with you are straightforward, there will be much that you do that you may not have full information on. As an RCN steward you will be involved in a much wider range of issues than you may have seen as a nurse or health care assistant/associate practitioner (HCA/AP). It is important to give the right information, or just as importantly, know where you can get the correct information.

You will not be able to take on every issue yourself, that’s why it will be important to empower members to do as much for themselves as possible with the RCN’s support. In the majority of cases members may just want ‘information’ and once they have it they can manage their issue themselves. Others will need specific information that may need to be collected from various sources and once they have it they may need your advice as to what to do next.

First steps

Whilst you have been elected by your work colleagues you will also be known to other RCN members as an RCN representative. That means that you will want to ensure that you are visible to your members. Your links to local members will be critically important to engaging them in campaigns the RCN is running locally and nationally, as well as giving you an early alert to emerging matters that you need to inform the RCN about. Ways that you can do this include:

- walking around your workplace and making sure that members know your face and how to contact you for information and support. Such regular visits may nip many issues in the bud
- keeping the RCN notice board up to date with your contact details and current information. Ask your regional/country communications officer to provide you with an ‘I am your rep’ poster.
- attending RCN Branch meetings. This will also make sure you are interacting with your Branch executive who can be very helpful if you need to contact members by email
- making contact and working with RCN safety representatives and learning representatives in your workplace. Many issues that members come to us with can be multi-facetted and benefit from the input of fellow representatives with specialist skills and knowledge
- getting involved in member and representative recruitment activity.
Signposting members to information as required

The RCN has many ways in which important information can be accessed by representatives and members.

- **The RCN website**
  This gives the latest information on the RCN, employment issues and health care issues.
  ⚬ [www.rcn.org.uk](http://www.rcn.org.uk)

- **The RCN Representatives website**
  This is contained within the RCN website, with a separate log in system for representatives. Here you will find specific information for Representatives.
  ⚬ [www.rcn.org.uk/get-involved/rcn-reps](http://www.rcn.org.uk/get-involved/rcn-reps)

- **RCN Direct**
  RCND is the first point of contact for members for information and support. If RCND believe that a member needs support they will refer that person to their country/regional office. RCND also keep and maintain numerous advice sheets on nursing, employment law, the Nursing and Midwifery Council (NMC) and pensions. It is likely that if a member is asking you something someone else has already asked RCND.
  ⚬ [www.rcn.org.uk/direct](http://www.rcn.org.uk/direct)
  ⚬ 0345 772 6100

- **RCN Employment Relations Update**
  The ERD department circulate updates regularly to RCN Countries and Regions on developing issues in employment relations, NHS pay and terms and conditions, wider employment issues affecting both the public and private sectors and pensions. ERD also gives up-to-date information on changes to pay, terms and conditions, and employment issues on its section of the RCN website.

- **The NMC**
  It’s not just employment issues that members will raise with you. They may well want to know about their position as a professional nurse, revalidation, fitness to practice and the scope of the NMC Code. As each nurse is personally accountable for their professional registration and development they must also ensure that they keep themselves updated on a regular basis.
  ⚬ [www.nmc.org.uk](http://www.nmc.org.uk)
• **Advisory, Conciliation and Arbitration Service (ACAS)**
  This is a highly respected service dedicated to good employment relations in the workplace. Whilst ACAS are often involved in high profile industrial disputes this is only a small part of their total work. They publish guides on many areas of employment relations and while these guides may not be legally enforceable they undoubtedly reflect best practice in employment relations.
  ⚙ [www.acas.org.uk](http://www.acas.org.uk)

• **Labour Research Department**
  As an activist you can access information from LRD.
  ⚙ [www.lrd.org.uk](http://www.lrd.org.uk)

• **RCN on-line library**
  ⚙ [www.rcn.org.uk/library](http://www.rcn.org.uk/library)

• **RCN publications**
  The RCN publishes widely on a whole range of nursing issues. This includes employment issues as well as specific RCN advice/recommendation on topical nursing issues. All publications can be freely downloaded from our website and some are available in hard copy form.
  ⚙ [www.rcn.org.uk/publications](http://www.rcn.org.uk/publications)

Giving information to members should not be the end of the matter. You will want to ensure that members reflect on the information and, if needed, can contact you again should their issue remain unresolved.
SECTION 3: ORGANISING AND CAMPAIGNING ACTIVITIES

The most important structure in the RCN is the RCN Branch network. All RCN member activity is focused here so it is the source of authority for you as a steward and you are accountable to the Branch in your role as a representative. It is vital that RCN representatives maintain regular contact with their Branch Executive and Branch members. Many branches cover a wide geographical region and the RCN understands that representatives may not be able to attend all meetings. In this situation representatives should keep in touch with the Branch Executive. It is important that the Branch know that representatives are active in their work.

It is also important to ensure that the Branch are aware of any decision you make to continue as a representative. It is the Branch that will confirm each representatives’ accreditation on an annual basis.

Other key groups in the RCN are:

- **The Membership, Representation Committee (MRC)**
  The Membership, Representation Committee oversees the RCN’s work on representing nurses and nursing, and protecting nurses’ terms and conditions of employment in all sectors. MRC is made up of RCN Council members and the Chairs of the national committees.

- **The Trade Union Governance Group (TUGG)**
  TUGG represents the views of the RCN representatives to MRC. The UK Stewards, Safety and Learning reps committees are accountable to Council through TUGG on trade union governance issues. TUGG ensures that the UK committees work within the reporting and decision making framework and that the work of the UK committees reflects the strategic objectives and priorities of the RCN. TUGG ensures that good governance, financial processes and practices are adhered to by the UK committees.

