

Inspectors Report
on an
Investigation into the Financial Affairs of Solidarity under Section 37B of
the Trade Union and Labour Relations (Consolidation) Act 1992

1. On 22 May 2008 I was appointed by the Certification Officer as an Inspector to investigate the financial affairs of Solidarity. My appointment was made under the powers contained in section 37B of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act").

Terms of Reference

2. The terms of reference I was set by the Certification Officer are:

'to investigate and report to me on the financial affairs of Solidarity between 1 November 2005 and 24 November 2007 as regards:

- a) *the production of receipts for expenditure*
- b) *the operation of the Solidarity Paypal account*
- c) *withdrawals from the Solidarity HSBC current account on 20 and 25 September 2007 and a transfer to the Solidarity HSBC current account from the Solidarity HSBC Money Manager Account on 20 September 2007*
- d) *cheques cashed from the Solidarity HSBC current account between 18 January 2007 and 4 June 2007*
- e) *payments made to Mr Patrick Harrington from the Solidarity HSBC current account between 1 February 2007 and 1 May 2007*
- f) *the freezing of the Solidarity HSBC Current Account and Business Money Manager Account in 2007*
- g) *the opening of a Bank of Scotland account in the name of Solidarity in 2007*
- h) *the appointment of Accentuate PR Company by Solidarity in 2007*
- i) *the appointment of the auditors of Solidarity's accounts for the years ending 31 December 2006 and 31 December 2007.*

with the consent of the Certification Officer, any other matter indicating a financial irregularity within the description set out in section 37B(2) of the 1992 Act that may come to light during the investigation of (a) to (i) above.

These terms of reference exclude you from reaching any conclusion on the legal issues arising out of the unresolved dispute within Solidarity about the application of its rules to its governance, the resolution of which requires either internal agreement or judicial determination.'

Nature of the Investigation

3. Since June 2007 numerous allegations of financial irregularities by Solidarity have been made to the Certification Office by Mr Potter, Mr Hawke and Mr McLinden, who were all members of Solidarity at the time the allegations were made. The first such allegation was received at the Certification Office on 20 June 2007. These were taken up with the union informally by the Certification Office in correspondence but, following the receipt of more and more detailed allegations, the Certification Officer appointed me as an Inspector to investigate those matters set out in my terms of reference.
4. Upon being appointed, I first considered the files retained at the Certification Office which appertained to Solidarity. I considered the numerous allegations of financial irregularity that had been made by Messrs Potter, Hawke and McLinden to which I have referred. I also considered the only annual return (AR 21) received for Solidarity at that time, namely the one for the period ending 31 December 2006. I have subsequently also considered the AR21 in respect of the period ending 31 December 2007, received at the Certification Office on 8 September 2008. I further considered the various complaints of breach of rule and breach of statute that had been made against Solidarity by Mr Potter, Mr Mullen, Mr McLinden and Ms Haynes and which are now being progressed to a hearing or hearings. I subsequently conducted interviews with Mr Patrick Harrington, the General Secretary of the Union, and Mr Clive Potter, the President at the time of the initial allegations of a financial irregularity. Mr Potter has pursued the allegations put forward by himself, Mr Hawke and Mr McLinden and, in effect, has acted as their representative. The fact of my appointment was announced on the website of the Certification Office and additional material was received from Lancaster Unity Against Fascism and Searchlight.

Factual Background

5. Solidarity was formed in 2005. Upon its application, it was entered on the Certification Officer's list of Trade Unions on 5 December 2005 in accordance with section 3 of the 1992 Act.
6. An internal dispute within the Union began in 2007 which gives context to both my investigations and the formal complaints yet to be adjudicated by the Certification Officer. In early 2007 the rules of Solidarity provided for there to be an Executive Committee which consisted of a National President, a General Secretary and a Vice President. At the time the first Annual Return was completed in 2007 Mr Harrington was the General Secretary, Mr Potter was the National President and Mr Hawke was the Vice President. Rule 13(d) provided for a quorum of 3 at all meetings of the Executive Committee.
7. The Executive Committee meeting on 20 May 2007 was attended by Mr Harrington, Mr Potter, Mr Hawke and two guests Mr Williamson and Mr Du Laic. There is,

however, a dispute as to what was agreed at that meeting. Mr Potter and Mr Hawke state that Mr Harrington was told that he was to be investigated over his handling of the union's finances and that he would be temporarily suspended from the position of General Secretary/Treasurer during the process. Mr Harrington, on the other hand, denies that any such decision was reached. Each side has produced its own notes of that meeting.

