



Mr D Murphy  
Secretary  
NUM Northumberland Area  
7 Esther Court  
Wansbeck Business Park  
Ashington  
Northumberland  
NE63 8QZ

Your ref:  
Our ref: CO/215T/8/16-17  
Date: 12 October 2017

Dear Mr Murphy

**Allegations of financial irregularities - National Union of Mineworkers (Northumberland Area)**

1. As you are aware starting in March 2016 the Sunday Times published a series of articles making allegations about the financial affairs of the National Union of Mineworkers (Northumberland Area) ("the Union"). BBC Newsnight also ran a piece relating to the same issues. In addition this office received allegations from two members of the public.
2. Having received and clarified the allegations I required my staff to make enquiries of the Union. Specifically they contacted:

Denis Murphy (Secretary, National Union of Mineworkers Northumberland Area)

Mr Ian Lavery M.P. (Former General Secretary, National Union of Mineworkers Northumberland Area)

Enquiries were also made of a remaining Trustee of the National Union of Mineworkers (Northumberland Area) Provident and Benevolent Fund, henceforth referred to as "the Trustee".

3. The Certification Officer has powers in relation to the financial affairs of a trade union contained in sections 37A to 37E of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act"). In relation to these allegations the Certification Officer was concerned with his powers to appoint an inspector under section 37B (1) and (2) of the Act which I set out below:

**37B Investigations by inspectors.**

(1) The Certification Officer may appoint one or more members of his staff or other persons as an inspector or inspectors to investigate the financial affairs of a trade union and to report on them in such manner as he may direct.



- (2) The Certification Officer may only make such an appointment if it appears to him that there are circumstances suggesting—
- (a) that the financial affairs of the trade union are being or have been conducted for a fraudulent or unlawful purpose,
  - (b) that persons concerned with the management of those financial affairs have, in connection with that management, been guilty of fraud, misfeasance or other misconduct,
  - (c) that the trade union has failed to comply with any duty imposed on it by this Act in relation to its financial affairs, or
  - (d) that a rule of the union relating to its financial affairs has not been complied with.
4. The decision as to whether or not to appoint an inspector is at the discretion of the Certification Officer. In exercising this discretion I have had in mind whether there appeared to be circumstances suggestive of one or more of the situations set out in section 37B(2) (a)-(d). In exercising this discretion I have taken into consideration both the extent to which it would be possible for an inspector to unearth more relevant information and the extent to which such an appointment would be proportionate given the nature of the allegations and the extent to which the facts are known.
5. In this case I have decided not to appoint an inspector. In arriving at that conclusion I was mindful of the fact that the historical nature of many of the allegations would make it very difficult to go further than establishing the appearance of any of the circumstances set out in subsections (a) to (d). In exercising my discretion, arriving at this conclusion I took into consideration the obligation that the Union is under regarding the retention of accounting records. Section 29 (1) of the 1992 Act states:
- A trade union shall keep available for inspection from their creation until the end of the period of six years beginning with the 1st January following the end of the period to which they relate such of the records of the union, or of any branch or section of the union, as are, or purport to be, records required to be kept by the union under section 28.
6. In practical terms this would mean that at the date the allegations began to be made the Union was not under an obligation to have kept any accounting records prior to the year ending 31 December 2010. As can be seen the majority of the allegations relate to earlier periods.
7. I am also mindful of the fact that no member of the Union has made a complaint about the financial affairs of the Union. Should a member have made such a complaint to me I would have been under the duty set out in



section 37E(2) of the 1992 Act

where a member of a trade union has complained as mentioned in subsection (1)(b) the Certification Officer decides not to exercise any of the powers conferred by those sections he shall, as soon as reasonably practicable after making a decision not to do so, notify the member of his decision and, if he thinks fit, of the reasons for it.

8. Despite there being no specific duty in this instance to notify anyone or to give my reasons for not appointing an inspector I have decided to set them out in this letter. I intend to copy this letter to the members of the public who raised concerns and to make it available on my website and to those that request it. In so doing, I am putting into the public domain issues in which enquiries were made but that I was not able to reach a firm conclusion. In relation to enquiries conducted outside a formal investigation the guidance of the Certification Officer on financial irregularities states, regarding enquiries conducted outside of a formal investigation that the Certification may "decide to place a copy of the letter [setting out his findings and observations and noting any remedial action taken] on the organisation's public record file (containing the organisation's annual returns to the Certification Officer)."
9. I have annexed to this letter a document providing factual background and more detail on the outcome of this office's enquiries.
10. I now turn to each of the allegations separately and set out my conclusions below.

#### Status of the National Union of Mineworkers (Northumberland Area) Provident and Benevolent Fund

11. At the outset of my investigations I considered whether the funds of the National Union of Mineworkers (Northumberland Area) Provident and Benevolent Fund ("the Provident and Benevolent Fund") could be described as part of the financial affairs of the Union. The Union explained the basis on which this fund was established and provided the trust deed under which it was operated. Based on this information I took the view that the Provident and Benevolent Fund was not a fund of the Union and to that extent did not form part of the financial affairs of the Union. However, where funds flowed from the Provident and Benevolent Fund into the funds of the Union those funds became part of the financial affairs of the Union and where appropriate I considered these.



Alleged spending on political objects

12. The allegation is that the Union made payments in respect of political objects that were not made from a political fund, thereby breaching section 71 of the 1992 Act, which relates to the restriction on use of funds for political objects.
13. The AR21s (annual returns) for 2001, 2005 and 2010 showed six payments not made out of its political fund that could be construed as payments for political objectives.
14. The position regarding political funds in the National Union of Mineworkers as a whole is that the National Union of Mineworkers has a political fund resolution which applies to all the parts of the National Union of Mineworkers including the NUM Northumberland Area and NUM North East Area.
15. The NUM North East Area ran its own political fund and that of the Northumberland Area.
16. The Union confirmed that the six payments referred to were made from the Union's General Fund. It disputed that one of the payments was for political objectives. Since the start of my enquiries the NUM North East Area has agreed to reimburse the NUM Northumberland Area, from its political fund, the five undisputed payments.

