

Decision of the Certification Officer on an application made under Section 108A(1) of
the Trade Union and Labour Relations (Consolidation) Act 1992

Connolly

v

Usdaw

Date of Decision

27 March 2019

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Decision

1. Upon application by Mrs Clare Connolly (“the applicant”) under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) I make the following declaration:

In breach of Rule 20 Section 4 Clare Connolly’s appointment as shop steward was cancelled by a panel made up of Mrs Pat Wigham, Mrs Rachel Goodwin and Mr Faisal Al-Haque. Mr Al-Haque was not a member of the branch committee and, therefore, the panel did not have the power to remove Mrs Connolly under Rule 20 Section 4.

I decline to make an enforcement order for the reasons explained later.

Reasons

2. Mrs Connolly brought her application as a member of Usdaw (or “the Union”). She did so by a letter of 20 May 2018 which was received at the Certification Office on 24 May 2018.
3. Following correspondence with my office, Mrs Connolly confirmed her complaint as follows:-

In breach of Union Rule 20 Section 4 Clare Connolly’s appointment as shop steward was cancelled by a panel appointed by USDAW Area Organiser, Adam Skwierawski. The panel was made up of the following: P Wigham, R Goodwin and Al-Haque, who were not members of the committee and therefore did not have the power to remove Mrs Connolly under union Rule 20 Section 4.

4. At a hearing before me on 12 March 2019, Mrs Connolly represented herself and was assisted by Mr Simon Vincent, Usdaw Executive Committee member. Mr Vincent also submitted a witness statement and gave oral evidence. A written witness statement and oral evidence was given by Mrs Connolly. Written witness statements were also provided by Ms Catherine Misseldine and Ms Julie Fenton.

The Union was represented by Mr Edward Cooper of Slater and Gordon. Written witness statements for the Union were given by Mr Adam Skwierawski, Area Organiser and Mrs Rachel Goodwin; both also gave oral evidence. There was in evidence a bundle of documents consisting of 80 pages containing correspondence, and the rules of the Union. Both the Union and Mrs Connolly provided skeleton arguments

Findings of fact

5. Mrs Clare Connolly is a Member of USDAW. At the time of the incident complained about she was a member of Branch CO43 and was a shop steward.
6. In February 2018 Mr Adam Skwierawski, USDAW Area Organiser, wrote to Mrs Connolly explaining that he had been made aware of a number of posts which Mrs Connolly had shared on Facebook in 2014 and 2015. As a result of these posts he requested Branch CO43 to withdraw Mrs Connolly's credentials as a shop steward. He invited Mrs Connolly to a special branch meeting to deal with his request.
7. The meeting went ahead on 14 March 2018. Mrs Patrizia Wigham, Mrs Rachel Goodman and Mr Faisal Al-Haque were the decision makers on the issue.
8. On 15 March 2018 Mr Skwierawski wrote to Mrs Connolly notifying her that her credentials had been withdrawn following the panel's unanimous decision.

The Relevant Statutory Provisions

9. The provisions of the 1992 Act which are relevant for the purposes of the application are as follows:-

108A Right to apply to Certification Officer

- (1) A person who claims that there has been a breach or threatened breach of the rules of a trade union relating to any of the matters mentioned in subsection (2) may apply to the

Certification Officer for a declaration to that effect, subject to subsections (3) to (7).

(2) The matters are –

(a) the appointment or election of a person to, or the removal of a person from, any office;

(b) disciplinary proceedings by the union (including expulsion);

(c) the balloting of members on any issue other than industrial action;

(d) the constitution or proceedings of any executive committee or of any decision-making meeting;

(e) such other matters as may be specified in an order made by the Secretary of State.

108B Declarations and orders.

(3) Where the Certification Officer makes a declaration he shall also, unless he considers that to do so would be inappropriate, make an enforcement order, that is, an order imposing on the union one or both of the following requirements—

(a) to take such steps to remedy the breach, or withdraw the threat of a breach, as may be specified in the order;

(b) to abstain from such acts as may be so specified with a view to securing that a breach or threat of the same or a similar kind does not occur in future.

The Relevant Rules of the Union

10. The rules of the union which are relevant for the purposes of this application are:-

16. Branch Government

Section 1. Each branch shall be governed by a chair, vice-chair, secretary, treasurer (or secretary-treasurer), and a committee.