- **UK Stewards’ Committee**
  The Committee provides a network for the feedback of information to and from local stewards. The Committee advise on the RCN’s position and responses to national employment issues. The Committee is made up of elected representatives of stewards from each national and regional section and the committee member for your region will want to include you in their regional steward network. You can find out who your regional/country representative is from your RCN region/country office.
• **UK Learning Representatives Committee**
  Council established this committee following a Congress debate in 2004. Learning Representatives support members in the workplace through professional education support and advice. The Committee is made up of an elected representative of learning representatives from each national and regional section.

• **UK Safety Representatives Committee**
  The Committee provides a network for the feedback of information to local safety representatives and Boards and advises on the RCN policy on health, safety and welfare. The Committee is made up of an elected representative of safety representatives from each National and Regional section.

**Organising in the workplace – working with your Branch**

In order to represent members and the RCN properly you should ensure that you:

- know how many members the RCN has and where they work
- know the names of the Branch Chair, Treasurer, Secretary, and Public Relations Officer
- are aware of the dates of your Branch meetings. Ideally these should be set 12 months in advance so that members can plan their attendance
- have a good understanding of the profile of the workforce; how many registered nurses, HCAs and APs are employed? How many of these are already in the RCN and how many might be prepared to join the RCN if asked. What other unions also recruit members in your workplace – how might you market the RCN as the ‘professional organisation/union of choice’ to non-RCN members
- work together with RCN Safety and Learning Representatives on developing joint activities showing the range of support that the RCN can give to members
- understand what the ‘RCN offer’ is to non-members, for example, what it is about the RCN that can benefit all nurses, HCAs/APs if they join. The RCN is more than a ‘trade union’ and more than a ‘professional organisation’. It is bigger than just a ‘professional union’. The RCN is an organisation that brings together the interests of nurses and patients.
**Recruitment**

The importance of recruiting and retaining members featured strongly in your learning and development in becoming a representative. A larger membership means more influence both with your employer and employers nationally.

Potential new members will ask you why they should join. For the key messages on the value of RCN membership and helpful materials go to the recruitment section of the Activist Zone.

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**Top tips on recruiting members**

- Wear your RCN badge.
- Consider making a presentation at hospital/employer induction days.
- Remember the RCN is an independent trade union as well as being a professional union.
- Make sure your human resources department know who the RCN representatives are in each department.
- With the support of your Branch develop an RCN induction pack for new staff.
- Make student nurses and trainee HCAs/APs aware of the RCN when you meet them.
Contributing to RCN campaigning activity

The RCN is a ‘member-led’ organisation. It is individual members who decide the direction of the organisation through a democratic process.

RCN members elect Council Members, Board Members, the RCN President and in the workplace RCN representatives. Through this process the RCN pursues issues in the interests of members and for this to be successful RCN members should be encouraged to engage in campaigning, Branch activity and RCN elections. You have a vital role in doing this. Members are the RCN’s most important resource, engaged members ensures a stronger organisation.

This can be done in a number of ways:

1. By members taking up issues with RCN Representatives.
2. By RCN Representatives bringing issues to the attention of their country/region.
3. By RCN members bringing issues to the attention of their Board or Council Member.
4. By all members engaging with RCN campaigns. This might involve just giving information to RCN staff or might involve active engagement in political campaigning, for example, contacting their MP/AM/MLA/MSP.

It is important to stress to members that they themselves ‘own’ any campaign. Campaigns are agreed, developed and promoted through the member-elected RCN Council. RCN staff support RCN Council to deliver Council objectives on behalf of the membership.

RCN Congress

RCN Congress is the annual meeting of RCN members to debate issues and to engage in educational and professional activity. All issues discussed at Congress come from RCN members either through branches or forums. This is an opportunity for issues that are of interest or concern to the Branch to get a national (and international) profile.

As an RCN representative you might wish to put forward an idea for a Congress item to your Branch. If not, you might prefer to support others in doing so. Another option is to ask your regional representative on the Stewards Committee to consider putting forward an item under their name. RCN staff will always be available to help you think through your ideas and collect information to support your proposal.
SECTION 4: SUPPORTING AND/OR REPRESENTING ACTIVITIES

A key element of the work of an RCN representative is representing and supporting individual members to improve their workplace conditions. This section deals with representing and supporting individuals. Section 5 looks in more detail at your collective activity on behalf of your members as a group.

Representing members

There is a Case Management Protocol for RCN stewards.

As part of the protocol, members are provided with the *On the Case* leaflet, which clearly sets out their rights as members and your rights as an RCN representative, so as to ensure that everyone is clear about what they can expect and what will not be accepted by the RCN and its representatives. It is important to be familiar with the contents of the leaflet and an overview is set out here.

Members have a right to receive RCN support, guidance or representation, regardless of:

- their race, colour, ethnic or national origins, sex, creed or sexual orientation
- any complaint that they may have previously made about the RCN.

Members can expect you to use your best endeavour to promote their interests, regardless of your own personal beliefs. However, if after careful consideration (and in discussion with your local RCN officer) you feel you cannot support a member’s request for advice or representation, the matter should be passed to a member of RCN staff (usually through your local RCN office). If the RCN feels that it is unable to support a member, then we will give the member a clear and detailed explanation as to why.

Members may wish to meet with you to discuss their circumstances, and bring another person along with them for support. This should not be unreasonably discouraged, as in most cases it may help you to get the information across to the member, particularly if they are upset or distressed. However, if the companion compromises your discussions with the member, you are entitled to request that the member reviews their decision to have a companion present.

As an RCN representative, you also have rights in respect of representing members and the RCN reserves the right to decide the nature and extent of the support that it can provide in each and every case, as well as who will deliver the
service. In certain situations the RCN will decline to provide or deliver support, these circumstances include:

- if the member engages in threatening or abusive behaviour towards others
- if the member harasses you or any member of RCN staff
- if you believe or know that the member’s case is based on untrue or unfounded statements

Seek advice from your mentor or country/regional office should you encounter any of the above.