*Conclusions*

17. Spending on political objects appears to have been made from the Union's General Fund in breach of section 71 of the 1992 Act.
18. Complaints to the Certification Officer about the application of funds in breach of section 71 can only be brought under section 72A of the 1992 Act by a person who is a member of the trade union. I received no complaints from Union members under section 72A of the 1992 Act.
19. The allegations are historical in nature with the latest relevant alleged spending being in 2010.
20. Further, I note the recent decision for the NUM North East Area to reimburse the Union for some of the payments.
21. In exercising my discretion as to whether to appoint an inspector under section 37B I do not consider that any further action under section 37A or 37B is proportionate given, the lack of a complaint from a member, the



steps taken by the Union to remedy the breaches and the historical nature of the allegations. In these circumstances, the only outstanding issue is whether the Union is correct in its assertion that one of the six payments was not in fact for a political purpose. I am mindful that such disputes are expressly dealt with in the 1992 Act. Should a member of the Union have applied to me, I would have had the power to make a determination. I do not take the view that the powers contained in sections 37A and 37B of the 1992 Act give an alternative route to arriving at such a determination.

### Membership figures

22. Another area drawn to my attention was the sudden reduction in members recorded in the Union's AR21 in 2013. The AR21s from 2002 to 2012 show the Union's membership as 240 each year. This dropped to 10 in 2013 and remained at 10 in 2014. The allegations stated that this sudden drop was "surprising" and called into question whether the Union had fulfilled its duty to maintain an accurate membership register.

23. This office made enquiries of the Union aimed at gaining a fuller picture of the reason for the decline in membership. The Union explained that leading up to 2013 the Union had been contacting members and advising them to change to different unions in circumstances where they had moved from the area or changed their employment.

24. The Union confirmed that it reduced the recorded membership to 10 in 2012, to reflect the number of persons paying full subscriptions by direct debit or standing order.

### *Conclusions*

25. No members' complaints were received by me under section 25 of the 1992 Act for a failure by the Union to maintain membership records. The explanation provided by the Union that it was addressing an issue regarding non-paying members in 2013 is plausible particularly given the lack of collieries in Northumberland for a number of years previous to that. I therefore do not consider it appropriate to conduct any further enquiries into this issue.

### Redundancy payments to Mr Lavery

26. The allegations received referred to the Union's AR21s for the years 2010 to 2012 which recorded payments under the description "redundancy" to the



General Secretary (or former General Secretary) as follows:

2010 - £30,600  
2011 - £30,000  
2012 - £1,398

In addition the Statement to Members issued by the Union to its members (in accordance with section 32A of the 1992 Act) for the year ending 31 December 2013 records a payment in respect of "Past General Secretary Redundancy Costs" of £85,426.

Total: £147,424

27. The allegations further stated that the Union's then General Secretary Mr Ian Lavery ceased to be General Secretary when he was elected as the MP for Wansbeck on 7 May 2010 and questioned in what way this was redundancy and, if not a redundancy, asked on what basis the payments were made.
28. As a result of this Office's enquiries, the Union confirmed that the above payments were made to Mr Lavery. Both the Union and Mr Lavery stated that Mr Lavery was made redundant in 2010 and that the post of General Secretary as held by Mr Lavery was redundant.
29. My office was provided with details of Mr Lavery's contracts of employment that had provisions within them for payments in the event of redundancy. The entitlement equates with the total amount paid to Mr Lavery. However, as a result of our investigations the Union established that they had overpaid Mr Lavery. The Union and Mr Lavery subsequently reached an agreement with regards to this overpayment.

### *Conclusions*

30. Mr Ian Lavery ceased to be General Secretary of the Union when he was elected as MP in May 2010.
31. The Union and Mr Lavery stated that the post of General Secretary and therefore, Mr Lavery, were made redundant in May 2010. Both the Union and Mr Lavery were given the opportunity to provide documentary evidence to show a process or decision by which Mr Lavery was made redundant. Neither were able to do so and stated that no such documentary evidence existed.



32. In light of the absence of documentary evidence to support the Union and Mr Lavery's assertions that Mr Lavery was in fact made redundant I do not consider that the appointment of an Inspector would help to resolve the key issue as to whether Mr Lavery was made redundant within the terms of his contract of employment. In those circumstances I do not consider that an inspector could go further than establishing the appearance of any of the circumstances set out in section 37(B) subsections (a) to (d).
33. Any case for appointing an inspector to seek to clarify whether Mr Lavery was properly made redundant is also tempered by the fact the payments were fully recorded in the Union's Annual Returns to this office and/or recorded in the statutory statement to members that is required. Further no member of the Union has raised any concerns about the redundancy payment.

Mortgage on Mr Lavery's property, "property A"

34. A loan of £72,500 was made to Mr Lavery by the Provident and Benevolent Fund to enable him to purchase a property, "property A". Evidence was provided of Mr Lavery's payments towards an agreed rate of interest on the loan or mortgage. The loan was written off by the Fund in 2007 and Mr Lavery appears to have been a beneficiary of this arrangement.
35. An endowment policy was set up to cover the capital sum of the mortgage. I was told that Mr Lavery made regular payments into this policy and received documentary evidence in the form of letters from Mr Lavery's bank. No other information was provided about the terms of the endowment policy and I was told that no further documents were held.
36. In April 2007 the Executive Committee of the Union decided the Union would accept full liability for the below-expected performance of the endowment policy when it became clear that this under performance meant the policy would fall below its expected value that should have covered the sum of the mortgage, £72,500. This was the basis for the Union negotiating with the Provident and Benevolent Fund to get the Fund to write off the entirety of the £72,500 loan to Mr Lavery in return for the Union writing off the Fund's debt to the Union which was recorded in the Union's 2007 annual return as being in the amount of £109,911.
37. The endowment policy was subsequently cashed in for approximately £18,000 which was received by the policy holders, Mr and Mrs Lavery. Therefore the loss in the expected value of the policy was approximately £54,500. I was provided with minutes of the Executive Committee meeting which indicates that the Union reached a decision on all this.