Section 2. Branches shall elect their own officers and committee, subject to the provisions of Rule 20, and the term of office shall be two years in each case from the time of election; the committee to have power to fill up vacancies till the next election. Branches shall accept responsibility for the election of safety representatives and lay union learning representatives and may also arrange, subject to the provisions of Rule 20, for the appointment of shop stewards to represent sections of membership and to assist the branch office-bearers. Where in any branches the Executive Council consider it necessary for the proper conduct of the administrative and/or the financial arrangements of the branch or branches concerned, they may engage, discharge, control and fix the remuneration and conditions of whole-time branch secretaries or accounts clerks, and in all such cases the provisions of this Section as to election and limitation of term of office of branch secretary shall not apply.

19. Branch Secretary

Section 1. The branch secretary shall keep a correct account of the receipts and expenditure of the branch in the books provided for the purpose by the Union. She/he shall also convene and attend all meetings of the branch committee and members and take minutes of their proceedings, which must be authenticated by the chair at the next meeting. She/he shall keep a register of attendance of officers and committee at all meetings.

20. Branch Committee, Shop Stewards, Safety Representatives and Lay Union Learning Representatives

Section 2. They shall, subject to the Executive Council, have full control of the business of the branch, and it shall be their duty to make full inquiries regarding the health, character and general eligibility of all applicants for membership in their branch. They shall have power to expel any member or associate whom the members find to be acting in such a manner as to endanger the well-being of the branch to which she/he belongs or who deliberately acts in discriminatory manner by any means including, but not limited to, speech, writing or electronic communication, or publication on social media; such decision to expel to be immediately reported to the Executive Council to whom the member shall be allowed the right of appeal; who shall have the power to confirm, suspend or vary the decision of the branch committee and whose decision shall be final and binding on all parties.

Section 4 (a). Where branches decide that shop stewards shall be appointed the membership at the establishment concerned shall be divided into sections as shall from time to time be determined by the branch committee, each section to be represented in accordance with Rule 16, Section 2, by one or more shop stewards. Nominations for the election of a shop steward shall be drawn from amongst that section of membership to be represented. The election of a shop steward shall take place at a sectional meeting of those members whom she/he will directly represent. The members of each section shall only be entitled to vote in the election for the shop steward to represent that section. A member elected to the position of shop steward shall not take up her/his appointment unless this is ratified by the branch committee. A shop steward whose appointment is ratified shall hold office for two years and thereafter shall be eligible to stand for election in accordance with the provisions of these Rules. Shop stewards shall at all times be responsible to the branch committee who shall have power at any time to cancel the appointment of any shop steward who acts, or persuades or endeavours to

persuade other persons to act in violation of agreements to which the Union is a party or who acts in such a manner as to endanger the well-being of the branch to which she/he belongs. The branch committee shall have power to fill any casual vacancy which may arise pending the calling of a sectional meeting to elect a person to fill the vacancy.

Considerations and Conclusions

Background

11. This complaint arose from the Union's handling of a number of posts which Mrs Connolly had shared on Facebook. The posts, which I have been shown, were shared on dates between December 2014 and August 2015. Mrs Connolly accepted that she shared those posts and that it was not appropriate for her to do so. She told me that her Area Organiser, Mr Skwierawski, had raised the nature of the posts with her at the time; she had accepted that they were inappropriate and removed them from her account. She had understood, at that time, that the matter had been dealt with and was closed.
12. The Union's position was that an anonymous complainant had subsequently shared paper copies of the posts with the Union's Eastern Office. Mr Skwierawski's evidence was that he recalled having discussed one of the posts with Mrs Connolly at the time it had been posted but that he had not seen all of the posts until they were sent to the Eastern Office. Once he had seen all of the posts he referred them to the Branch Committee and recommended removing Mrs Connolly's credentials as a shop steward.
13. I have seen evidence, in the bundle of papers for my hearing, that there was, at the very least, a difficult relationship between Mr Skwierawski and Mrs Connolly. It is not my role, however, to determine whether that was, in fact the case. Nor is it my role to consider whether the Union was right to remove Mrs Connolly's credentials as a Shop Steward. My role is to consider whether the process which the Union followed in reaching that decision was consistent with its rules.

The Branch Committee

14. Rule 20(4) enables Branch Committees to cancel the appointment of any shop steward in certain circumstances. The core issue in this complaint is whether Mrs Wigham, Mrs Goodwin and Mr Al-Haque comprised the Branch Committee at the time they took the decision to remove Mrs Connolly's credentials.

