

**DECISIONS OF THE CERTIFICATION OFFICER ON AN APPLICATION
MADE UNDER SECTION 108A OF THE TRADE UNION AND LABOUR
RELATIONS (CONSOLIDATION) ACT 1992**

MS F M LEE

v

**NATIONAL ASSOCIATION OF SCHOOLMASTERS
UNION OF WOMEN TEACHERS
(No 4)**

Date of Decisions:

19 October 2007

DECISION

Upon application by Ms Lee (“the Claimant”) under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”):

- (i) I refuse to make the declaration sought by the Claimant that on or around 18 April 2006 the National Association of Schoolmasters Union of Women Teachers breached Rule 5(a) of the Model Rules for Local Associations by requiring that the nominations for offices of the Islington Association be submitted to its Regional Office and not to the President of the Islington Association.
- (ii) I refuse to make the declaration sought by the Claimant that in 2006 the National Association of Schoolmasters Union of Women Teachers breached Rule 5(b) of the Model Rules for Local Associations by failing to hold an election for the contested post of Secretary of the Islington Association.
- (iii) I refuse to make the declaration sought by the Claimant that in 2006 the National Association of Schoolmasters Union of Women Teachers breached Rule 5(c) of the Model Rules for Local Associations by failing to declare at an Annual General Meeting of the Islington Association those candidates elected unopposed in the Islington Local Association 2006 annual elections.
- (iv) I refuse to make the declaration sought by the Claimant that in 2006 the National Association of Schoolmasters Union of Women Teachers breached Rule 5(d) of the Model Rules for Local Associations by failing to again call for nominations for the post of Ex-President of the Islington Association.

REASONS

1. The Claimant is a part-time teacher and a member of the National Association of Schoolmasters Union of Women Teachers (“the Union” or “the NASUWT”). By an application dated 20 November 2006 the Claimant made four complaints against the NASUWT arising from the 2006 annual elections of the Islington Local Association of the Union. Following correspondence with the Claimant the complaints which she wished to pursue were confirmed by her in the following terms:-

Complaint 1

“that on or around 18 April 2006 in breach of rule 5(a) of the Model Rules for Local Associations, the Union required that nominations for offices of the Local Association be submitted to its Regional Office and not be submitted in writing to the President of the Islington Association as required by rule 5(a).”

Complaint 2

“that in 2006 in breach of rule 5(b) of the Model Rules for Local Associations, the Union failed to hold an election for the contested post of Secretary of the Islington Association.”

Complaint 3

“that in 2006 in breach of rule 5(c) of the Model Rules for Local Associations, the Union failed to declare as elected those candidates in the 2006 annual election for the Islington Local Association who were not opposed at an Annual General Meeting of the Islington Association.”

Complaint 4

“that in 2006 in breach of rule 5(d) of the Model Rules for Local Associations, there having been no nominations for the post of Ex-President of the Islington Association, the Union failed to again call for nominations for the post of Ex-President of the Islington Association.”

2. A hearing took place on 28 September 2007, having been postponed from 15 May 2007 at the Claimant’s request. At the hearing the Claimant represented herself. She called no witnesses and did not provide a witness statement. The Union was represented by Mr Ford of counsel accompanied by Mr I Adair of Russell Jones and Walker, solicitors. Evidence for the Union was given by Mr Bartlett, Deputy General Secretary and Mr Darke, Senior Assistant Secretary, each of whom provided a witness statement. A 140 page bundle of documents consisting of relevant correspondence/documents was prepared for the hearing by my office. A second bundle of 132 pages contained the Rules of the Union the Model Rules of the Islington Local Association and a legal authority. Mr Ford provided a skeleton argument.