38. On the basis of the evidence provided to me I was left with two particular issues. Firstly, the Union was not adequately able to explain why they should have taken full responsibility for the under-performance of the endowment policy taken out by Mr and Mrs Lavery. In particular, they were unable to explain why no attempts were made to seek compensation from the endowment provider. Secondly, it is far from clear why the Union should have made an arrangement with the Provident and Benevolent Fund to write off the whole of Mr and Mrs Lavery's £72,500 debt to them. This despite the fact that the endowment policy did have a value, it was later redeemed for a figure around £18,000. It would appear that Mr and Mrs Lavery may have been over-compensated for the underperformance of the endowment policy.
39. This is an allegation that did not come to light until 2016 relating to events that occurred between 1994 and 2007. As noted above the Union was not required to hold accounting records for this period by the time the allegations were made.
40. In respect of whether the Union's decision to waive the Provident and Benevolent fund's debt requires further investigation I have taken into account that these are historical allegations when considering whether it is appropriate in the circumstances to appoint an inspector. I do not consider that an inspector could go further than establishing the appearance of any of the circumstances set out in section 37(B) subsections (a) to (d) of the 1992 Act.

#### *NUM Northumberland Area 15% investment in Property A*

41. As recorded in Minutes of the Northumberland Area Executive Committee Meeting held on 13 May 2005 "It was agreed to invest in the purchase of 15% of the value of Mr Lavery's property ... with the valuation being £240,000. The Secretary/President suggested that the legal document be drawn up in order to legalise the aforementioned investment." The Union stated that the legal document does not appear to have been drawn up. The loan was paid back by Mr Lavery at 15% of £190,000 from his redundancy payments in 2013 (see above). The sum of £190,000 was the valuation of the property made by Mr Murphy for the Union in 2013.

#### *Conclusion*

42. There is well-known precedent for a trade union purchasing housing for its senior officials. Typically, the union retains ownership of the property and may keep or sell it after it is no longer needed by the official. However, the idea of a trade union purchasing in effect a share in its General Secretary's





home is a novel one and not one that I have previously come across. In this case it cannot even be seen as a traditional secured loan as there was no guarantee that the amount initially paid to Mr Lavery would be paid back. Due to an apparent reduction in value of the property the Union did not recover the full amount of the money advanced. However, the Union did provide copies of the minutes of the Executive Committee at which the arrangement was agreed. It is my view that no further clarification can be gained by the appointment of an inspector. Rather the putting into the public domain the details of this arrangement is appropriate.

#### Sale of the Union's property, "Property B"

43. The allegation was that the sale in 2012 of the Union's property, "Property B" to Mr Alan Stewart, Union executive member, at a discount may have unduly benefited Mr Stewart and his family.

#### *Conclusions*

44. The Union provided an explanation of the basis for the discounted sale of "Property B" at £70,000 (being the improvement work Mr Stewart had done on it, prior to the sale, and the fact of a sitting tenant in the property) and provided evidence of the original valuation at £85,000, subject to vacant possession. I was provided with evidence that the Union's Executive Committee had discussed and agreed this. In the circumstances I do not take the view that any of the circumstances set out in section 37B (a) to (d) of the 1992 Act appear to be met.

#### Allegations relating to foreign travel

45. The correspondence received included allegations that Mr Lavery, then the General Secretary, and Mr Murphy, then MP for Wansbeck and former official of the Union, had travelled to Australia in 2008 to attend a seminar on coal and climate change, at the expense of the Union. The correspondence also referred to trips to India and Cuba by Mr Lavery, paid for by the Union. The Union's annual return for 2008 shows, at page 10, "Expenses of conferences £39,884". The correspondence suggested that the payment of these expenses may not have been a legitimate use of Union funds and questioned whether Mr Murphy's expenses represented a payment towards maintenance in office or a benefit to a public official.

#### *Conclusions*

46. It is not possible to determine whether the circumstances are such that the test for appointing an inspector is sufficiently met. Following this office's



enquiries, the Union provided copies of contemporaneous minutes of its Executive Committee recording that Mr Murphy was to participate in a visit to Australia as a representative of the Union. The Union also provided a list of conference and travel expenses for 2008 showing amounts and indicating who they went to. Full financial records including receipts or claims from individuals have not been provided as they are no longer available - as noted earlier section 29(1) of the 1992 Act does not require a Union to retain accounting records beyond six years. I am not therefore able to conclude that the amounts of expenses recorded in the ledger provided by the Union are in excess of what would be expected in the year which included a visit to Australia. With particular reference as to whether any of the expenses payments represented spending on political objects, I note (as stated earlier) that no complaints have been received by a member of the Union of an alleged breach of section 71 of the 1992 Act. In exercising my discretion to appoint an inspector under section 37B I do not take the view that the appointment of an inspector is appropriate or would be effective in considering these historic matters further.

#### Alleged employment of family members

47. An article in the Sunday Times dated 4 April 2016 referred to first Mr Murphy and then Mr Lavery employing Mr Murphy's partner and daughter whilst they were MPs using their MP's staffing allowance to do so.