The RCN will not provide support or advice on any matter that took place before the member joined the RCN, with the only exception to this being a free 30-minute telephone advice service.

**What will RCN members ask me?**

As an RCN steward you will never quite be sure what you will be asked next. But don’t worry, although you will pick up a lot of expertise, you are not expected to have all the answers. What matters is that you know how to get more help when you need it. Your RCN officer is always on hand.

**Statement/Statement of case**

Statements are an essential part of representation. It is often the case that at some point those involved in the incident will be asked to provide a written statement. The first step is often a discussion with a manager/nurse lead. When there has been an adverse incident and there is a need to establish what happened the focus should be on safety and understanding what happened – in this circumstance it may be expected that the nurse account for their actions.

There are some key points to note:

- an RCN member should be allowed to discuss their statement with you, their representative, first – they must never be coerced into making an immediate statement by their manager
- statements should be simple, clear and factual
- always ask for copies of statements taken by managers.

If the statement relates to an incident reportable under the RCN’s indemnity insurance scheme (usually related to a death/serious injury to a patient which may lead to criminal or civil action), you must refer the member to the advice on the RCN website.

*www.rcn.org.uk*
**Police involvement**

If the police are involved and require a statement from the member, then you should advise the member to complete the application for criminal legal assistance via the website or by contacting RCND. The member must make clear to the police that this is happening and that they expect to be accompanied by a solicitor during any police interview.

If the police require a statement immediately from the member, then you should advise the member to attend the police station and request to speak to the duty solicitor. Advise the member to take the full details of the duty solicitor. Increasingly, members are requested to make statements ‘under caution’, particularly in circumstances where there is an allegation of fraud, or a matter is being investigated by the local counter-fraud team. Under these circumstances you must advise the member in accordance with the notes above for police interviews, as evidence given under caution is admissible in legal proceedings.

**Guidance on writing a statement**

(The following uses an example of a clinical incident.)

The person writing the statement, and you, as the representative supporting them, should ensure the following.

1. The reader of the statement knows nothing of the facts of the case, the patient’s medical history or hospital routines. The statement will therefore be an account which the lay person will understand as being the circumstances of the issue as you remember them.

2. If possible, have the statement typed. If not, write neatly in black ink or ballpoint as it will be photocopied, probably more than once. Short, precise paragraphs are easier to read than long ones.

3. Always ensure the member has signed the statement and given their full name and job title below your signature together with the date on which it was signed.

4. The statement should begin with who the writer is, their qualifications, and relevant additional qualifications and experience.

5. Briefly detail the work area concerned (for example, a 24-bedded medical ward), the writer’s responsibility at the time in question, the number and dependency of patients in their care and what the members experience was of working the shift that time.

6. When referring to other people be precise about the capacity in which they were working, their responsibilities and give their full names and job titles.
7. Be clear about the times the member was on and off duty on the day(s) in question and about what they saw and heard. Put the events in the order in which they happened, giving full and precise dates (for example, 21/08/2015) and times – hours and minutes (being careful to use either the am/pm or the 24-hour clock).

8. When describing hospital procedures explain what they are. Avoid general statements such as, “routine observations were made”. If normal procedures were not followed, explain first what is normal and then why there was a departure from the accepted procedure.

9. If a patient is referred to, use initials only, or refer to patient A, or Mr B.

10. Stick to facts and avoid expressing opinions.

11. Write the statement in simple terms and avoid jargon or official language, be as brief as possible while covering all the essential points.

12. Number the pages and paragraphs.

13. End with, “This statement is a true recollection of the facts as I remember them.” You can qualify this by adding that it is made x number of days/weeks after the alleged incident.

14. Double check your statement before signing it. Make sure you keep a copy because you might be required to give oral evidence at an inquest or in a court.

15. Remember – if the statement relates to an incident reportable under the indemnity insurance scheme, (usually related to a death/serious injury to a patient which may lead to criminal or civil action), do not submit it to the employer until it has been approved in writing by or on behalf of the RCN insurers.

16. Remember – if the police want a statement, advise the member to make an appointment to attend the police station and contact RCND or complete the criminal assistance application on the website.

17. Remember – if the police require an immediate statement, attend the police station to give it and ask for the duty solicitor. When in doubt, contact your RCN steward, regional office or RCN Direct.
**Representation skills**

Representation of members is a key element of your work as an RCN steward. It is one of the main reasons why members join the RCN.

Members generally want:

- immediate advice and support
- support with researching their case
- representation as an individual or group.

You must be prepared to offer help and advice to all members, regardless of whether you think they will be successful in their desired outcome. Do not make prior judgements about the issues involved. Do everything you can to ensure that the member has a fair hearing and that the correct procedures are followed.

It is important to remember that the member’s issue belongs to them, and you should not take ownership of it (it is sometimes easy to do this, particularly if you are new to the role). It is essential that the member continues to maintain ownership of the issue and be in a position where they make an informed decision on how to proceed with their issue. In exceptional circumstances, a member may not be in a position where they are able to deal with the issues due to ill health or distress. In these circumstances, it is important that you are clear that any progression with the case is done in consultation with the member and that anything you do is set out in writing for the member (remember to keep a copy). Don’t forget, you can refer members to your employer’s counselling service (if they have one) or to the RCN MSS counselling service.


Remember, if you have any concerns about the case, always talk it through with your local RCN officer.

**Preparation**

**RCN lead steward**

Some larger organisations/employers have a ‘lead RCN steward’. This is likely to be the most experienced RCN steward in the workplace/employment.

It is essential to keep in contact with the lead steward as they may have a wider view of a particular problem and this may help you to put a particular issue into a wider context. For example they may be aware of other similar cases in the same area that you are unaware of.

The lead steward may be able to help by suggesting ways in which a particular problem could be tackled. It is also important to keep the lead steward informed...
of what is going on so they have a clear picture of what is happening in your workplace organisation and can also support other stewards.