Findings of Fact

3. Having considered the oral and documentary evidence and the submissions of the parties I find the facts to be as follows:-
4. The Claimant's complaints concern the validity of elections held by the Islington Local Association (the "ILA") of the Union in April 2006 for the positions of elected officers of the Local Association. The Claimant argues that there were various breaches of the Model Rules of the Local Association.
5. Similar complaints were made about the validity of the elections held by the ILA in 2005. I adjudicated upon these on 5 October 2006 in the case of **Tyrrell v NASUWT (CO/D/35-41/06)**. The Claimant acted as Mr Tyrrell's representative at that hearing. In the Tyrrell case I found that the ILA was in a state of some disarray. It would appear that little has changed. The ILA has about 225 members but the Claimant gave evidence that only two or three of its meetings have been quorate since 2002. In the recent elections just over 30 of its members voted. Furthermore, there are two competing factions within the Local Association. One faction consists of the Claimant, Mr Tyrrell and others. The other faction consists of Mr Robbins, Mr Simkins, Mr Stephenson and others. The Claimant has brought three previous cases against her Union upon which I have adjudicated.
6. As I observed at paragraph five of the Tyrrell decision, there has been some dispute as to what are the Model Rules which apply to the ILA. As in that case, however, the Union has accepted that the Model Rules which appear in this hearing bundle should be the Rules under which this matter is adjudicated, whilst reserving its position as to what are the Rules of the ILA for any other purposes.
7. The Claimant teaches at the Central Foundation Boys School Islington and is a member of the Islington Local Association of the Union. She is an experienced Union activist, having served as the Treasurer and the Health and Safety Officer of the ILA and on the National Executive.
8. On the basis of the arguments before me in the Tyrrell case, I found that the officers of the ILA for 2005/06 were as follows:
 - 8.1 President: There was no President in 2005/06. Model Rule 6(a) provides that the outgoing Vice-President shall assume the office of President at the relevant AGM. At the time of the relevant AGM, 20 May 2005, there was no Vice-President. The incumbent, Mr King, had previously fallen more than three months in arrears with his subscriptions.
 - 8.2 Vice-President: There was no Vice-President in 2005/06. No nominations for this position had been received in 2005.
 - 8.3 Secretary: Greg Robbins.

- 8.4 Treasurer: Jason Stephenson.
- 8.5 Ex-President: Ian Tyrrell.
9. As a result of complaints made to the Union by Mr Tyrrell in September 2005, Mr Darke, then a Senior Assistant Secretary, conducted investigations into the elections held by the ILA for officer positions in 2005. He reported in February 2006. He concluded that a properly and fully advertised AGM of the ILA did take place on 25 May 2005 but that it was not quorate. He stated that the officers of the Local Association were as set out above, except that he wrongly considered that Mr King had become President. In the Tyrrell decision I found that Mr King did not assume the position of President in May 2005. Mr Darke contended that it was not in his brief to enquire into the position of Mr King.
10. On 22 March 2006, the General Secretary, Ms Chris Keates, wrote to Mr Tyrrell to inform him that the National Officers had considered Mr Darke's report and had decided:
- 10.1 that the 2006 AGM of the Islington Association be called as soon as possible.
- 10.2 that the calling of nominations for officers and elected member positions be carried out by HQ and supervised by HQ, "*as there is obvious confusion as to who is operating as the Local Association President*".
11. On 18 April 2006 Greg Robbins, in the capacity of Secretary of the ILA, gave notice to the members of the ILA that its AGM would be held on 25 May 2006. The notice stated that nominations for officer positions within the ILA should be sent c/o Mr T. Bladon, Regional Organiser, at the Union's regional office in Farringdon, London EC1.
12. The above notice invited nominations for the positions of Vice-President, Secretary and Treasurer, as required by Model Rule 4, together with certain other positions for which elections are not required under the Model Rules. Unusually, the notice also called for elections for the following two positions:
- 12.1 President. By Model Rule 6(a), this position is normally filled by the outgoing Vice-President. However, in 2005 there had been no Vice-President who could be automatically elevated.
- 12.2 "Additional Officer (in place of an Ex-President)". By Model Rule 6(a) the outgoing President assumes the office of Ex-President. However, as there had been no President in 2005/06, there was no one in a position to automatically assume this office. To overcome this difficulty, the Union made use of Model Rule 6(c)(i) by which a casual vacancy for Ex-President gives rise to an election for "an Additional Officer".