8. The notes of a meeting of members of the Executive Committee held on 3 June 2007 show there to have been three attendees, who are described in the notes as "*Mr Potter (President), Mr Hawke (Vice President) and Mr McLinden (Acting General Secretary)*". The notes record that Mr McLinden was appointed as Special Auditor and Special Investigator. The notes also record an agreement to suspend Mr Harrington. Mr Harrington has pointed out that this meeting was inquorate as only two properly appointed members of the Executive were present.
9. The Union was then in a difficult position. The rules required a quorum of three on the Executive Committee but the Executive was split in such a way that it appeared impossible to convene a quorate meeting and conduct the business of the Union. In these circumstances, Mr Harrington called an Extraordinary General Meeting (EGM), which was held on 14 July 2007. The minutes of this meeting record that '*at the request of concerned union members, the General Secretary (Mr Harrington) convened a Special Conference of the Solidarity union.*' The minutes go on to record the support of Conference for Mr Harrington and resolved that '*the purported suspension*' of the General Secretary was '*unconstitutional as it was done at an inquorate meeting*'. The minutes also record the unanimous approval of a number of 'constitutional resolutions'. Among these was the expansion of the Executive Committee from three members to seven; namely the General Secretary, the President and five other members.
10. Mr Potter, Mr Hawke and Mr McLinden did not attend the EGM on 14 July and do not accept its legitimacy or that of any of the resolutions it approved. Indeed, since 14 July 2007 there has, in effect, been two organisations calling themselves Solidarity both of which claim to be the legitimate Solidarity.
11. Solidarity's first Annual Return on form AR 21 was for the period beginning with its formation and ending on 31 December 2006. It was submitted by Mr Harrington and was received in the Certification Office on 5 July 2007. It showed a membership of 42, total income of £1,105 and expenditure of £494. The second annual return for Solidarity for the period ending 31 December 2007 showed a membership of 124, total income of £7,648 and expenditure of £8042.

The Issues Investigated Under my Terms of Reference

The Production of Receipts for Expenditure

12. Mr Hawke, Mr McLinden and Mr Potter all alleged that Mr Harrington had not produced receipts for all of the expenditure for which he had been responsible and which is recorded as expenditure in the Annual Return for the period ending 31 December 2006. Mr Harrington maintained that he had provided receipts for all of the expenditure shown on the Annual Return. The informal enquiries conducted prior to my appointment as Inspector had established that Mr Potter's concerns amounted to the fact that he and the other two members of the Executive had not seen receipts totalling £74 for printing expenses and had not been shown any accounting records relating to the petty cash holding of £200.
13. Following my appointment as Inspector, I met with Mr Harrington in Edinburgh on 21 and 22 July 2008. Mr Harrington then provided me with such receipts as he had retained for the expenditure contained in the Annual Return for the period ending 31 December 2006. With regard to printing expenses, I inspected receipts in the sum of £35 and had previously been supplied with a copy receipt for printing expenses in the sum on £39. I was informed by Mr Harrington that he had mislaid the original of this latter receipt. Mr Harrington had previously provided me with a copy of this receipt that had been certified as an authentic copy by an Edinburgh solicitor. I enquired about the records for a further £8 of expenditure which did not appear to be supported by a receipt. Mr Harrington explained that this was a bank charge for which a bank statement was provided. As regards the petty cash for the period ending 31 December 2006, Mr Harrington admitted that he had not kept structured petty cash records. He explained that given the small amount of money involved he had merely kept receipts when using the cash in hand and kept the balance in his own personal safe. I was show the receipts he had retained.

Conclusion

14. Mr Harrington has provided receipts for all the expenditure recorded in the 2006 Annual Return. He has also given an explanation as to his handling of the cash in hand, having admitted that he kept no structured petty cash records. Such is the mistrust between those who used to be colleagues on the Solidarity Executive that it was suggested to me that I needed to assure myself of the authenticity of the receipts presented to me. Given the small amounts of money involved and the apparent authenticity of the receipts presented to me, I declined to investigate further in the absence of any evidence that the receipts were not authentic. My investigations of the expenses incurred by the Union in this period did not disclose evidence of financial impropriety. I note that the system for recording petty cash expenditure has been changed.