**Local employer/human resources**

Developing good relationships with local managers can foster a climate of trust that benefits everyone concerned. However, you should not discuss an individual problem with their employer unless you are clear that you have their consent to do so.

**Records**

If you are representing a member or a group of members you should have reasonable access to records such as off-duty rotas and accident/incident books.

**Policies/procedures**

If members are in difficulty because of their alleged failure to comply with certain policies or procedure. In such cases you should be supplied with a copy of the relevant policy or procedure and be able to check it against the allegations that have been put to the member. Establish if the member was aware of the policy/procedure and understood it. It is also worth checking whether the policy/procedure has been managed in the same way on a consistent basis. You should maintain the confidentiality of any documents you receive in your role as a RCN representative.

**Legislation**

There is a considerable amount of legislation covering employment and employment rights. Please refer to ‘The Law’ section and the guidance available on the website. This can be a complex area, so please discuss the matter with your RCN officer.

**Codes of practice**

The most important codes of practice are those issued by the ACAS. Codes of practice are not legal documents themselves but rather provide guidance on good practice. However, if there is a debate as to what is good practice, then the codes may be used as evidence and are taken into consideration by employment tribunals. They are particularly useful when developing or reviewing employment policies and procedures.

☞ [www.acas.org.uk](http://www.acas.org.uk)

**NMC Code**

The NMC *Code of Professional Conduct* is an important source of reference.

Planning and preparation – define the objective

The preparation in representing members is without doubt the most important part. There are very few people who can go into a representation or a bargaining situation without having prepared thoroughly in advance. The statement “fail to prepare, prepare to fail” is a useful reminder of the importance of preparation. It is essentially the gathering of information, and this in itself requires some thought. First you need to consider why you need the information; what will you use it for? This will help you focus on finding the most useful information.

When preparing a case you may find it useful to do the following.

• Follow the Case Management Protocol, and ensure that the member has completed a Case Register Form. You should not begin representing a member until they have completed this form and you have checked their membership status. Establish the facts and the issues in contention – it may be helpful to ask the member to set out, in writing, the details of their issue in chronological order. This may also help you advising them should they need to make a statement. Remember to ask whom, what, why, where and when, which will help to cover almost all situations.

• Obtain copies of all the information that the member has or has been sent by his or her employer relating to the issue.

• Establish what the member wants – do they have a desired outcome? If it is a serious issue that could possibly result in dismissal – do they comprehend the gravity of the allegation? Over time your work as a representative will give you an understanding of how serious an issue an allegation might be. It will be important to ensure that the member understands the position they are in and that you are able to help them come to a realisation about possible outcomes.

Think through how you are going to deal with the matter, if in doubt talk it through with your lead steward or your RCN officer.

It is important in any form of representation to set objectives. The old adage “if you don’t know where you are going, you won’t know when you’ve got there” is relevant. Similarly, if you don’t know where you are going you won’t know whether or not you’ve gone astray. Experienced stewards/negotiators will advise that, whilst it is extremely important to have clear objectives, these must not be so rigid that they cannot be adapted to suit the changing circumstances of a particular situation. It is likely that the members overriding priority will be to ensure that their case has been put as fully as possible and that everything they wanted to say in their defence has been said and that each allegation has been responded to in full.
**Determine the approach**

It is always advisable not to see things in purely win or lose terms. Issues are always more complicated than you, the member or the employer may think.

Your approach should be to ensure that the member’s case is put in the best possible way so that the member recognises – despite what the outcome might be – that everything was done for them by the RCN.

You will want to ensure that any mitigating factors/circumstances are highlighted; the member may have erred but why did this happen?

When making a plea of mitigation, the member is admitting management's allegations, but is putting them in a context that the employer may not have been aware of before.

It is not logical for a member to deny the allegations and then, when the employer finds against them to then offer a plea of mitigation against the charge in full. It may be possible to offer mitigation for a partial acceptance of some of the elements of the charge.

It is important to consider how the employer might see a plea of mitigation. On the one hand they may welcome it because it provides them with a justification for not administering the sanction which the nature of the incident might otherwise have warranted. On the other hand if it does not sound plausible within the context of the issue they may regard it as no more than a smoke-screen which the member has thrown up in order to deflect them from the main points at issue. Significant mitigating factors can include realisation since the incident of the gravity of an error. Disciplinary panels are often keen to establish insight and safeguards against repetition. They don’t just want to discipline people for the sake of it.

When submitting a plea of mitigation it is important that the member does not create further problems for themselves. For example, that a member committed an error because of understaffing, overwork and stress may, on the surface appear to be a reasonable plea. If, however, the member has not drawn the staffing situation to the attention of senior management nor has no proof that this has been done, then it could be challenging for the employer to accept it. Management might see the member’s failure to attempt to do something about the staffing problem as further evidence of the member’s inadequacies. Reflection on our actions is always a good thing. Where someone has done this it should be made known to the employer.
Presentation

There are two basic aims when presenting information:

- to present the information in such a way as to ensure that the manager understands clearly the points that are being made.
- to try to persuade a manager that a particular course of action is the appropriate one to take.

To achieve these aims it is important that the presentation contains relevant facts presented clearly and logically and structured in such a way that, hopefully, leads the manager to the conclusion the presenter wants that manager to reach. One way of presenting the case is to put the facts in chronological order. Chronology of the problem/situation automatically provides a defined structure to the presentations.

Follow up

One of the most important aspects of follow up is to keep the member(s) informed. Indeed, this should be done at all stages of the representation. You may also need to inform your local RCN office of the outcome of the case, particularly if it has wider implications or:

- if the member has decided to appeal, or
- if the matter is going to progress to an employment tribunal.

Also, if you need to sign an important agreement seek advice and input from your local RCN office before doing so.