13. The above notice also gave members a brief description of the positions for which nominations were being sought. The Secretary was described as “*the main organiser within the Local Association and also responsible for negotiating with the local authority ...*”.
14. On 29 April 2006 the Claimant delivered ten nominations to the Regional Office, which nominations she also sent to Mr King, on the basis of her contention that he had become the President of the ILA in 2005. Of these ten nominations, the Claimant was nominated for four positions and Mr Tyrrell was nominated for three positions. In the covering letter, the Claimant commented that nominations not sent to the President would be challenged as invalid because they were in breach of Model Rule 5(a). Model Rule 5(a) provides that nominations shall be submitted in writing to the President of the Association.
15. At the close of nominations, members of the ILA were informed of those positions which were not contested and ballot papers were enclosed for the contested positions. Of the uncontested positions, the Claimant was stated to be elected unopposed to be Health & Safety Officer and Mr Downes to be Vice-President. The Claimant, Mr Tyrrell and two others were elected unopposed to membership of the Executive Committee. From the opposing faction, Mr Simkins was stated to have been elected unopposed as President. The contested positions were those of Secretary and Treasurer. The Claimant and Mr Tyrrell both stood in each of these elections; in the Secretary election they stood against Mr Robbins and in the Treasurer election against Mr Stephenson.
16. The voting paper for the position of Secretary was headed “Election of Negotiating Secretary Islington 2006/2007”. This was the first occasion upon which the term “Negotiating Secretary” had been used in this election. In all other communications the reference had been to “Secretary”.
17. On the 8 and 11 May 2006 Mr Tyrrell and the Claimant both wrote to the General Secretary protesting about the acceptance of the nominations of Mr Robbins and Mr Stephenson on the grounds that their nominations had been sent to the Regional Office and not to the President, Mr King, as required by Model Rule 5(a). The General Secretary responded by letters dated 12 and 15 May. She stated that Mr King was not President of the Association in 2005/06, as he had allowed his membership payments to fall into arrears by more than three months whilst Vice-President. Accordingly, she stated that there was no one in post to assume the office of President to receive the nominations in 2006. She added, “*It was therefore perfectly reasonable and the only practical way forward for a neutral party in the form of the National Association to call for the nominations for this year. The Union asserts that the nominations thus received are valid.*”
18. The voting closed on 25 May 2006, the date of the AGM of the ILA. The voting papers had been sent to the Union’s Head Office in Birmingham to be counted. The General Secretary wrote to the President of the ILA on 25 May

informing him that 225 ballot papers had been distributed and that the results were as follows:

Secretary:	Robbins 24	Lee 6	Tyrrell 4
Treasurer	Stephenson 18	Tyrrell 9	Lee 4

The General Secretary's letter begins by stating that she is confirming the elections for "Negotiating Secretary and Treasurer" but in two other places refers to the positions of "Secretary", including in the statement "Greg Robbins is therefore elected as Secretary".

19. The AGM of the ILA took place on 25 May 2006 at the Regional Offices. Once again it was inquorate. There were only six members present for the most part. The Claimant and Mr Tyrrell were not present. Mr Darke was present as an observer. The General Secretary's above letter was given to Mr Simkins on the basis that he had been elected unopposed as President. Mr Simkins read the election results to those present and then closed the meeting. No other business was conducted.
20. The Claimant's registration of complaint form dated 20 November 2006 was received at my office on 23 November 2006.

The Relevant Statutory Provisions

21. The provisions of the 1992 Act which are relevant for the purpose of this application are as follows:-

S.108A Right to apply to Certification Officer

(1) A person who claims that there has been a breach or threatened breach of the rules of a trade union relating to any of the matters mentioned in subsection (2) may apply to the Certification Officer for a declaration to that effect, subject to subsections (3) to (7).

(2) The matters are -

- (a) the appointment or election of a person to, or the removal of a person from, any office;*
- (b) ...*
- (c) the balloting of members on any issue other than industrial action;*
- (d) the constitution or proceedings of any executive committee or of any decision-making meeting;*
- (e) ...*

The Relevant Union Rules

22. The rules of the Union relevant to this application are as follows:-

7. The National Executive

(j) The National Executive shall, subject to these Rules and to the decisions of Conference have full power and authority to take such action as it deems necessary for the conduct of the Association's affairs and the realisation of the objects set out in Rule 3.

Without prejudice to the generality of this power the National Executive shall:

(i) subject to ratification at the Conference immediately following such decision, make such bye-laws and regulations as to the management of the Association not inconsistent with these Rules as the National Executive may consider desirable and to rule upon any question as to the construction of any Rule, bye-law or regulation;

8. Local Associations

(b) The National Executive shall publish model rules for the conduct of Local Association business which rules shall be adopted by each Local Association save that the National Executive may approve any such local variations requested by a Local Association as it sees fit.