#### *Conclusion*

48. The allegations relate to a time when the individuals referred to were MPs and there is no evidence of any of the current Union's officials' families being employed by the Union.

49. This appears, therefore, to be outside of the Certification Officer's jurisdiction.

#### Overall conclusions

50. I have decided not to use my statutory powers to investigate further the issues set out above. In so doing I was mindful that the matters complained about are mainly historical; that much of the financial information on which the allegations were based was publicly available through the annual returns (AR21s) provided to the Certification Officer or had been issued to Union members through the statutory annual statement to members; and that no former or current member of the Union has raised concerns about the financial affairs of the Union with the Certification Officer. I note that in



providing this financial information the Union appears to have met the statutory requirement set in section 32 of the 1992 Act to do so.

51. It is clear that the National Union of Mineworkers Northumberland Area is a union in steep decline as a result of the end of the deep coal mining industry in Northumberland and the UK. Indeed the Certification Officer has been told that the Union is considering dissolution as a result of the decline.
52. Notwithstanding the above, my office has expended significant time in pursuing my enquiries of the Union in order to obtain information to provide me with sufficient detail and analysis to enable me to form a view of the issues and how my enquiries should proceed, as the facts became clear. The Union and others involved co-operated with the enquiries and I am satisfied that I have been able to obtain all the relevant information available. I therefore did not find it necessary or consider it would assist, to appoint an inspector under the provisions of the 1992 Act.
53. In this instance I have determined not to appoint an inspector. However, I have decided to put this explanation of my reasons and findings into the public domain for the wider public interest and because I consider it appropriate that current and former members of the National Union Mineworkers Northumberland Area should be aware of the information gathered and my decision and reasoning.

A handwritten signature in black ink, appearing to read 'Gerard Walker'.

**Gerard Walker**  
**The Certification Officer**



## ANNEX

### Factual background/outcome of enquiries

1. No member of the National Union of Mineworkers (Northumberland Area) ("the Union") has made a complaint to me about the financial affairs of the Union.

#### Status of the National Union of Mineworkers (Northumberland Area) Provident and Benevolent Fund

2. At the outset of my investigations I considered whether the funds of the National Union of Mineworkers (Northumberland Area) Provident and Benevolent Fund ("the Provident and Benevolent Fund") could be described as part of the financial affairs of the Union. The Union explained the basis on which this fund was established and provided the trust deed under which it was operated. Based on this information I did not take the view that the Provident and Benevolent Fund formed part of the financial affairs of the Union. However, where funds flowed from the Provident and Benevolent Fund into the funds of the National Union of Mineworkers (Northumberland Area) I took the view that those funds became part of the financial affairs of the Union. Where appropriate I considered these.

#### Alleged spending on political objects

3. The allegation is that the Union made payments on political objects that were not made from a political fund, thereby breaching section 71 of the 1992 Act, which concerns restriction on use of funds for political objects.
4. The AR21s (annual returns) for 2001, 2005 and 2010 showed payments as follow.
  - a) "Wansbeck CLP £1,000" (Report and Accounts sent with the annual return, year ended 2001 p8)
  - b) "Blyth CLP £1,050" (Report and Accounts sent with the annual return, year ended 2001 p8)
  - c) "Denis Murphy MP Memorial Publication: £2,400" ( p15 of the Annual Return year ended 2001)
  - d) "Wansbeck CLP £3500" (p12 of Report and Accounts sent with the



Annual Return for year ended 2005)

- e) The following recorded at p12 of Report and Accounts sent with the Annual Return for year ended 2005: (i) "Wear & Tyneside CLP: £100", (ii) "Blaydon CLP: £250", (iii) "Durham CLP: £320"
  - f) "MP campaign office furnishing" "£4,692" (Report and Accounts year ended 2010, p5).
5. The Union's annual returns show a balance in the Union's political fund of £44 for that period.
  6. The Certification Office's records do not show that the National Union of Mineworkers (Northumberland Area) or the NUM North East Area have passed a political resolution. The position regarding political funds in the National Union of Mineworkers as a whole is that the National Union of Mineworkers has a political fund resolution which applies to all the parts of the National Union of Mineworkers including the NUM (Northumberland Area) and NUM North East Area.
  7. Explaining how the arrangement to claim for political spending from the NUM North East Area worked, the Union stated that the NUM North East Area ran the Area Unions' political funds (including that of the Union) and that, despite a proposal to wind up the National Union of Mineworkers (Northumberland Area)'s political fund, it was agreed by the Union's Executive Committee in December 1993 that the Union's political fund remain open. The Union could not explain why the fund was not wound down but stated that that fact would explain why there continued to be a balance of £44. The Union disputed that the payment in 2010 was for political purposes as the £4,692 was refurbishment of Union offices and not therefore in breach of section 71 of the 1992 Act.
  8. The Union confirmed that the above detailed expenditure was made from the Union's General Fund stating that "It was agreed that the expenditure be made from NUMNA general fund and reimbursed from the NEA [North East Area] political fund. The Union further stated by a letter dated 29 September 2016 that "The North East Area has not repaid these payments". It is therefore the case that all of the above payments were made out of the Union's General Fund. The Union stated in an e-mail of 16 December 2016 that Mr A Cummings had recently been elected as Secretary of the NUM North East Area and that it had been agreed that the following sums were to be reimbursed: Wansbeck CLP £1000, Blyth CLP £250, Blaydon CLP £250, Durham CLP £320 and added that "We did not claim back £4692 as this was for the refurbishment of the NUM Northumberland Area offices."