Do be aware of timescales if a member wishes to appeal. For internal appeals, these will be laid down in your local procedure. Remember, the rules for taking a matter to an employment tribunal have changed and your local RCN officer must be involved in all circumstances relating to appeals, grievances and dismissals in order to advise appropriately and ensure that all issues are covered if the matter does proceed further.

There are also legal deadlines to consider in respect of employment tribunals, and the RCN need to review all aspects of a case before deciding the most appropriate support. Keeping to legal deadlines as well as employer deadlines is essential. The biggest risk to the RCN is if representatives or staff fail to submit required information, claims, or appeals within prescribed time limits. When you open any case or give any advice to members you should attempt to ascertain whether any time limits apply to their case. If they do these should be noted and entered into your diary and stated clearly in all case management material.
Representation – investigatory meetings and interviews

As part of the process for disciplinary and grievance procedures, it is (in almost all circumstances) necessary for an ‘inquiry’ process to be adopted in order to ascertain all the facts before proceeding to the hearing stage. It is also becoming increasingly more common for members to be called to an investigatory meeting or interview as part of the use of local counter-fraud measures.

A member has no legal entitlement to be represented at an investigatory meeting or interview; however it is good employment practice to allow a member to be accompanied. Check your local policy, as there may be reference to a member having representation. In the case of an interview involving a counter-fraud officer, it is essential that you ascertain whether the interview will be conducted ‘under caution’. If an interview is to be conducted ‘under caution’ then it is essential that the member contact RCND immediately, as the member should have either legal representation or at the very least legal advice, as any information given by the member is admissible in any subsequent legal proceedings. Please refer to the information outlined in statements.

When attending an investigatory meeting or interview:

- arrange facility time-off from work with your manager. Representing members in this context is a ‘trade union duty’
- follow the guidelines for representation – remember Preparation, Planning, Presentation and Follow up.
Follow up

You should receive the notes/minutes of the meeting from the management representative, but it may be helpful to set a deadline for receiving them.

If the member is required to sign the minutes as ‘an accurate reflection of the meeting’, make sure that they discuss them with you first and that you compare them to the ones you have taken. If there is a difference of account, then make sure that it is reflected clearly on the employer’s copy, and ensure that copies are taken before they are submitted.

It is unlikely that you will have very much to say as a representative in an investigatory meeting. It is more likely that you will be intervening to highlight something the member has said as important, or to challenge a point made by the manager, as the purpose is to gather facts. However, you should be fully conversant with your local policies and procedures as you may need to intervene if the interviewer begins to widen the scope of the meeting.

Ensure, where possible, that the member has already prepared a statement. A good statement will inevitably answer most of the interviewer’s questions, and therefore result in the member being less likely to give a conflicting account of events, as is possible when answering lots of questions in a difficult situation. A timeline may be useful as a safety framework for the member and steward. If the member becomes distressed, remember you can ask for an adjournment at any time – including ‘comfort’ breaks.
**Representation – grievances and disputes**

Grievances are normally brought by individual employees when they feel that they have been unfairly treated by the employer or a fellow employee in some way. Other cases may involve changes being introduced by the employer, such as a change in working patterns, to a group of staff.

The most important step is to interview the member or members and establish the facts. Use ‘what, when, where, who and why’ to establish the facts of the member’s case.

- What is the problem? Has the member already done anything about it?
- When did it occur? Find out precise times and dates.
- Where did it happen? Was it on the ward, in an office or at a GP surgery?
- Who was involved? Make sure you have details of any witnesses.
- Why does the member think it happened? Are there any underlying reasons? Have there been any previous difficulties or disagreements which could have caused the problem?

Finally, you should find out what the member is hoping to achieve. It is important to find out whether the member can see a possible solution and whether they have ideas for reaching that solution. This last question will often bring out the underlying reasons for the grievance and the member’s real motives for pursuing it. Again we should try and understand our members’ expectations and manage them as much as we can in their interests.

**Grievances – deciding what to do**

At this stage you will have to make an assessment of whether or not a grievance case can be made and the likelihood of reaching a successful resolution. This is a matter of judgment and may involve some hard thinking. There are often occasions where an informal approach from you to the relevant manager (with the member’s permission) can resolve the problem. The manager may not even be aware that the problem exists or it may have arisen out of a misunderstanding. However, before getting involved in any informal approach, you must agree with the member what is to be said and what would be an acceptable outcome.
**Grievances – using a formal procedure**

If the member and you agree that it is appropriate to take the matter through the formal grievance procedure the member will have to put a written request to the management asking for a hearing under the relevant part of the procedure (some organisations have a form that needs to be completed). If the grievance is about a work process then having lodged a grievance you should also ensure that the status quo applies.

You will need to prepare for a hearing by:

- thinking about what questions you will ask on the member’s behalf
- find out if the matter in question is covered by any joint agreements, contract, custom and practice or legislation
- request copies of any relevant documentation, such as memos, letters, minutes or agreements
- decide how to present the evidence in the most convincing way – remember preparation, planning, presentation, follow up
- what is the member’s desired outcome from the grievance and is this achievable?

**Grievances – keeping in touch**

If you are negotiating on behalf of a member or a group of members it is very important to find out what they want and keep them informed of developments in the negotiations. There will be some occasions where members expect more than is achievable. In these circumstances you should give your honest assessment of what is achievable and outline any further options for pursuing the matter.
**Representation – disciplinary action**

As an RCN steward, it is probable that you will at some point have to represent a member who is facing disciplinary action. It is important that you are familiar with your local disciplinary policy, as you may well have to explain what is going to happen to the member. It is also important to be familiar with the policy, so you can ensure that the management are following it correctly.

Before a disciplinary hearing takes place, you will most probably have been involved in the ‘investigatory’ stage, however, it is not uncommon for a member to have attended an investigatory meeting alone as they are unaware of the implications, even if management have highlighted the importance of representation.