15. Mrs Connolly told me that there was no Branch Committee. Her evidence was that at a meeting on 7 November 2017 Mrs Wigham and Mrs Goodwin had been appointed as Branch Chair and Branch Secretary for the purposes of that meeting only. Her evidence was that there was a need to appoint a Chair and Secretary so that nominations could be made to the Union's Executive Committee (which, on this point, was consistent with Mrs Goodwin's evidence); however, Mrs Goodwin told me that both she and Mrs Wigham had been appointed for a period of two years from the date of that meeting. This was supported by the evidence given by Mr Skwierawski. All witnesses agreed that the meeting had been advertised on the workplace noticeboard and on social media but that no agenda had been prepared or circulated. They also agreed that only Mr Skwierawski was aware that there would be elections to the Committee posts. Mrs Connolly told me that she had asked Mr Skwierawski, by text message, ahead of the meeting whether she needed to advertise, on social media, that there would be elections for the Branch Committee and Branch Secretary. He had told her that there was no need to do this which she understood to mean that there would be no elections.

16. All witnesses agreed that there had been an election at that meeting. Mrs Goodwin told me that those who stood nominated themselves; there was no need for nomination by another person. Mrs Goodwin and Mr Skwierawski told me that neither post was contested and that Mrs Goodwin and Mrs Wigham were elected

unopposed. Mrs Connolly told me that she had stood for one post but that she could not recall which one.

17. It is clear to me that Branch Committee elections were held on 7 November 2017. From the evidence offered by Mrs Goodwin, Mr Skwierawski and Mrs Connolly it is similarly clear that the meeting was not widely advertised and that Branch Members were not aware that there would be elections to Committee posts. I cannot, however, see a requirement in the Rules for the election to be advertised. Neither Mr Skwierawski, the Acting Branch Secretary before the meeting, nor Mrs Goodwin, who was elected as Branch Secretary at the meeting, took notes of the meeting. Mrs Goodwin did, however, note in her diary that she had been elected as Branch Secretary and that Mrs Wigham had been elected as Branch Chair. Similarly, there was no record of attendance at the meeting. Rule 19(2) requires that a Branch Secretary should keep a note of all Branch Committee Meetings as well as a Register of Attendance but I can see no similar Rule for Branch Meetings. Mrs Connolly told me that she did take a note of the meeting; however, that has not been submitted to me as evidence.

18. It is worth noting that the absence of any record of the meeting demonstrates poor governance. Whilst this does not necessarily result in a breach of the Union Rules, it leaves the Union in a position where it is difficult to satisfy itself, and others, that the Branch complied with those Rules. Mrs Connolly clearly believes that the elections that were held at the meeting on 7 November 2017 were for the duration of that meeting only. I have not seen any evidence to support this contention, although I note that Mr Skwierawski refers to Mrs Wigham and Mrs Goodwin as Acting Chair and Acting Branch Secretary in his letters of 2 February 2018, but nor have I seen any evidence which demonstrates the term of office to which they were elected.

19. I would add that I was provided with two emails from two Branch Members who said that they had been present at the meeting and confirmed that Mrs Wigham and Mrs Goodwin had been elected. In the absence of a note of the meeting, or a record of

attendance, it is hard to determine whether they were present. Mr Skwierawski recalled that they were present. Mrs Goodwin's statement recorded that she could not recall who was present. When giving evidence, however, she first told me that they were both present but then told me that she could not recall with any certainty that they were present. Bearing in mind the uncertainty about their presence, the fact that neither produced a witness statement and that I have seen no written evidence to demonstrate that either is, in fact, a Branch Member, I have not taken their emails into account. An attendance record, or a note of the meeting, would have given more certainty on this point.

20. Having said that, I am satisfied that Mrs Goodwin and Mrs Wigham were elected as Branch Secretary and Branch Chair at the meeting of 7 November 2017. Moving on to their term of office, Union Rule 16(2) states that Branch Officers are appointed for a period of two years from the date at which they are elected. This is supported by the evidence given by Mrs Goodwin and Mr Skwierawski. Mrs Connolly's evidence is different as she recalls that they were appointed for that meeting only. On balance, and in the absence of any documentary evidence from Mrs Connolly, I can only infer that Mrs Goodwin and Mr Skwierawski's recollection is correct as this accords with the Union's Rules.

21. On that basis I can only conclude that Mrs Goodwin and Mrs Wigham were members of the Branch Committee when, as part of a Panel, they considered whether to remove Mrs Connolly's credentials as shop steward on 14 March 2018.