### Membership figures

9. There was a sudden reduction in members recorded in the Union's AR21 in 2013. The AR21s from 2002 to 2012 show the Union's membership as 240 each year. This dropped to 10 in 2013 and remained at 10 in 2014.
10. The Union stated that leading up to 2013 the Union had been contacting members and advising them to change to different unions in circumstances where they had moved from the area or changed their employment. The Union provided samples of replies to a questionnaire of members undertaken after Ellington Colliery was closed in 2005, asking if they wished to continue their membership or not. There were a total of 14 replies in which an individual had filled in the form. In terms of the question of whether the individual wanted to maintain their link with the Union, the replies showed: Yes: 7, No: 3, Not clear: 4.
11. The Union was unable to locate any record of the decision to reduce the membership in 2013.
12. The Union was unable to provide membership records from before or after the reported drop in membership in 2013.
13. Mr Murphy, the Union's Secretary, stated, "I confirm the Union reduced the members to 10 full financial members in 2012, to reflect the persons paying full subscriptions by direct debit or standing order. (Although... we still had retired and limited members at that time)"

### Redundancy payments to Mr Lavery

14. The Union's AR21s for the years 2010 to 2012 record payments under the description "redundancy" to the General Secretary (or former General Secretary) as follows:

2010 - £30,600  
2011 - £30,000  
2012 - £1,398

In addition the Statement to Members issued by the Union to its members (in accordance with section 32A of the 1992 Act) for the year ending 31 December 2013 records a payment in respect of "Past General Secretary Redundancy Costs" of £85,426.

Total: £147,424



15. The Union confirmed that the above payments were to Mr Lavery.
16. The Union's then General Secretary Mr Ian Lavery ceased to be General Secretary when he was elected as the MP for Wansbeck on 7 May 2010.
17. The Union and Mr Lavery expressed the view that Mr Lavery was made redundant. Mr Murphy for the Union stated that "the post of General Secretary was ended when he left the Unions employment. ... It is my understanding that the post of General Secretary and therefore Mr. Lavery was made redundant." The Union confirmed it held no records in relation to Mr Lavery's redundancy or a decision to alter the status of the post of General Secretary within the Union prior to Mr Lavery's election as an MP.
18. No documentary evidence of a decision to make the post of General Secretary redundant, prior to Mr Lavery taking up his post as elected MP, or of any redundancy process having been carried out by the Union was provided by Mr Lavery or the Union.
19. Mr Lavery provided the following view by way of a letter received on 24 November 2016:

"It is patently obvious that the definition of redundancy was met here in that there was a clear diminution of requirement for employees, specifically a General Secretary. The membership had declined, the collieries were closed and the organisation was being managed into decline.

On the 1<sup>st</sup> May 2010 Mr Murphy was appointed to an administrative post with the appropriate salary for the role ... This was a post based on a fixed term contract and with a remit to wind down the organisation which at that time had not had a working colliery in the area for over five years.

Both of these decisions were made by the Executive of the organisation and I feel sure it has been recorded correctly.

It is my understanding that as the Union was only making one post and therefore one employee redundant there was no need to follow any redundancy process save to fulfil the obligations of the contract(s) of employment. I am advised that there is no such thing as a statutory redundancy process."
20. Mr Lavery provided copies of his contracts of employment dated 6 April 1992. There were three of these which were substantially the same. The three contracts made out between Mr Lavery and each of the following: National Union of Mineworkers (Northumberland Area), National Union of Mineworkers (Northumberland Area) Ellington Branch and National Union of Mineworkers (Northumberland Area) Provident and Benevolent Fund. Mr Lavery stated that these contracts set out the proportions of his





remuneration paid by the separate bodies but that over time this evolved to being a split between National Union of Mineworkers (Northumberland Area) and National Union of Mineworkers (Northumberland Area) Provident and Benevolent Fund. Clause 11 in the contract with the Union says "On termination of employment by way of redundancy of the General Secretary, the General Secretary shall be paid an ex gratia lump sum equivalent to one fifth x 18 months gross salary". The equivalent clause for the other two contracts is Clause 10 in each. These differ from the contract with the Union in that the Ellington branch contract says, "On termination of employment by way of redundancy of the General Secretary, the General Secretary shall be paid an ex gratia lump sum equivalent to two fifths x 18 months gross salary" and the contract with the Fund says, "On termination of employment by way of redundancy of the General Secretary, the General Secretary shall be paid an ex gratia lump sum equivalent to three fifths x 18 months gross salary".

21. The Union stated that it does not hold copies of Mr Lavery's contract of employment. This office has not been provided with any copies of Mr Lavery's contract of employment save the contracts dated 1992.

22. Mr Lavery stated that it was his understanding that the contracts of employment provided were the only contracts that he had ever held with the organisations and so should be taken as the most up to date.

### Overpayment of redundancy

23. My office was also provided with correspondence between the Union and Mr Lavery dating from May 2016 over what the Union claimed was an overpayment of the "redundancy" payments to Mr Lavery amounting to £30,600. The Union later stated that Mr Lavery was overpaid by £30,600 in 2013 because Mr Murphy did not realise that he had already been paid this in 2010. The Union stated that it and Mr Lavery had agreed that they would continue discussions in an attempt to reach a settlement of the "outstanding overpayment." Mr Lavery confirmed in his letter received on 24 November 2016 that he and the Union had exchanged correspondence and had met on the matter of the alleged overpayment adding that he fully anticipated that further such meetings would take place which should provide a satisfactory outcome to both parties. He added that, "However it is important that neither party's position should be prejudiced or compromised by public pronouncement at this stage." The Union (Mr Murphy's e-mail of 2 December 2016) stated that Mr Lavery had made an offer to the Union in relation to the alleged overpayment of redundancy and stated that Mr Lavery disputed a payment of £10,600 made to him in May 2010 as being