Follow the guidelines for representation – preparation, planning, presentation, and follow up. Make sure that you gather all the facts and documents relating to the member’s case. Remember it is their responsibility to supply you with all the information that they have received. The member should also have received a full copy of the case against them, including interview notes and statements from any witnesses that will be relied on. They should also include any documents which management have made reference to. In most cases, the member will be sent two copies; one copy of the documentation is for their reference and the other is for their representative.

It is a good idea to photocopy the documentation so that you have two copies to hand – one is called a ‘clean copy’ and the other is a ‘working copy’, the idea being that you can make notes and comments on your ‘working’ copy, and if you need to copy any of the documents for your ‘statement of case’ then you have an unspoilit copy. You should receive reasonable notice of the hearing and the member should receive the documentation of the case against them in good time for you to prepare your response.

If you need more time, don’t be afraid to see if you can reschedule the meeting or negotiate an extension for submitting your ‘statement of case’ (if your employer’s policy requires one). In any event, you should put together a ‘statement of case’ as this will assist you in your presentation, and it will enable you to make sure that you don’t forget anything on the day. You should also agree with the member who is going to present the case; it may sound strange but some members may wish to present their own case, and are very competent at doing so, so make sure you clarify this at the outset (don’t forget – they may also make a good RCN representative so think about recruiting them when it is all over).

It is also important to establish if the member has any relevant witnesses, as a statement will have to be taken from them and submitted with your statement.
of case. It is also important to meet the witnesses well before the hearing and go through the questions you will ask them.

Remember – never ask a question in a hearing that you do not know the answer to, otherwise your case could be undermined if information is given that you were not aware of in the first instance.

**Typical procedure for a disciplinary hearing**

There will be a ‘panel’ to hear the case and the member’s response. At the start of the meeting, the Chair of the panel will normally ask everyone to introduce themselves, and ensure that everyone knows what the meeting is for and, in some cases, will explain what is going to happen during the meeting, what the relevant employment policies are that relate to the issue and agree any comfort or meal breaks with everyone.

- The manager presenting the case will begin by outlining the allegations against the member and may well read the ‘statement of case’ or ‘investigatory report’, referring to relevant documents and policies.
- The manager will call any witnesses that they may have, and will ask the witness questions.
- You (or the member) will then have an opportunity to question the witness.
- The panel then have an opportunity to ask the witness questions (examination).
- The manager may well ask the witness questions to clarify anything arising from your (or the member’s) cross examination.
- The manager will conclude their presentation of the case against the member.
- You (or the member) will have an opportunity to question the manager presenting the case.
- The panel will have the opportunity to question the manager.
- You (or the member) will then have an opportunity to present your ‘statement of case’ or response.
- You will then call any witnesses that you may have, and ask them questions
- The manager presenting the case will have the opportunity to question the witness.
- The panel then have an opportunity to ask the witness questions.
• You (or the member) will then have an opportunity to re-examine your witness to clarify anything arising from the manager’s cross-examination. After this you will be able to conclude your presentation of your ‘statement of case’ or response. Afterwards manager (and later the panel) will have the opportunity to question both yourself and the member. At the end the manager presenting the case against the member will have the opportunity make a closing statement or ‘sum-up’. You (or the member) have the opportunity to make a closing statement or ‘sum-up’. It is important that you ensure that you have covered all you wanted to say in the initial process. It is not possible to add in ‘new’ issues in a summing up.

• There will be an adjournment for the panel to consider the information and evidence that has been presented to them.

• The meeting will reconvene, and the Chair of the panel will inform the member of the panel’s decision. This will also be provided in writing to the member (usually with seven days). The member should also be advised of the details of the appeals procedure by the Chair of the panel.
Top tips when attending a disciplinary hearing

Arrange time-off from work with your manager (see ‘Your rights and entitlements as an RCN steward’) representation of members in these circumstances is a ‘trade union duty’.

Follow the guidelines for representation – remember preparation, planning, presentation and follow up. These all constitute trade union duties.

Ensure that you give yourself time to meet the member before the meeting, in order to be able to reassure them (they will probably be very nervous and anxious), as well as to go through what will happen during the hearing. It is helpful to remind the member not to make any outbursts or comments during the managements presentation of their case, and that the member will have an opportunity to put their case (usually through you). You should already have agreed any ‘strategy’ before you get to this stage.

Ensure you have a supply of good paper or notebook (A4 size is best), pens/pencil and spares. It may be worthwhile providing some for the member so that they can make notes too; it is often difficult to listen carefully to what is going on and to make notes as well. Take as comprehensive notes as possible, and never rely on the minutes of management.

Make sure you have all the documentation that you will be referring to in your statement of case, and any reference books that you think you may need (for example, LRD Law at Work, NMC Code of Professional Conduct).

Have a supply of tissues to hand, the member may become upset and distressed during the hearing.

Try and prepare a ‘skeleton’ closing statement beforehand, but remember to add anything arising from the hearing. It is usually best to finalise your closing statement towards the end of the hearing, ask for a short adjournment if necessary.

Ask for a copy of the management minutes and a copy of the letter outlining the action, if any, taken against the member to be sent to you as well.

Make a note of any appeal procedure; the time limits are very important.

If the member has been dismissed, or feels that they have been treated unfairly, then you must contact your RCN officer immediately.
**Representation – sickness absence and ill health**

Increasingly, members are requiring representation at meetings to discuss sickness absence and ill health. This section covers representation at these types of meetings, as well as other important information that you should be aware of.

Representation at a sickness absence or ill health meeting may be as the result of:

- a number of short-periods of sickness
- return from a period of sickness
- ongoing long-term sickness
- ill health that is perceived to be having an impact on attendance/performance.