The operation of the Solidarity Paypal account

15. Mr Potter had alleged that since January 2007 Mr Harrington has been operating an 'unknown' Paypal Account to which he refused to share the access codes or relinquish control when he was suspended on 3 June 2007.'
16. My enquiries revealed that this was not in fact an 'unknown' account but one that had been set up by Mr Harrington on behalf of Solidarity and about which Mr Potter had actual or constructive knowledge. The Paypal Account was linked to Solidarity's HSBC Account and the bank statements Mr Potter provided to the Certification Office showed payments from the Paypal Account into the Solidarity HSBC account.
17. When interviewed by me Mr Potter accepted that, in essence, he was arguing that by Mr Harrington not having given the Executive access to the Paypal Account (which he says was requested by them prior to his suspension) Mr Harrington had improperly retained "de facto" private control of part of the Union revenue. Mr Potter also argued that from the date of Mr Harrington's suspension, 3 June 2007, fund transfers to the Solidarity HSBC Account were no longer evident. He alleged that Mr Harrington had therefore committed fraud by operating a stolen account and using it to collect Union members' contributions for his own private purposes.
18. In response to these allegations Mr Harrington stated that he had never formally been asked by the Solidarity Executive to hand over the Paypal Account details including access codes. He accepted that he may have been asked informally for this information by Mr Potter and he agreed that he did not give the information to Mr Potter.
19. Mr Harrington provided me with a full account history of the Paypal Account showing all transactions and transaction details up until 11 February 2008. In addition he accessed the on-line records in my presence on 21 July 2008 at our meeting in Edinburgh. I was able to review all the transactions. I cross checked a number of the entries with bank statements, receipts and petty cash records. I found no evidence that the Paypal Account was being used for anything other than Solidarity business.

Conclusion

20. In essence the allegations made by Mr Potter and others in regard to this matter arise out of the unresolved dispute within Solidarity about the application of its rules to its governance. My terms of reference specifically preclude me from reaching any conclusions in this area. I therefore limited my enquiries to checking whether the Paypal Account had only been used for the purposes of the Union. I found no evidence to the contrary.

Withdrawals from the Solidarity HSBC current account on 20 and 25 September 2007 and a transfer to the Solidarity HSBC current account from the Solidarity HSBC Money Manager Account on 20 September 2007

21. Mr Potter's allegations were that Mr Harrington had made two 'unauthorised' withdrawals from the Solidarity HSBC Account (account No 91812394) and that he made one unauthorised transfer from the Solidarity HSBC Business Money Manager Account to the Solidarity HSBC current account. He provided bank statements showing;
- On 20 September 2007 cheque No 100024 was paid out in cash in the amount of £1,500,
 - On 25 September 2007 cheque No 100026 was paid out in cash in the amount of £600.
 - On 20 September 2007 a transfer of £500 was made from the Solidarity HSBC Business Money Manager Account (account No 61812408) to the Solidarity Community Account No 91812394.

Mr Potter's further stated that all of these transactions were affected by Mr Harrington without authority as his name had been removed from the mandate of authorised signatories on 12 June 2007. Following a complaint by Mr Potter to the bank about these withdrawals the bank credited the account with £2,600 on 21 November 2007.

22. Mr Harrington admitted that he had made the withdrawals. He produced minutes of a meeting of the Solidarity Executive held on 14 July 2007. The Executive in question was the new Executive appointed at the EGM on 14 July. These record that he had been '*instructed to take all necessary steps to gain full control of the HSBC account of the union*'. They also record that he was instructed to '*withdraw all funds possible from this account and pay into a new bank account.*' In addition Mr Harrington produced bank statements and receipts to show what had happened to the money after he made the withdrawals. As already pointed out Mr Potter and Mr Hawke do not accept the legitimacy of the Executive Committee appointed at the EGM on 14 July 2007 and subsequently dispute any action or instructions it has issued.

Conclusion

23. At the heart of these allegations is the unresolved dispute within Solidarity about the application of its rules to its governance. My terms of reference specifically preclude me from reaching any conclusions on this issue. I therefore reach no conclusion as to whether Mr Harrington acted improperly in making the withdrawals from the HSBC account, which is in any event the subject of complaints by Mr Potter to the bank itself. There is no dispute that Mr Harrington did make the withdrawals. He has provided me with documentary evidence that he used some of the cash withdrawn to pay a bill incurred by Solidarity and the remainder was paid into a new account in the name of Solidarity. I found no evidence to establish that the money withdrawn by Mr Harrington has been used for an improper purpose.

Cheques cashed from the Solidarity HSBC current account between 18 January 2007 and 4 June 2007

24. Mr Potter alleged that fourteen payments by cheque between the above dates had not been approved by the Executive and that Mr Harrington had not provided receipts in relation to those payments. I deal below with each of the cheques about which complaint is made.