12. National Officers' Committee

(d) Between meetings of the National Executive the National Officers' Committee shall conduct the business of the Association.

23. The Model Rules of the Islington Local Association relevant to this application are as follows:

4. OFFICERS

The Officers of the Local Association shall be:

*President
Vice-President
Secretary
Treasurer
Ex-President*

who shall hold office for the period of one year commencing on the date of the Annual General Meeting referred to in Rule 5 below.

5. ELECTION OF VICE-PRESIDENT, SECRETARY AND TREASURER

(a) Nominations for the Offices of the Local Association to which this Rule refers shall be proposed by one and seconded by another member of the Local Association and shall be submitted in writing to the President to be received by him/her no later than 21 days before the date of the Annual General Meeting.

(b) In the event of a contested election, the contested Offices shall be elected by a secret ballot of all members of the Local Association held in accordance with such procedures as may be prescribed by the National Executive for the conduct of such ballots.

(c) In the event of an uncontested election, the candidate(s) for Office(s) concerned shall be declared elected unopposed at the Annual General Meeting.

(d) In the event of no nomination for one or more of the Offices to which this Rule refers, nominations shall again be called for and shall be subject to the procedure set out in (a), (b) and (c) above, save that the closing date for nominations shall be fourteen days before the date of the next General Meeting.

(e) Any casual vacancy for the Offices to which this Rule refers shall be filled by secret ballot in accordance with the procedures set out in this Rule as though the next General Meeting was the Annual General Meeting.

6. PRESIDENT AND EX-PRESIDENT

(a) At the Annual General Meeting the outgoing Vice-President shall assume the office of President and the outgoing President shall assume the office of Ex-President.

(b) In the event of a casual vacancy for President, the Vice-President shall assume the office of President for the remainder of that President's term of office in addition to his/her own term of office as President and the casual vacancy for Vice-President so caused shall be filled in accordance with the procedure set out in Rule 5(e) above.

(c) (i) In the event of a casual vacancy for Ex-President there shall be an election for Additional Officer in accordance with the procedure set out in Rule 5(e) above.

(ii) The Additional Officer shall hold office for the remainder of the term of office of the Ex-President and shall carry out the duties of the Ex-President.

9. ANNUAL GENERAL MEETING

(a) The Annual General Meeting shall be held in the month of February each year.

(b) The Secretary shall send notice of and the agenda for the Annual General Meeting to all members of the Local Association and the National Executive Member(s) for the Local Association's area not less than fourteen days before the date of the Annual General Meeting.

(d) The quorum shall be 8 members or 1% of the total membership of the Local Association whichever is the greater.

Complaint 1

24. The Claimant complained

“that on or around 18 April 2006 in breach of rule 5(a) of the Model Rules for Local Associations, the Union required that nominations for offices of the Local Association be submitted to its Regional Office and not be submitted in writing to the President of the Islington Association as required by rule 5(a)”

25. Model Rule 5(a) provides that

(a) Nominations for the Offices of the Local Association to which this Rule refers shall be proposed by one and seconded by another member of the Local Association and shall be submitted in writing to the President to be received by him/her no later than 21 days before the date of the Annual General Meeting.

Summary of Submissions

26. The Claimant submitted that Model Rule 5(a) provides that all nominations “shall” be submitted to the President and yet the Union’s letter to members of 18 April 2006 in which nominations were sought for the officers of the ILA in 2006 required that nominations be submitted to its Regional Office. She stated that the argument against her that there was no President at the relevant time was flawed for two reasons. First, she maintained that Model Rule 6(b) deals with the situation in which there is no President. Secondly, she maintained that Mr Downes should have been accepted as President of the ILA in 2005/06 by the Union as he was the only valid nomination for the position of Vice-President in 2005. The Claimant submitted that the Union should have treated the next General Meeting, after the inquorate AGM on 25 May 2006, as the AGM.
27. For the Union, Mr Ford submitted that this complaint must be seen in the context of a Local Association in considerable difficulties with disputing factions and, at the time nominations were called for, no President or Vice-President. He argued that in these circumstances Model Rule 5(b) could not in practice apply and the Union was entitled to appoint a third party to receive nominations. Mr Ford referred to Rule 12(d) of the Rules of the Union which provides that “*Between meetings of the National Executive the National Officers Committee shall conduct the business of the Association*”. He submitted that by calling for nominations to be sent to the Regional Office, the Union was acting reasonably and sensibly in context.