It is important that you familiarise yourself with your local sickness absence/ill health policy, as many organisations tackle the increasing sickness/absence in the workforce differently. Policies could be called “managing absence” or “supporting attendance” but they will should refer to the sickness absence process. In the NHS all such policies should meet the minimum standards outlined in Annex Z of the Agenda for Change (AfC) Handbook. This enabling agreement covers the need for appropriate early intervention such as occupational health referrals. Despite the local variations, all meetings should be handled sensitively and the number of people present at the meeting should be kept to a minimum wherever possible.

Remember, the member will probably feel very uncomfortable or upset, as they may have very personal problems that they may not wish to disclose to those present. It is therefore, as in preparation for any representation, very important to meet with the member before the meeting to establish as much information about their issues as possible. You may also find it useful to refer the member to the RCN Online briefing sheets on sickness absence that are available to them.

There are also variations on whether a member is entitled to occupational sick pay; again this varies, particularly in the independent and private sector healthcare providers. Nevertheless, there is a statutory entitlement to Statutory Sick Pay, (please see ‘an overview of benefits’ for more information).

For employees in the NHS, the occupational sick pay entitlements which form part of the terms and conditions of service are set out under Agenda for Change (Section 14). They are as follows:

- Employees absent from work owing to illness will be entitled to receive sick pay in accordance with the following scale:
  - First year of service: one month at full pay, and two months at half pay
  - Second year of service: two months at full pay, and two months at half pay
  - Third year of service: four months at full pay, and four months at half pay
  - Fourth and fifth year’s of service: five months at full pay, and five months at half pay
  - Fifth year of service or more six months at full pay, and six months at half pay.

Arrangements in England differ in respect of what elements of pay are included in the calculation – this is covered by AFC S14 (a).

Please refer to the *Agenda for Change: NHS Terms and Conditions of Service Handbook* for more detailed information on the NHS occupation sick pay scheme (AfC Sections 14, 14(a) and Annex Z, which describes the circumstances when it may be possible to receive and extension of sick pay).


**Short-term sickness**

Meetings to discuss frequent short periods of sickness are becoming more common as a way of managers tackling a perceived increasing problem that can have a huge impact on service delivery and cost. Remember though, there may be an underlying medical problem or disability causing frequent short-term sickness. Explore this with the member in advance of any meeting. It may also be the case that sick leave is used to mask caring responsibilities at home, in which case a frank discussion of other leave possibilities and flexible work arrangements may be necessary.

As part of the meeting with management, you should ideally secure a referral to the occupational health department or the occupation health provider for your
organisation if one has not already been arranged. This will assist you and the member in seeking any organisational support or possible reasonable adjustments for the employee, albeit maybe temporary in nature. You may also wish to discuss the possibility of disability leave (see the Guidance Relating to Disability for the NHS briefing available to download here:  


Meet with the employee to:

- establish the problem – if the member has sensitive issues, then it may be appropriate to refer the member to the occupational health provider and request a report. The member can request a copy of the report
- ascertain what they need to do to help the employee at work or return to work, this may involve reasonable adjustments in the workplace (such as a temporary change in working hours)
- provide support in the form of a designated contact or a referral to a counselling service
- when there is no underlying medical problem, it may be reasonable for the employer to set standards for improved attendance.

**Long-term sickness**

In the case of ongoing long-term sickness and ill heath, the member may be experiencing different needs that you can assist with. For example:

- negotiating the ‘fast-tracking’ of hospital appointments
- signposting to the RCN Member Support Services (MSS) for benefits and/or money advice
- establishing entitlement to NHS Injury Allowance if the condition is work related
- negotiating possible reasonable adjustments (this is of critical importance, especially to secure an early return to work) or negotiating suitable alternative employment/redeployment.

In the case of long-term sickness, you may find that management wish to hold regular meetings. This can be helpful and seen as supportive; however some members may see this as intrusive and may find it distressing. It is therefore important that a balance is obtained, for example, arranging meetings on a regular basis with a long period separating the meetings, for example, every two months. However, it is appropriate that the member is both physically and psychologically ‘well enough’ to attend these meetings.
If the member is not fit enough, then the meeting should not take place. Remember to ensure that management keep in regular contact with the member, but this should be done sensitively as it could be perceived as harassment. Occasionally, managers may suggest that they visit the member at home. At the end of the day, the member’s wishes should be final, as anyone in their home would be a guest. Members on long-term sickness often feel isolated and when they return to work, many things have changed. It is important therefore that managers are encouraged to be sensitive to this and to keep in contact. An agreement between the manager and the member is useful, such as a short ‘how are you?’ telephone call from the manager once every two weeks or so, and making sure that the member is kept fully informed of any changes within the organisation. Make sure that the member receives the organisation’s newsletter or magazine at home and that post and pay advice slips are sent to the member’s home.

In any event, negotiation between you, the member and management on how to ‘keep in touch’ during long-term sickness can make all the difference. This ensures you receive an early warning if anything might impede a planned return and gives managers assurance of a commitment to the possibility of return.

**Annual leave and sickness absence**

The European Court of Justice (ECJ) ruled that an employee should be able to accrue their statutory annual leave if they were unable to take those holidays due to ill health.

Statutory leave is different to contractual leave. Everyone is entitled to a certain amount of statutory leave but a contract of employment normally exceeds this minimum amount. For details on statutory annual leave see www.gov.uk or www.nidirect.gov.uk (if you work in Northern Ireland) and search for ‘time off and holidays’.

The Healy case confirmed that the amount of leave that can be carried forward is limited to 20 days (for a full-time worker) rather than 28 days. This is covered by Section 13 of the working time regulations.

Further information can be found here:

**Ill-health retirement**

RCN stewards in the independent, private and prison health care sectors should refer to your employer’s local scheme or where the member has an individual pension policy, refer them to their pension provider.

Under the NHS Pension Scheme, benefits may be paid early to members and some former members who retire early because they are unable to carry out their duties due to permanent ill health. Termination of a contract by an employer because of unsatisfactory attendance due to ill health will not automatically lead to the early payment of a pension.