- i. Cheque for cash £200.00 (18 Jan 2007) *cheque No 100005 – Transfer to Petty Cash*. Mr Harrington provided me with petty cash records that confirmed this transaction.
- ii. Cheque for £130.00 (29 Jan 2007) *cheque No 100006 – Deposit to Imperial Hotels in respect of Annual Conference Hall*. The original receipt was seen at my meeting with Mr Harrington in Edinburgh on 21/22 July 2008.
- iii. Cheque for £170.00 (14 Feb 2007) *cheque No 100007 – Remainder of payment to Imperial Hotels*. A print out from the Hotel for the total charge was seen by me at my meeting with Mr Harrington in Edinburgh on 21/22 July 2008.
- iv. Cheque for £20.00 (21 Feb 2007) *cheque No 100009 – Payment to Edinburgh Self Storage (Deposit for storage facilities for Union documents)*. The original receipt was seen by me at my meeting with Mr Harrington in Edinburgh on 21/22 July 2008. Mr Harrington explained, and the receipt confirmed, that the payment was in fact a reservation fee for storage space. The space had never been used.
- v. Cheque for £59.50 (6 Mar 2007) *cheque No 100013 – Payment to union member for attending meeting*. Mr Harrington explained that this payment was to a member of Solidarity who had come to London from Liverpool to help with the Union's AGM. No receipt was available for this expenditure. Mr Harrington explained that at the time the Union had no set procedure for claiming expenses. He has now developed a claim form and insists on receipts. There is some dispute about this payment. Mr Potter says that the Executive at the time had no knowledge or awareness of subsidising a member to come down from Liverpool to help with the AGM. He goes on to say that 'we did not authorise any payment at all in respect of this situation'. Mr Harrington says that 'it was explained to members of the Executive that the payment would need to be made to enable someone to help with the AGM arrangements prior to the AGM'.
- vi. Cheque for £24.40 (12 Mar 2007) *cheque No 100011- Payment of expenses to union member*.
- vii. Cheque for £55.50 (14 Mar 2007) *cheque No 100014 - Payment of expenses to union member*.
- viii. Cheque for £41.50 (19 Mar 2007) *cheque No 100008- Payment of expenses to union member*.

No receipts were provided for any of the above payments. Mr Harrington did provide cheque book stubs showing when and to whom the payments were made and explained the circumstance of each payment. The first payment concerned the purchase of rail tickets. The rail tickets in question had been retained by an automated ticket barrier. The second payment was in respect of expenses claimed by a Solidarity member who had travelled to London from Swansea for the Union's AGM. He had not been able to find the Solidarity steward redirecting members to the AGM location and had been very angry about his wasted journey*. Mr Harrington stated that he and Mr Potter had agreed to pay the rail and tube fares and subsistence as a gesture of good will. Mr Potter does not dispute that he agreed that this payment be made. He alleges however, that it was paid in cash out of a cash donation made to Solidarity at the AGM. Mr Harrington denies this. Given that the relevant bank account is currently frozen it is not possible to retrieve the cheque to settle this dispute one way or the other. I was shown a cheque book stub for the payment. In the absence of any convincing evidence that the payment was made in cash I chose not to investigate further. The final payment was to a Solidarity member from Newcastle who had travelled to Edinburgh to discuss setting up a Solidarity Branch. Payment had been made despite no receipts being provided. In response to Mr Potter's allegation that no such payments should have been made to members without the express approval of the Executive, Mr Harrington stated that the fact that members' expenses were paid was known to the Executive and had not been a problem until the internal difficulties on the Executive. In relation to various payments made by cheque Mr Potter has asserted that such payments required the authorisation of the Executive. It is not the case that the Union rules at the time specified that the prior approval of the Executive was required for each and every transaction. The rules provided that '*Executive Committee's duties shall be to manage and supervise the affairs of Solidarity*'. Mr Harrington took the view that, as General Secretary he had some discretion over the payment of low level expenses.

- ix. Cheque for £7.50 (8 Mar 2007) *cheque No 100010 – Payment to a commercial printer in Edinburgh*
- x. Cheque for £8.00 (8 Mar 2007) *cheque No 100012– Payment to a commercial printer in Edinburgh*
These payments related to work done for the Union on 15 and 22 February 2007. I was shown the original receipts at my meeting with Mr Harrington in Edinburgh on 21/22 July 2008.
- xi. Cheque for cash for £160.00 (19 Apr 2007) *cheque No 100017 – Transfer to petty cash*
Mr Harrington provided me with the petty cash records and cheque book stub for this expenditure at our meeting in Edinburgh on 21/22 July 2008.
- xii. Cheque for £240.00 (2 May 2007) *cheque No 100016 - Payment to a commercial printer in Edinburgh*
- xiii. Cheque for £245.00 (4 Jun 2007) *cheque No 100020 - Payment to a commercial printer in Edinburgh.*

* Apparently, in the interests of security, members were not told the precise venue of the AGM but, upon arrival at a pre-notified location they were given directions by stewards to the actual venue.

Original receipts for both of the above were provided to me at my meeting with Mr Harrington in Edinburgh on 21/22 July 2008.