part of his redundancy saying, rather, that it was in fact a part of his motor car allowance. Mr Murphy for the Union stated: "I cannot divulge that offer as yet but as you are no doubt aware any payments made by Mr Lavery will be published in our AR21 return. The Executive Committee have yet to decide upon that offer." Letters were sent from my office to the Union on 2 March 2017 requiring, under section 37A of the 1992 Act, any document showing the amount of the payment made by Mr Lavery to meet the overpayment and, if the amount was less than £30,600, an explanation as to the basis for the decision upon which this was so reduced. A letter was also sent to Mr Lavery requesting this information (but not requiring it under section 37A). We received, on 22 March 2017 from Mr Lavery, a copy of an agreement between Mr Lavery and the Union, dated 12 December 2016, stating that Mr Lavery volunteered to repay the sum of £15,000 from the redundancy payment and that the parties "intend that the Repayment shall be in full and final settlement of any and all claims the NUM (Northumberland Area) has or may have against Mr Lavery arising out of or in connection with the Redundancy Payment..." In explanation for accepting a lower figure than the £30,600 the Union claimed was overpaid, the Union stated as follows by an email dated 1 April 2017:

"...When I met with Mr. Lavery to discuss this issue he claimed that £10,600 he received was in fact a car allowance payment he was entitled to and did not form part of his redundancy payment.  
He also said he had paid tax and N.I. on the remaining £20,000 therefore was only prepared to offer £12,000 to cover the overpayment. We thought that to be unacceptable and he subsequently increased that to £15,000.  
Mindful of the expense of taking legal action and the fact that his claim, that part of the payment was a car allowance and not part of his redundancy payment, we thought it would be unreasonable to pursue legal action. Mr. Lavery was adamant that £15,000 was his final offer, we were left with little choice but to accept..."

24. Mr Lavery confirmed that he received the following "termination payments" from the Union:

£10,600 on 25 May 2010  
£20,000 on 3 November 2010  
£30,000 on 13 July 2011  
£1,398 on 11 November 2012  
£27,889.93 on 12 June 2013

Total £89,887.83

25. Mr Murphy stated that the sums of £30,600 in 2010 and £30,000 in 2011 appeared to have been paid to Mr Lavery without any deductions on tax. Mr Murphy stated that the payment of £1,398 in 2012 was a net payment to Mr Lavery of £1000 the balance being employer's National Insurance



Contributions. It is noted that this differs from Mr Lavery's statement that he received the full £1,398 in 2012. Regarding the difference in 2013 for the figure confirmed received by Mr Lavery and the figure of £85,426 recorded in the 2013 statement to members (see above), Mr Murphy explained as follows. Mr Lavery's redundancy payment was to be a total of £107,000. When Mr Murphy started working for the Union in 2013 he understood £76,000 was owed to Mr Lavery as he did not realise Mr Lavery had been paid £30,600 in the 2010. The figure of £76,000 became £85,426 once £9,426 in employer's National Insurance contribution was added. As to why Mr Lavery only received £27,889.93 in 2013 Mr Murphy explained that £28,500 was deducted for an outstanding loan to Mr Lavery described as a 15% investment in his home (see below under *Other loans to Mr Lavery*) and a further £19,600 was deducted in tax.

#### Mortgage on Mr Lavery's property ("Property A") and other loans

26. Mr Lavery received a mortgage of £72,500 from the NUM's Provident and Benevolent Fund in 1994 to purchase 'Property A'. It was said that the mortgage was paid off in 2007 in that the Union and Mr Lavery came to a "financial agreement". It was noted in these allegations that the NUMNA had written off a loan of £109,911 in 2007 (this is recorded in the AR21 for that year) and it was suggested that this could have meant that Mr Lavery's mortgage was written off.
27. Statements by the Union, Mr Lavery and the Trustee established that it was the Union's normal practice to provide its full time officials with use of a property for as long as it was required which then reverted to the Union's ownership. The evidence suggested that Mr Lavery was provided with a loan by the Provident and Benevolent Fund to facilitate his full ownership of the property. The Union was not able to provide an explanation on this apparent deviation from the practice it had referred to. Mr Lavery was provided with a loan/mortgage of £72,500 by the Provident and Benevolent Fund on 4 November 1994 for the purchase of his property.
28. Also around November 1994 an endowment policy was set up in the names of Mr and Mrs Lavery with the assistance of the Union and the Provident and Benevolent Fund to cover the capital sum of the mortgage. Mr Lavery further stated that this was a personal policy that was arranged by the Trustees and was drawn up for him to agree to. The Trustee provided an extract from the minutes of the "Northumberland Miners Provident and Benevolent Trustees Meeting" of 17 October 1994. Under the heading "Secretary's Mortgage" this records solicitors' advice that an insurance policy should be taken out in case of repossession and states that, "... it was agreed that the Secretary in



conjunction with Arena Finances<sup>1</sup> should seek the finance in order to purchase the property." This process ended up with the obtaining of an external provider to provide the endowment policy to cover Mr Lavery's mortgage on Property A.