Action following the Complaint about Mrs Connolly

22. I have not been given any evidence as to when the shared Facebook posts were sent to the Union. It must, however, have been before 2 February 2018 as that is when Mr Skwierawski wrote to Mrs Connolly about those posts. Mr Skwierawski told me that, on receipt of those posts, he believed that the nature of their content was sufficient to endanger the well-being of the Branch. Consequently, he referred the posts to the Branch Committee with a request to remove Mrs Connolly's credentials as Shop Steward. Under cross-examination Mr Skwierawski explained that he had

only seen one of those posts before and had spoken with Mrs Connolly at that time. He also told me that, in his view, the removal of Mrs Connolly's credentials as a shop steward was the most appropriate way to deal with the posts. Although he described the posts as "vile, hateful, and racist" he initially told me that he did not consider it was his role to ask the Branch to consider expelling Mrs Connolly from union membership under Rule 20(2). When I asked him why he thought it was his role to make a recommendation as to how the Branch should proceed under Rule 20(4) but not under Rule 20(2), his position changed and he told me that he thought the removal of credentials was an appropriate response to the issue.

23. Mrs Goodwin told me that she was aware of the posts before she received the letter from Mr Skwierawski. Her recollection was that she spoke to Mrs Wigham and suggested that they should be joined by a third person to ensure that there was no deadlock in the decision-making process. She had not met Mr Al-Haque and did not know him. She was unaware as to why he had been suggested as a third panel member. Mr Skwierawski told me that Mrs Wigham had called him to say that it would be helpful to have a third party as part of the decision-making panel, he agreed and explained that it was open to Mrs Wigham and Mrs Goodwin to co-opt another branch member onto the Committee and recommended Mr Al-Haque. He told me that this was because he valued Mr Al-Haque's logical reasoning.

24. Mrs Goodwin's written evidence was that Mr Al-Haque had been co-opted on to the Committee. In giving evidence before me, however, she told me that she had not been present at any decision to co-opt him on to the panel. Her view was that he attended that meeting, and subsequent Branch Committee Meetings, as an experienced branch member. Whilst I think Mrs Goodwin was genuinely trying to answer questions to the best of her ability I did not find her to be a reliable or consistent witness on this point. She subsequently answered questions from Mr Cooper indicating Mr Al Haque was, in fact, a Committee Member which is consistent with her written statement; however, when I explored this with her again

she told me that Mr Al-Haque was not a Committee Member and that she did not co-opt him onto the Committee.

25. Mr Skwierawski told me that his advice to Mrs Goodwin and to Mrs Wigham was that they should co-opt Mr Al-Haque onto the Committee, which would have been reported to the Union. He told me that he had not, however, seen any evidence that this had been done. He also told me that he would not expect to see this as it was “beyond him” because it was simply a clerical matter and not one in which he would normally become involved.

26. I can only conclude, on the basis of Mrs Goodwin’s oral evidence and in the absence of any record of his co-option to the Committee, that Mr Al-Haque was not co-opted onto the Committee. This is supported by the evidence of Mr Vincent and Mrs Connolly, who were both present at the meeting on 14 March 2018, who told me that Mr Al-Haque was not co-opted onto the Committee at that meeting. Nor were they told, at that meeting, that he had been co-opted onto the Committee.

The meeting on 14 March 2018

27. Mr Skwieraski wrote to the three panel members and to Mrs Connolly on 2 February 2018 informing them of the information he had received and his request that Mrs Connolly’s credentials as a shop steward should be removed. Each of those letters referred to the branch convening a special meeting. That meeting went ahead on 14 March 2018.

28. Mrs Connolly told me that she thought the meeting was a branch meeting. She took two friends to the meeting for support and was accompanied by Mr Vincent. She did not know what was meant by the term “special meeting”.

29. Mrs Goodwin told me that she was not sure what was meant by a special meeting but that her understanding was that it would be a committee meeting. Mr Skwierawski told me that this was a committee meeting and that the reference to a special meeting was because it was to consider only one issue.

30. All parties agreed that the decision was taken by Mrs Goodwin, Mrs Wigham and Mr Al-Haque. I have not seen any evidence that Mrs Connolly knew that Mr Al-Haque would be at the meeting nor that he would be taking part in the decision until the meeting itself. Mrs Connolly told me that, at the end of the meeting, she was told that the panel would reconvene the following week to give her their decision. Mr Vincent told me that there was an agreement that the meeting would reconvene to consider the matter further. The Panel did not reconvene, however, and the decision was sent to Mrs Connolly in a letter dated 15 March from Mr Skwierawski.