- xiv. Cheque for £27.55 (25 May 2007) *cheque No 100019 – Payment of travel expenses to Mr Potter.*

Mr Potter had originally included this cheque in his allegations about expenditure which had neither been approved by the Executive nor supported by receipts. In the course of my investigations Mr Potter confirmed that this was in fact a payment made to him in respect of his expenses for travel to London. There was no receipt for this expenditure.

Conclusion

25. Mr Harrington accepts that it is wrong for the Union not to have receipts for payments made to members and officials for travel expenses. He has now introduced a standard claim form and insists on receipts being produced. A central feature of the allegations made by Mr Potter is the lack of authorisation by the Executive for payments made, particularly those relating to travel and subsistence payments. Going forward, the Union should consider what authorisation for such payments is required and what discretion they would want officials to have. During the course of my investigation Mr Potter suggested that there might be some personal or political link between Mr Harrington and the commercial printers in Edinburgh used by Solidarity. Mr Harrington denies this. He explained that he has used the commercial printer for other work in which he was involved, including his political activities, but that he had no personal or political connections with the printers. His main reason for using them was that their rates were competitive and that it was not always easy to find printers who were prepared to carry out work for the sort of organisations with which he was involved. In summary, I found no evidence to establish that the cheques about which allegations were made were drawn by Mr Harrington for an improper purpose.

Payments made to Mr Patrick Harrington from the Solidarity HSBC current account between 1 February 2007 and 1 May 2007

26. Mr Potter stated that Mr Harrington was paid a monthly amount of £75 for expenses between 1 February and 1 May 2007 to enable him to make petty cash payments such as postage. Payments of £75 had been made on 1 February, 1 March, 2 April and 1 May 2007 into an account in the name of PA Sharp (the name of Mr Harrington's ex-wife). Mr Potter stated that no receipts had been forthcoming despite Mr Harrington having been told that the Executive Committee required receipts. Mr Potter provided me with a copy of a note from Mr Harrington dated 8 January 2007 in which he stated that he was 'keeping records and receipts'. Mr Harrington agreed that the payments had been made and that he wrote the note agreeing to provide receipts. Neither Mr Harrington nor Mr Potter were able to provide any Executive minutes or other documentation relating to these payments.

27. At my meeting with Mr Harrington in Edinburgh on 21/22 July 2008 he provided me with the petty cash records showing the receipt of the £75 each month and all expenditure from petty cash. At that meeting I was able to inspect the petty cash records and reconcile a selection of them with the original receipts on a random test check.

Conclusion

28. There is no dispute that these payments were made. The records which were produced to me by Mr Harrington showed their receipt, payment into petty cash and subsequent expenditure. I considered that they were adequate records for their purpose and established that the sums were used for the benefit of the Union.

The freezing of the Solidarity HSBC Current Account and Business Money Manager Account in 2007

29. Mr Potter alleged that sometime between 3 and 20 June 2007 Mr Harrington had asked HSBC to freeze the Solidarity HSBC Accounts and that he had no authority to do so, given that he was suspended at the time. Mr Potter stated that he had not sought to 'un-freeze' the accounts and that he had been told by the bank that it would maintain the status quo until a resolution could be found by either a decision of the courts or the Certification Officer.
30. Mr Harrington denied that he asked the bank to freeze the accounts in question and says that the bank did this of its own accord in response to a dispute over signatories. Minutes of the meeting of the Solidarity Executive (the one that Mr Potter and Mr Hawke claim to be the legitimate Solidarity Executive) in August 2007, attended by Messrs Potter, Hawke and McLinden, record that the accounts had been frozen by the bank "to protect members' subscriptions". Mr Harrington has informed me that he has made a formal complaint to the Financial Ombudsman about the bank's handling of the freezing of this account

Conclusion

31. I was shown no evidence that established to my satisfaction who caused the account in question to be frozen. The ownership of the account is in dispute. It is claimed by Mr Potter on behalf of the Solidarity which controlled the Union's affairs before the 14 July EGM and by Mr Harrington on behalf of the Solidarity whose Executive was appointed at the 14 July 2007 EGM. This is therefore one of those legal matters that arise out of the unresolved dispute within Solidarity about the application of its rules to its governance. My terms of reference specifically preclude me from reaching any conclusions in this area. However, I have seen no evidence that the subject matter of this complaint has resulted in the improper use of the Union's funds.

The opening of a Bank of Scotland account in the name of Solidarity in 2007

32. Mr Potter stated that Mr Harrington had opened a new bank account with Bank of Scotland in 2007 without the knowledge or approval of the Executive Committee, which bank account he described as being therefore "unconstitutional and unlawful".
33. Mr Harrington confirmed that he had opened such an account on 16 August 2007 on the authority of the Solidarity Executive that was appointed at the EGM on 14 July. I was shown the minutes of the meeting of the Executive Committee recording the instruction to open a Bank of Scotland account.