29. Property A was purchased on 4 November 1994 in Ian and Hillary Lavery's names.
30. Evidence was provided of a number of payments being made by Mr Lavery to the Provident and Benevolent Fund in respect of the interest due on the mortgage and towards the endowment policy. The Union supplied documents showing 22 monthly payments in total of £166 each from Mr Lavery to the Provident and Benevolent Fund for 2002 and 2007.
31. Mr Lavery provided a letters dated November 2016 from his bank addressed to Mrs and Mr Lavery. These confirmed that a monthly standing order was set up on Mr Lavery's account payable to 'NLAND MINERS' on 21 December 1994 with the first payment debited on 10 February 1995 and the instruction being cancelled on 22 November 2007 and that at the time of cancellation the last debit was for £166.00 sent on 10 November 2007. The letters further confirmed that a Direct Debit payment to 'GEN ACCIDENT LIFE' was set up on 26 August 1994 and cancelled on 12 August 1998 and that at the time of cancellation the last debit was for £108.32 claimed on 10 August 1998. The letters also confirmed that a Direct Debit payable to Aviva Life and Pensions<sup>2</sup> was set up on 12 August 1998 and cancelled on 20 November 2007 and that at the time of cancellation the last debit was for £108.32 claimed on 12 November 2007.
32. In 2007 the Union wrote off a sum of £190,000 said to be owed to it by the Provident and Benevolent Fund. The amount represented an outstanding accumulation of a number of years' of the Provident and Benevolent Fund's contribution towards Mr Lavery's salary. Also in 2007 the Provident and Benevolent Fund wrote off Mr Lavery's mortgage (a debt owed to the Fund by Mr Lavery) which was £72,500. The Trustee stated that the figure of £109,911 recorded in the Union's 2007 annual return was likely to have been the difference between £190,000 and the £72,500 that the P&B Fund wrote off in 2007 in relation to Mr Lavery's property. The Trustee stated that the difference of £7,589 might have represented "associated costs".

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<sup>1</sup> The Trustee stated that this was a financial company that the Trustees dealt with and that Arena Finances advised the Trustees on all financial matters relating to the Fund.

<sup>2</sup> A covering e-mail sent on Mr Lavery's behalf stated that General Accident Life were taken over by Aviva in 1998.



*Subsequent performance of the endowment mortgage*

33. The minutes of the National Union of Mineworkers (Northumberland Area) Executive Committee meeting of 19 April 2007 provided by the Union record that:

“..the Secretary/President [Mr Lavery, also Chair of the EC meeting] was able to show that as a result of extremely poor financial advice given to the Union in 1995/96 the Secretary/President's endowment mortgage had performed well below that predicted at the time resulting in considerable financial loss to the Secretary/President. The NUM accepted full responsibility for the loss...The Executive agreed that the Secretary/President should meet with the Trustees of the Provident and Benevolent Fund and inform them that the £190,000 outstanding payment would be written off if they as a board of trustees would consider in turn writing off the remaining payments on [Property A].”

The Trustees of the Provident Fund agreed to that proposal at their meeting of 30 October 2007.

34. The Union stated that it could not explain the rationale behind the above decision for the Union to take full liability for the performance of the endowment policy rather than taking action against the provider. Asked if consideration was given to taking action against the provider of the endowment policy the Union responded that, “Only Mr Lavery and those present at that meeting can answer those questions.” The Union confirmed its understanding that the reference to the “loss” in the Executive Committee minutes would be the extent to which the value of the endowment policy was projected to be below the £72,500 capital sum.

35. The minutes of the National Union of Mineworkers (Northumberland Area) Executive Committee meeting of 8 June 2007 were also provided by the Union. These state, in part, as follows:

“The Executive was informed that legal advice had been received regarding [Property A]. It was suggested that a clause be placed into the contract of the Secretary/President regarding the ownership of property. The clause would enable the property to be transferred at no cost to the Secretary/President as part of this working contract.”

36. Mr Lavery was asked:

- If he could explain why the Union had accepted full liability for the performance of the endowment policy?
- Did he seek compensation from the provider?
- When was the policy cashed in, at what value and who did the money go to?



He replied that following the poor financial performance of the endowment mortgage described he sought compensation, writing that,

"I sought advice regarding compensation and it was explained to us that due to the fact the Trustees had actually set up the endowment that it would likely be their responsibility to pay any compensation for the actions and financial decision taken. This I accepted. I am neither a lawyer nor a Financial Advisor and understandably we relied on this.

I do not retain the documentation nor details of the precise date as to when the endowment was cashed in but it was shortly after the mortgage was concluded, in or around 2007. My recollection was the value of the policy was approximately £18000 and a payment was made to the policyholders, my wife and I, who paid for the policy on a monthly basis from our own funds and had done since the agreement began."

37. Neither the Union, Mr Lavery nor the Trustee were able to provide further information about the endowment policy, such as its terms. The Trustee stated that "I have no record or recollection of this matter of the policy being discussed at any future meeting of the fund." Mr Lavery added in his letter received on 24 November 2016 that he no longer had a copy of the endowment policy which was set up in 1994.

38. The Union, in April 2007, decided it would accept full liability for the below-expected performance of the endowment policy. The Union agreed, in a letter dated 29 September 2016, that this under performance meant the extent to which the policy's value was expected to fall below its value of £72,500 in 1994. The endowment policy was cashed in for approximately £18,000 which went to the policy holders, Mr and Mrs Lavery. Therefore the loss in the expected value of the mortgage was approximately £54,500. The minuted evidence indicates that the Union reached a decision on all of this.

#### *Other loans to Mr Lavery*

39. The Union stated that it "wrote off a loan and revalued another to reflect the time Mr Lavery had to wait for his "redundancy payment."

40. The loan that was written off was done so at the decision of this Special EC meeting of 2 May 2013. The loan represented what Mr Lavery owed the Union for car servicing and other day to day expenses that were considered for personal use. The Union provided details in a letter dated 15 March 2011 from Stead, Flintoff & Company Accountants and Registered Auditor to Mr Lavery. It details Mr Lavery's loan account with the NUM. This totals £10,545.92 and includes "Balance agreed by yourself at 31 December 2008 (3223.13)", "Motor insurance y/e 31.12.09 (508.20) and "National Tyres





20.3.10 (£700)" as well as further payments to Autoglass and Victoria BMW.