Conclusion - Complaint 1

28. Model Rule 5(a) is clear and mandatory in its terms. It provides that nominations “*shall be submitted in writing to the President*”. Furthermore, the Union accepted that it required the nominations for Officers of the ILA in 2006 to be sent to its Regional Office. There was therefore a prima facie breach of Model Rule 5(a).
29. In considering the Rules of the Union, however, it was stated by Lord Wilberforce in **Heaton’s Transport Limited v TGWU (1973) AC 15**, that “*Trade Union rule books are not drafted by Parliamentary draftsman. Courts of law must resist the temptation to construe them as if they were; for that is not how they will be understood by the members who are the parties to the agreement of which the terms, or some of them, are set out in the Rule Book, or how they would be and in fact were understood by the experienced members of the Court.*” The guidance of the Courts to the correct approach to the interpretation of Union Rules was summarised by Mr Justice Warner in **Jacques v AUEW (1983) ICR 683**. At page 692A, Warner J stated:

“The effect of the authorities may, I think, be summarised by saying that the Rules of a Trade Union are not to be construed literally or like a statute, but so as to give them a reasonable interpretation which accords with what in the court’s view they must have been intended to mean, bearing in mind their authorship, their purpose and the readership to which they are addressed.”

30. The issue in this complaint is that a straightforward literal application of Model Rule 5(a) would result in there having been no completed elections for officers in the ILA in 2006. I have therefore asked myself what, in these circumstances, must have been the drafter's intention at the time the Rules were adopted, bearing in mind the authorship of the Model Rules, their purpose and the readership to which they are addressed.
31. In my judgment, the purpose of Model Rule 5 is to achieve the selection of officers of a Local Association by means of a fair election of the members of that Local Association. The President was chosen as the person to whom nominations should be sent on the basis that she or he would not ordinarily be involved in the next electoral process, being automatically entitled to assume the office of Ex-President. The members of the Union, to whom the rules are primarily addressed, would look to Rule 5 to achieve the election of officers to represent their interests and their interests are best served by having local officials elected by them by means of a fair process. The decision to be made by the Union in these circumstances was therefore whether to abide by the literal meaning of the rule accepting that there could be no election of officers or whether to attempt to put the Local Association back on track by letting the members of the Local Association have their say through the ballot box.
32. Model Rule 5(a) is in such clear terms that I have given considerable thought as to whether it should be applied literally to the present situation, regardless of the consequences for the members of the Local Association. I have concluded that it should not be applied literally. In my judgment Rule 5(a) must be read so as to mean that the nominations must be submitted in writing to the President, but only if there is a President in office. Having regard to the context and purpose of the Model Rule, I find that if there is not a President in office, the Union may direct that nominations be sent elsewhere, provided that the new recipient is removed from the electoral process in at least the same way as the Model Rules remove the President from the electoral process. I find that the decision taken by the Union that the nominations should be sent to the Regional Office was taken in good faith in the interests of the members of the Local Association and not to favour any one candidate or faction. In my judgment, on the facts of this case, there was no breach of Model Rule 5(a) by the Union requiring that the nominations for office within the ILA in 2006 be sent to the Regional Office, having regard to the fact that there was no President of the ILA then in office.
33. My decision on this complaint relates strictly to the rules and factual situation before me. It must not be read as justifying any administrative decision which is taken in good faith for ostensibly practical reasons, but which is in prima facie breach of Rule. The rules of a union must be complied with and if a rule is causing difficulty, the ordinary solution is to seek an amendment of it through the democratic process. The facts of the present case are exceptional.
34. I reject the Claimant's submission that the nominations should have been sent to Mr Downes. As I found in the Tyrrell case, the purported nomination of Mr Downes was not communicated to Mr Robbins before the 2005 AGM and was

therefore legitimately not put to that AGM. Mr Downes was not the Vice-President in 2005/2006. I also reject the Claimant's submission that her complaint should succeed on the basis that a President and Vice-President should have been elected during the preceding year, using the procedure for casual vacancies. This may or may not have been the case but the Claimant's present complaint is not about whether a casual vacancy should have been filled. It is whether there was a breach of Model Rule 5(a). The issue as to the filling of casual vacancies under Model Rule 6 is not the complaint that I have to determine.