Conclusion

34. There is no dispute that Mr Harrington opened a bank account with the Bank of Scotland in 2007 in the name of Solidarity. Mr Potter's allegations amount to his assertion that Mr Harrington had no authority to do so. Mr Harrington stated that he did have the appropriate authority by virtue of an instruction from the Executive appointed at the EGM. Accordingly, this is also an issue that arises out of the unresolved dispute within Solidarity about the application of its rules to its governance. My terms of reference specifically preclude me from reaching any conclusions in this area. However, I have seen no evidence that the subject matter of this complaint has resulted in the improper use of the Union's funds. During my investigation I received allegations from the Searchlight organisation that the Solidarity of which Mr Harrington was the General Secretary was opening a number of other bank accounts. Mr Harrington did not deny this and provided me with details of other bank accounts and a satisfactory explanation of why they had been opened.

The appointment of Accentuate PR Company by Solidarity in 2007

35. At a meeting on 24 November 2007 the Solidarity Executive, appointed at the 14 July 2007 EGM, approved the appointment of a public relations company, Accentuate PR, to provide services to Solidarity. Mr Potter stated that Accentuate PR '*was started and run by Mr Harrington's close colleague from the Third Way (also a former official of the National Front 'NF') Graham Williamson*' and that '*this is unethical and financially corrupt practices*'. I obtained confirmation from Mr Potter that he was alleging the breach of two rules, 'both in letter and spirit.' These are:

Rule 2(e) "To resist and oppose all forms of institutionalised union corruption internally through internal auditing machinery, non-acceptance of employers gifts and democratic checks and externally through the investigation and publication of corrupt union practices" and.

Rule 8(a) "Members may be suspended for a period, or expelled, on the grounds of their misconduct which has brought the Union into disrepute, fraudulently received or misapplied the funds of the Union, received bribes or employers gifts, or committed a breach of these rules".

In essence Mr Potter's argument appeared to be that it was always wrong for a union to appoint or employ a friend or old colleague even if the relationship was declared.

In addition he queried whether Solidarity needed a PR company as it was his view that Accentuate did not issue proper press releases.

36. In response, Mr Harrington provided minutes of the meeting of the Solidarity Executive of 24 November 2007 at which Accentuate was appointed on a trial basis. The minutes record that both Mr Harrington and Mr Kerr, a member of the Executive, declared *'their interest through their personal friendship and long political association'* with Graham Williamson of Accentuate. *They each felt unable to vote on this matter if it came to a vote. They took no part in the discussion.'* At my meeting with Mr Harrington in Edinburgh on 21 and 22 July 2008 I was shown details of the work carried out by Accentuate and the receipts for payments made.

Conclusion

37. The Executive of Solidarity made a decision to appoint Accentuate at its meeting on 24 November 2007. The minutes of that meeting record that Mr Harrington and Mr Kerr declared an interest. The minutes state that they *'declared their interest through their personal friendship and long political association with Graham Williamson of Accentuate'*. On the evidence presented to me it does not appear that the appointment of Accentuate amounted to a breach of the rules of Solidarity. I was presented with no evidence which established to my satisfaction any corruption or other wrong doing regarding the appointment of Accentuate or in the on-going relationship between Solidarity and Accentuate. Whether Solidarity needs a PR company and whether it is getting value for money from its association with Accentuate is an issue for the Solidarity Executive and the wider membership of Solidarity. It is not a matter within my terms of reference.

The appointment of the auditors of Solidarity's accounts for the years ending 31 December 2006 and 31 December 2007.

38. Mr Potter alleged that Mr Harrington, acting without the authority of the Executive, had appointed the two auditors who audited the Union's Annual Return (AR21) for the period ending 31 December 2006. Mr Potter alleged this to be a breach of rule 15 of the Union's rules, which states:

'15.Appointment of Auditors

(a) The Executive Committee may appoint special Auditors to examine at any time any Accounts relating to Solidarity's funding. It shall issue a Balance Sheet annually. It shall also manage any Benevolent or Provident Funds.

(b) Two Members of the Union, not Members of the Executive Committee, shall be appointed Auditors by the Executive Committee to audit the accounts of the Treasurer/Secretary each quarter. Any expenses incurred by the Auditors for this purpose shall be reimbursed. One shall retire yearly in rotation. They shall submit a written statement of the accounts to the Executive Committee within seven days from the date of audit of the accounts. The Executive Committee may remove any auditor and appoint a replacement. Professional accountants shall be engaged to audit the account of the Union and prepare annual accounts for the Executive Committee. Professional accountants

qualified in accordance with paragraph 6 of Schedule 2 to the Trades Union and Labour Relations Act 1974, shall be engaged to audit the accounts of the Union and prepare accounts for the Executive Committee. The auditors shall not be removed from office except by resolution passed at the Annual Conference.'