*NUM Northumberland Area 15% investment in Property A*

41. As recorded in Minutes of the Northumberland Area Executive Committee Meeting held on 13 May 2005 "It was agreed to invest in the purchase of 15% of the value [of Property A] with the valuation being £240,000. The Secretary/President suggested that the legal document be drawn up in order to legalise the aforementioned investment." The Union have explained that the legal document does not appear to have been drawn up. The loan was paid back by Mr Lavery at 15% of £190,000 from his redundancy payments in 2013 (see above). The sum of £190,000 was the valuation then made by Mr Murphy for the Union in 2013.

Sale of the Union's property, "Property B"

42. The allegation was that the sale in 2012 of the Union's property, "Property B" to Mr Alan Stewart, Union executive member, at a discount may have unduly benefited Mr Stewart and his family.

43. The Union stated that "Property B" was a property of the Union (not of the Provident and Benevolent Fund) and explained as follows: Prior to her death it had been inhabited by the widow of a former general secretary. The property had been allowed to become very dilapidated. When the property became vacant Alan Stewart asked if he could rent the property for his daughter and Denis Murphy said that this would be covered in Executive Committee minutes. The Union stated that Alan Stewart did a considerable amount of work on the property. It was valued at £85k with vacant possession in 2012. It was at that time in good condition as it had been repaired by Alan Stewart. His daughter had become a sitting tenant. So it was sold at a discount for £70k (and in recognition of the work Alan Stewart had done on it.) The Executive Committee decided to agree the discount. The Union did not accept that property was undervalued at £85k.

44. The Union provided a copy of the original valuation of £85,000 from the estate agents who carried out the original valuation (being Rickard Chartered Surveyors) 17 dated April 2012. The Union stated that, although this was not a full survey, it provided "an accurate valuation by a well-respected and long established local firm..."

45. The Union provided minutes of the Northumberland Area Executive Committee Meeting of 19 October 2007. These record that a report was given by an Executive member on the modernisation of [Property B] by the





Union. It further states the work was underway and that it was hoped that a tenant could be found following the completion of the building. The minutes of NUM Northumberland Area Special Executive Meeting of 5 April 2012 were also provided. These record that Mr Murphy had spoken to the tenant of Property B, Ms J Stewart, who had indicated willingness to buy the property. The minutes record agreement reached that the property be sold at a discounted price after receiving "an independent valuation." Mr Murphy was given authority to negotiate a price with Ms Stewart but "the minimum price the trustee/owners would accept was £70,000."

#### Allegations relating to foreign travel

46. The correspondence received included allegations that Mr Lavery and Mr Murphy had travelled to Australia in 2008 to attend a seminar on coal and climate change. The correspondence also referred to trips to India and Cuba by Mr Lavery, paid for by the Union. The Union's annual return for 2008 shows, at page 10, "Expenses of conferences £39,884". The correspondence suggested that the payment of these expenses may not have been a legitimate use of Union funds and questioned whether Mr Murphy's expenses represented a payment towards maintenance in office or a benefit to a public official.
47. The enquiries made by this office were focused on understanding the process used for approving payments for Union officials and others' travel to Australia or other foreign travel. The Union was asked how are/were such trips decided upon and under what rule of the Union.
48. In response the Union provided the minutes of the Union's Executive Committee meeting of 31 October 2008 in which it is recorded: "The Secretary/President informed the Executive he was to attend Australia, as the President of the National Union of Mineworkers, Allan Stewart and Denis Murphy were also to attend as representatives of the NUM Northumberland Area". Mr Murphy stated in a letter of 19 May 2016 that he attended a coal conference in Cochin, India representing the National Union of Mineworkers but he was not able to provide the relevant meeting minutes.
49. Mr Murphy, at a meeting at this office held on 3 May 2016, indicated that he recalled attending the seminar in Australia and he said that he went to India as a representative of the NUM (Northumberland Area) to attend an international mineworkers' conference.
50. The Union stated that the figure for "Expenses of conferences" of £39,884 in the 2008 annual return would include all conferences attended by the NUMNA including several delegates and visitors to all conferences including



the TUC and the NUM and weekend schools etc and would not only relate to foreign travel. He stated that he thought that the figure of £39,884 included payment for travel to Australia and India. Regarding the trip to Cuba, Mr Murphy said that this was a private trip, paid for by himself. He said that he had entered this in the Register of Members' Financial Interests in Parliament as he was an MP at the time.

51. The Union provided what it described in Mr Murphy's e-mail of 2 December 2016 as "the audited ledger outlining all payments for travel and expenses relating to that whole year 2008" adding that ledger was "checked and signed off by our auditors who had full access to everything they required." This was an itemised list of expenditure for 2008 showing who the payments were made to and included columns for Date and Conference and Travel amongst other columns. Details such as the destination of travel or the type of travel were not included. The total figure for conference and travel over the period covered was £39,883.71. Of this amount the total payments identified as being to Mr Lavery totalled £4,914.74, those to Mr Stewart totalled £3,765.60 and those to Mr Murphy totalled £1,560. No receipts, claims from the individuals or further details of expenses payments were provided. Mr Murphy for the Union wrote in an e-mail dated 16 December 2016 as follows:

"I have made enquiries regarding the retention of individual receipts and it would appear that once everything has been signed off by the accountants then there is no need to retain them. After the Audit, there are no individual receipts kept."

#### Alleged employment of family members

52. An article in the Sunday Times dated 4 April 2016 referred to first Mr Murphy and then Mr Lavery employing Mr Murphy's partner and daughter whilst they were MPs using their MP's staffing allowance to do so. Mr Murphy stated that his wife and daughter worked for him when he was an MP. His daughter's employment as a case worker continued with Ian Lavery after 2010 when Mr Lavery became an MP. Mr Murphy stated that no members of Ian Lavery's family were currently employed by the Union.
53. The allegations relate to a time when the individuals referred to were MPs and there is no evidence of any of the current Union's officials' families being employed by the Union.