35. For the above reasons I refuse to make the declaration sought by the Claimant that on or around 18 April 2006 the National Association of Schoolmasters Union of Women Teachers breached Rule 5(a) of the Model Rules for Local Associations by requiring that nominations for offices of the Islington Association be submitted to its Regional Office and not to the President of the Islington Association.

Complaint 2

36. The Claimant complained that:

“in 2006 in breach of rule 5(b) of the Model Rules for Local Associations, the Union failed to hold an election for the contested post of Secretary of the Islington Association”

37. Model Rule 5(b) provides that:

“(b) In the event of a contested election, the contested Offices shall be elected by a secret ballot of all members of the Local Association held in accordance with such procedures as may be prescribed by the National Executive for the conduct of such ballots.”

Summary of Submissions

38. The Claimant submitted that although the Union called for nominations for the position of Secretary, the ballot papers stated that it was the election for the position of “Negotiating Secretary”. On this basis, the Claimant contends that there was no election held for the position of Secretary in the ILA in 2006 and that Mr Robbins was not validly elected as the Secretary.
39. For the Union, Mr Ford submitted that this complaint is vexatious and demonstrated the obstructive approach of the Claimant to the Union's attempt to resolve the difficulties within the ILA. Mr Ford noted that in calling for nominations, the position in question is referred to as being that of Secretary and that nominations were received for the position of Secretary. He further noted that in the description of the role of Secretary given to members, it is stated that the Secretary is responsible for negotiating with the local authority. He referred to the evidence of Mr Darke in which it was explained that a separate Negotiating Secretary is sometimes elected where a group of Local Associations combine for the purposes of negotiating with a particular local authority but that this has never been the situation in Islington. Mr Darke

explained that, since the break up of the Inner London Education Authority, the ILA has negotiated directly with the local authority in Islington and the Secretary of the ILA has carried out those negotiations. Mr Ford submitted that in the circumstances the heading of the ballot paper could not have confused any member of the ILA.

Conclusion - Complaint 2

40. I accept the uncontested evidence of Mr Darke that it is well known that the ILA negotiates directly with the local authority in Islington, that its Secretary carries out those negotiations on its behalf and that those members who considered this matter would have been aware that this is the case. Putting this evidence in context, having regard in particular to the nominations that were sought and which were returned for the post of Secretary and the description of the role of Secretary given to members, I have no doubt that the members of the ILA who gave their minds to this matter would have been aware that the ballot paper they received was for the position of Secretary of the ILA. There was no evidence of any confusion and in my judgment this complaint is without merit.
41. For the above reasons I refuse to make the declaration sought by the Claimant that in 2006 the National Association of Schoolmasters Union of Women Teachers breached Rule 5(b) of the Model Rules for Local Associations by failing to hold an election for the contested post of Secretary of the Islington Association.

Complaint 3

42. The Claimant complained that:

“in 2006 in breach of rule 5(c) of the Model Rules for Local Associations, the Union failed to declare as elected those candidates in the 2006 annual election for the Islington Local Association who were not opposed at an Annual General Meeting of the Islington Association”.

43. Model Rule 5(c) provides that:

“(c) In the event of an uncontested election, the candidate(s) for Office(s) concerned shall be declared elected unopposed at the Annual General Meeting.”

Summary of Submissions

44. The Claimant submitted that the candidates who were unopposed in the 2006 elections could not be declared elected at the AGM on 25 May 2006 as that AGM was inquorate. The Claimant argued that if an AGM is inquorate it is as if the AGM has not taken place at all and that accordingly there was no meeting at which the unopposed candidates could be declared elected.
45. For the Union, Mr Ford submitted that the AGM had no discretion as to the declaration of the election results under Model Rule 5(c) so that, even if

inquorate, a declaration of the result of the election could be made under that Model Rule. He maintained that it would produce an absurdity, in tension with any reasonable interpretation of the rules, if duly elected candidates could not be declared because the AGM was not quorate, with the consequence that Islington would have no officers for 2006/2007.