39. Mr Potter further alleged that the auditors appointed (Mr Lindley and Mr Smith) were not suitable as auditors as they were close friends and political allies of Mr Harrington. Mr Lindley, an ex member of the National Front ('the NF') is a barrister and Mr Smith is an ex officer of the British National Party ('the BNP'). Mr Potter stated that the Executive Committee had played no role in the appointment of the auditors but had expected Mr Harrington to have the accounts independently audited. He said that Mr Harrington had told the Executive that, between Easter and the end of May 2007, he was working on the accounts but had met a problem in the amount of the fees required by accountants to act as independent auditors. He said Mr Harrington was "given space by the Executive Committee to do his job" and that it was Mr Harrington who found the auditors Mr Lindley and Mr Smith. Mr Potter stated that he only became aware of the identity of the auditors when he received the AR 21 in May 2007. He was aware that Mr Smith was close to the BNP and was concerned that the auditors did not comply with Solidarity's rules. Mr Potter was unable to produce any minutes of the Executive Committee or other documentation relating to the appointment of the auditors. He said there was none. He further explained that the last quorate meeting of the Executive Committee (prior to the May 2007 meeting referred to above) had been in October/November 2006. Mr Potter said there was nothing in his note of the Executive meeting on 20 May 2007 about auditors but that the appointment of auditors was an obvious issue in May 2007 as it was close to the deadline for the submission of the AR21 to the Certification Office. He added that he had received e-mails from Mr Harrington asking to be left alone to do his job. Mr Potter stated that he had told Mr Harrington that the appointment of the auditors had to be agreed by the Executive Committee and that they must be independent.
40. In response, Mr Harrington provided a copy of his note of the Executive Committee meeting of 20 May 2007, prepared by him and signed as a true and accurate record by himself and Graham Williamson (an observer at the meeting). This records that the appointment of auditors was discussed and that Mr Potter and Mr Hawke had agreed to him approaching Mr Smith and Mr Lindley. Mr Potter disputes the accuracy of this note. No agreed minute of this meeting exists. Mr Harrington further explained that at that meeting he had had an argument with Mr Potter who had complained about the cost of accountants. Mr Harrington stated that he had been asked to find suitable lay auditors. He added that in discussion he had told Mr Potter he knew Mr Lindley, a barrister and former member of the NF, and Mr Smith, a former Head of Administration for the BNP. Mr Harrington said that no objections had been raised by Mr Potter or anyone else. He added that while Mr Lindley had no accounting background he had been in the Civil Service for a number of years. Mr Harrington now accepts that the rules of the Union appear to require that professional accountants are appointed by the Executive to audit the accounts. He accepts that this was not done.

41. At the time I interviewed Mr Harrington in July 2008 Solidarity had not appointed auditors for their accounts for the year ended 31 December 2007. The original intention was to appoint a firm of accountants called Silver and Co. However, the Union was exploring the cheaper option of appointing lay auditors and was changing the Union rules to make this possible. The Union's Annual Return for the period ending 31 December 2007 was received on 8 September 2008. It was audited by lay auditors. This return is available on the Certification Officer's website www.certoffice.org.

Conclusion

42. Mr Harrington accepts that in appointing lay auditors to audit the accounts of the Union for the period ending 31 December 2006 Solidarity probably acted in breach of its own rules. However, Mr Harrington claims that this was done in error and was not a deliberate breach. The statutory requirements relating to the 'eligibility for appointment as auditor' are contained in section 34 of the 1992 Act. The Union does not appear to have been in breach of these provisions having regard to its low level of receipts, payments and assets at that time and the fact that it then had 42 members. In terms of who the Union could appoint, the Act specifically precludes an officer or employee of the trade union or of any of its branches or sections, a person who is a partner of, or in the employment of, or who employs, such an officer or employee. Neither Mr Lindley nor Mr Smith fall into any of these categories. At the time I met with Mr Harrington he told me that the Union was taking steps to ensure that the appointment of auditors in the future is in accordance with the rules of the Union as well as the relevant statutory provisions.