If a member retires early in these circumstances they may qualify for early payment of scheme benefits if they have at least two years membership and:

- they are considered to be unable to undertake their usual duties (Tier 1 payment, no enhancement) or
- they are considered to be unable to undertake work in the general field of employment of like duration to their substantive contract before they retired (Tier 2 payment, with enhancement).

In both cases the member’s ill health must be deemed to be permanent and all possible treatment options that may improve ability to work must have been exhausted.

The member’s benefits (without enhancement) may also be paid early if they no longer work in the NHS, provided that they:

- have at least two years preserved membership, and
- are no longer able to do any regular work due to permanent ill health.

Members who are seriously ill may be able to exchange their ill health retirement pension and lump sum, including any increased membership, for a bigger lump sum payment. This is called commutation. It can apply in certain cases where the member becomes terminally ill and does not expect to live longer than a year.

If a member wishes to apply for ill health retirement, they must complete a form called an AW33E, which they can obtain from the human resources department of the NHS employer.

Further information for members can be found here:

**NHS injury allowance (IA)**

NHS staff who sustain a work-related injury or illness that is wholly or mainly attributable to the discharge of their NHS duties may be eligible for NHS Injury Allowance. Described in Section 22 of the Agenda for Change handbook, NHS IA provides an income top up for staff when their sick pay is reduced. A full guide to the provision is available here:


Some employers have a claim form for this allowance and have a formal process for determining entitlement, however others do not. In any case it is imperative that the work-related nature of a member's absence is formally acknowledged by the employer as this should trigger payment. Members should ensure that their GP confirms their absence is work related on their fit note and accident books should be completed as necessary (this can be done after the event but it is always better to do so as soon as possible after an incident).

NHS staff who sustained a work-related injury or illness before 31 March 2013 may have a legacy entitlement to the old NHS Injury Benefit Scheme. The criteria for this can be complicated so do take advice if you think this is a possibility.

Further information on the old scheme can be found in “Transitional protection arrangements – guidance on the application of the sunset and exception clauses” available to download here:

SECTION 5: QUESTIONING AND INFLUENCING

To build and develop your reputation as an RCN steward you will work towards:

- offering the best available evidence and expertise to influence organisational policy and strategic management
- becoming an advocate for nursing supporting greater engagement between nursing, managers and other partners who affect the wellbeing of RCN members
- sharing intelligence and working collaboratively within the RCN and with other organisations
- using RCN expertise to promote and support RCN members in your workplace.

Often, this area of your practice will involve you picking up issues in your workplace before they become major problems and working together with other trade union colleagues and your employer to address issues promptly and positively.

You do this by accessing and analysing information that is available to you as an RCN rep, whether through meetings that you attend in your role, conversations with members, internal reports or documents that are shared by your employer.

Through your analysis, and supported by your discussions with your officer, you may identify some questions that you can ask that might help to identify workplace issues early, before they impact on members and their practice. You may also identify and support proactive interventions on behalf of members.

In addition, this activity may lead to the identification of areas of excellence that can then be shared more widely across the workplace.

When planning your questioning and influencing, with the support of your RCN officer, think about the five key areas of:

- organisational change
- health and safety
- staff investment
- engagement
- culture.
Within each of these areas there are some key information sources that you will have access to, or can request, in your role as an RCN representative. More information on each of these five key areas can be found on the RCN website in the Reps Hub section, including prompts to help you to plan your questioning and influencing activity. There is also a pocket booklet available for you to use as an aide memoire when planning your activity. The Ask Listen Act booklet is available to download from the RCN website and you should also receive a hard copy version when you join the UK learning and development pathway or from your RCN officer.


As a RCN steward you will usually be involved in the partnership forum, consulting and or negotiating around employee terms and conditions of employment. This is often given a local term such as JCNC/JNC/JNCC (Joint consultant/and/or negotiating committee). This is the arena in which the unions and employers meet to discuss issues relating to members terms and conditions of employment.

The stewards’ role on the partnership forum is vital. This is where the RCN can guide, influence, and lead important organisational change and development. The steward is there to represent nurses and nursing.

The number of RCN seats will normally be directly proportional to the number of RCN members in the organisation. This will vary depending on the size and nature of your organisation, so it is important you know how many members the RCN has. It is essential that you work in partnership with other RCN stewards, safety representatives and learning representatives in your
organisation to agree who will take the seat/s on the partnership forum and organise cover to ensure that wherever possible all the RCN seats are filled at all the meetings.

The agenda should be jointly set by trade unions and the employer to ensure that all issues are addressed.

Examples of issues on the joint agenda may be:

- any re-organisation that is being undertaken and how the trade unions may influence this
- working hours and pay rates
- whistleblowing issues
- the development of new employment policies or the amendment of existing policies.

When you are planning your questioning and influencing activity, think about how you work with your trade union colleagues and within the available structures and fora in your workplace.

You might want to concentrate on one of the questioning and influencing themes at a time, concentrating on an area that is particularly relevant in your workplace at that moment. Often you may need to work with other people in your workplace, for example, the Director of Nursing, other RCN reps, or other union reps. Building links with colleagues from other unions will widen your effectiveness and give you a stronger voice.

Think about where it is best to ask key questions (or arrange for them to be asked), for example, JNCC/Partnership Forum, board meetings, request one-to-ones with key people and think about how will you share the intelligence or data you get hold of within your workplace and with your regional/country office.

It is important to remember that issues of equality, diversity and human rights apply across all of the questioning and influencing themes. You should always be mindful of whether or not certain groups of members are being unfairly impacted upon by any aspects of your workplace because of their specific characteristics, for example, age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation, political opinion.
SECTION 6: CONCLUSION

This document will continually be updated – and we will notify you of any changes made.

Please enjoy your time as an activist for the Royal College of Nursing.

If you have any queries regarding this document, or your role as an activist please contact:

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