Conclusion - Complaint 3

46. The Claimant has advanced a plausible case questioning whether any constitutional act can take place at an inquorate AGM of a Local Association of the Union. She is in effect asking if an inquorate AGM is an AGM at all, for any purposes.
47. During the course of the hearing I was not directed to any company law authority on the status of an inquorate AGM and have approached this question by asking myself how the relevant Model Rules of the ILA should be interpreted on the facts of this case. In doing so, I have had regard to the principles of interpretation of the rules of a trade union as set out at paragraph 29 above.
48. Whilst the Claimant's argument is superficially attractive, I have asked myself whether its consequences are those which would have been intended by the drafters of the Model Rules and understood by the membership. An election had been called and conducted properly. The views of the membership of the Local Association as to who should be their officers had been ascertained democratically. An AGM had been called properly and some members, albeit too few, had attended. The results of the elections were read out to those who attended. In these circumstances, is it to be said that the democratically chosen officers are unable to take office because the AGM was inquorate? In my judgment, it was neither the intention of the drafters nor the understanding of an informed member that this would be the case. I find that, within the meaning of Model Rule 5(c) of this Local Association, an Annual General Meeting is capable of comprehending, albeit for limited purposes, an AGM which is properly convened but inquorate. Clearly an inquorate AGM cannot transact business or make decisions but the election of officers was not to be carried out by a vote at the AGM. The result of the ballot was already known. It had only to be read out or declared in the open forum of the meeting, so making it available to the local membership. I find that for this limited purpose the correct interpretation of Model Rule 5(c) permits the declaration of an election result at a properly convened but inquorate AGM.
49. For the avoidance of doubt, this decision is reached on its own facts and on the interpretation of the Model Rules of this Local Association. It is not an authority bearing on the legal consequences of inquorate meetings under the rules of other trade unions or generally.
50. For the above reasons, I refuse to make the declaration sought by the Claimant that in 2006 the National Association of Schoolmasters Union of Women Teachers breached Rule 5(c) of the Model Rules for Local Associations by failing to declare at an Annual General Meeting of the Islington Association

those candidates elected unopposed in the Islington Local Association annual election.

Complaint 4

51. The Claimant complained that

“in 2006 in breach of rule 5(d) of the Model Rules for Local Associations, there having been no nominations for the post of Ex-President of the Islington Association, the Union failed to again call for nominations for the post of Ex-President of the Islington Association”

52. Model Rule 5(d) provides that:

“(d) In the event of no nomination for one or more of the Offices to which this Rule refers, nominations shall again be called for and shall be subject to the procedure set out in (a), (b) and (c) above, save that the closing date for nominations shall be fourteen days before the date of the next General Meeting.”

Summary of Submissions

53. The Claimant submitted that Mr Tyrrell ceased to hold the office of Ex-President in May 2006, one year after assuming office in May 2005. I note in passing that the May 2005 AGM was also inquorate. Normally, the former President would have assumed the office of Ex-President at the 2006 AGM but there had been no President in 2005/2006. The Union sought to deal with this problem by using Rule 6(c)(i) to fill the vacancy for the Ex-President with a so-called “Additional Officer”. However, no nominations were received for the position of Additional Officer and that position was left unfilled. The Claimant contended that by leaving the position of Additional Officer unfilled there was a breach of Model Rule 5(d) which required the Union to again call for nominations for this position.

54. For the Union, Mr Ford submitted that the Model Rules do not provide for any election for the post of Ex-President and that it would make no sense to have an election for an “Ex-President”. He argued that there was no breach of Model Rule 5(d) as there was never any requirement in the Rules to have nominations for the post of Ex-President. As to the position of Additional Officer, Mr Ford submitted that this is provided for in Model Rule 6(c)(i) but that no complaint has been made about this position or of a breach of Rule 6.

Conclusion - Complaint 4

55. The Claimant’s complaint concerns the post of Ex-President. She alleges a breach of Model Rule 5(d). I note, however, that Rule 5 deals only with elections to the posts of Vice-President, Secretary and Treasurer. This is clear from both the heading of Model Rule 5 and the content of that rule. It is Model Rule 6 which deals with the posts of President and Ex-President. Accordingly, the Claimant’s complaint is misconceived in as much as it seeks to allege a breach of Model Rule 5 in respect of a position that is not subject to that Model Rule.

56. For the above reasons, I refuse to make the declaration sought by the Claimant that in 2006 the National Association of Schoolmasters Union of Women Teachers breached Rule 5(d) of the Model Rules for Local Associations by failing to again call for nominations for the post of Ex-President of the Islington Local Association.

David Cockburn
The Certification Officer