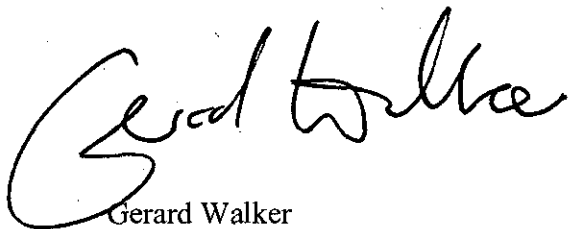
Overall Conclusion

43. A large number of allegations regarding the financial affairs of Solidarity were made by Mr Potter, Mr Hawke and Mr McLinden. As explained above, the context to these allegations is the constitutional dilemma in which the Union found itself when a split emerged on the Executive Committee, with Mr Potter and Mr Hawke on one side and Mr Harrington on the other. One faction of the Union now functions with Mr Harrington as General Secretary. Mr Potter maintains that a Mr Craig Mullen is in fact the rightful General Secretary of the Union. It is those in the faction which maintains that Mr Mullen is the General Secretary that have made the allegations against Mr Harrington's conduct. However, this background does not detract from the fact that my investigations have produced evidence of unacceptable practices in the handling of the financial affairs of Solidarity, which practices the Union needed to address.
44. One area of unacceptable practices concerned the payment of expenses to Union members and officers for travel without a system for validating those expenses. This is plainly open to abuse. Another such area is the absence of any structured records for petty cash during the first year of the Union's existence. In both cases the Union has taken some corrective action. In the former, it now insists on receipts before

payment. I have also suggested that the Union should address the issue of what Executive authorisation is required for such payments and what discretion is given to Union officials. In the latter, it now keeps clear and structured petty cash records.

45. Another area of concern relating to the financial affairs of the Union is the way it has applied its rules on the appointment of auditors. I noted in paragraph 42 that, by appointing lay auditors for its 2006 Accounts, the Union appeared to be in breach of its then rule 15. Mr Harrington accepts this. It is worth pointing out that there was no statutory obligation on a union with the finances and membership levels of Solidarity in 2006 to use professional auditors. Indeed the inclusion of such a requirement in the rules of such a small, newly formed union could be seen as having been unwise. The Union appears to have now amended the rule to allow for lay auditors.
46. The issue of the appointment of Accentuate PR is dealt with in paragraphs 35-37 of this report. Although I did not find any evidence of financial irregularity in relation to that appointment, those making the allegations raised two points that the Executive Committee of Solidarity and its wider membership should keep in mind. The first is the close relationship (based on previous and current political connections) between the owner of the consultancy and Mr Harrington and Mr Kerr. The second is the question whether a union of the size and with the limited resources of Solidarity needs or can justify the employment of a PR consultancy. Neither of these issues led me to the view that there had been any financial irregularity in the appointment of Accentuate but this is an issue which the Executive Committee and the wider membership of Solidarity might wish to keep under review.
47. In general, the issues that I have been called upon to investigate relating to process and procedural compliance are the sort of issues that can arise in any new trade union as it seeks to establish itself with only lay officials and a few members. Indeed the 1992 Act specifically gives such unions a breathing space of one year following establishment before the financial reporting provisions bite and the possibility arises of the Certification Officer appointing an inspector. It is also my general view that the issues I have investigated were capable of being resolved within the Union given goodwill and intent on the part of the members of the Executive Committee. However, for whatever reason, such goodwill and good intent that may have existed at the time the Union was founded had evaporated by the time of the Executive Committee meeting in May 2007. Matters were made worse by the fact that Solidarity had an Executive of three members and a quorum of three. In effect, any resolution could be defeated by the dissenting member simply not attending any particular meeting. From the time that the Executive split, there was a power struggle. This led to the Extraordinary General Meeting in July 2007 at which Mr Harrington and his allies took effective control of the Union. Whether control of the Union was affected legally is not a matter for my report. However, I have no doubt that those bringing the allegations that I have investigated were more concerned with progressing this power struggle than the actual issues relating to process and compliance that I have been called upon to investigate by my terms of reference.

48. My overall conclusion, having investigated the individual allegations, is that I have found no evidence of personal dishonesty or systematic maladministration of members' money. Furthermore, Solidarity has expressed a willingness to take action to correct the earlier failings revealed by my investigations and to ensure future compliance with both the statutory requirements and the requirements of its own rules relating to its financial affairs. Nevertheless, the failure of Solidarity to appoint properly qualified auditors to prepare its accounts for the period ending 31 December 2006 demonstrates a regrettable attitude towards compliance with its own rules. The particular issue may not be a difficulty in future years as, given the income reported in its 2007 Annual Return, it will have a statutory obligation to appoint professional auditors to audit its 2008 accounts. Those accounts must be presented to the Certification Office by June 2009. It can also be expected that its members (and other interested parties) will wish to satisfy themselves that the Union's finances are handled in a manner that meets its legal obligations, complies with its own rules and provides members with confidence that the financial affairs of the Union are being conducted in an open and acceptable fashion.



Gerard Walker

Dated: 28 November 2008

Assistant Certification Officer
Inspector appointed under section 37B of the
Trade Union and Labour Relations (Consolidation) Act 1992