31. Mrs Goodwin told me that the Panel had indicated that they would reconvene the meeting the following week after discussing the best way to proceed. But, following a discussion lasting about 45 minutes the Panel decided, unanimously, that there was no need to reconvene as they had reached a conclusion and it would be better to give Mrs Connolly their decision immediately rather than for her to wait a week. Mr Skwierawski told me that he received a call from Mrs Goodwin the following day and conveyed that decision to Mrs Connolly in writing on the same day. His oral evidence was that he had no role in the decision making.

32. Mrs Goodwin told me initially that she believed that the panel's view was that they were removing Mrs Connolly's credentials because she had acted in a way which violated agreements to which the Union was a party. In response to questions from Mr Cooper, however, she explained that, on reflection, she considered that the decision was because Mrs Connolly had acted in a way which endangered the well-being of the Branch. She also explained to me that she did not believe it necessary to consider expelling Mrs Connolly from the Union under Rule 20(2) as removing her credentials would be sufficient to deal with the issue.

33. It is clear to me that there was some confusion around the status of the meeting caused in part, in my view, by the wording of Mr Skwierawski's letters of 2 February and the presence of Mr Al-Haque. Mrs Connolly clearly believed that it was a Branch meeting whilst Mrs Goodwin thought it was a Committee meeting. I have not seen

any evidence to suggest that Mrs Connolly was told that Mr Al-Haque would be part of the decision-making panel and it is clear from Mrs Goodwin's evidence that he was not a Committee member. Additionally, in an email of 7 February 2018 Mr Dave McCrossen, then Divisional Officer for Usdaw Eastern Region, appears to have told Mrs Connolly that the allegations against her would be heard by three independent representatives from three separate workplaces. He makes no mention of this being a Branch Committee decision.

34. Only the Branch Committee has the power, under Rule 20(4) to remove a shop steward from their post. The question for me, therefore, is whether the decision taken by Mrs Goodwin, Mrs Wigham and Mr Al Haque can properly be considered to be a Committee decision, under Rule 20(4), bearing in mind that Mr Al-Haque was not a Committee Member.

Summary of Submissions

35. Mrs Connolly's complaint is that the panel which removed her credentials as a shop steward was not the Branch Committee and had been appointed by Mr Skwierawski. At the hearing Mr Vincent accepted that branch elections had taken place on 7 November 2017 but that those elections had not been advertised and there was no record of the term of office to which the successful candidates had been appointed.

36. I have reached conclusions above, based on the evidence before me at the hearing, that Mrs Goodwin and Mrs Wigham were elected members of the Committee and their terms of office were two years from the date of that election. It is clear to me that they were not appointed by Mr Skwierawski. That is not the position for Mr Al-Haque.

37. Mr Cooper argued that, even though Mrs Goodwin told me that she had not co-opted Mr Al-Haque on to the Committee and that he was not a Committee Member, it was clear that he had been invited onto the panel as a Committee Member. The other members of the Panel were invited because they were Committee Members and Mrs Goodwin's evidence was that she had identified the need for a third Panel

Member. Mr Cooper drew my attention to Mrs Goodwin's statement where she explained that Mr Al-Haque was a Committee Member and had sat with her and Mrs Wigham as the Branch Committee on subsequent occasions. He also argued that the Union had clearly intended that Mr Al-Haque should be co-opted and that this must have happened for him to have been able to sit on the panel on 14 March 2018 and at subsequent meetings.

38. This is directly contrary to Mrs Goodwin's oral evidence, however. It is important to note that I clarified the issue with her after she had contradicted her own written statement when answering questions from myself, and then contradicted herself again when responding to Mr Cooper. She was clear that Mr Al-Haque was not a Committee Member. I have no evidence from Mr Al-Haque or Mrs Wigham to contradict this.

39. Mr Skwierawski told me that he had understood that Mr Al-Haque would be co-opted on to the Committee but that he had seen no evidence that this had happened. Consequently, I can only conclude that Mr Al-Haque was not a Branch Committee member. I would add that there is no reference to Mr Al-Haque being co-opted onto the Committee in Mr Skwierawski's letters of 2 February to Mr Al-Haque, Mrs Goodwin or Mrs Wigham.

40. Mr Cooper told me that, if I found that Mr Al-Haque was not a Committee member, I should take into account that the decision of the Panel was unanimous and, therefore, the decision should stand because both members of the Branch Committee were part of that Panel. He told me that the irregularity of the branch committee composition made no difference to the decision.

41. Mr Vincent told me that the inclusion of the third panel member, who had been recommended by Mr Skwierawski, could have had an impact on the decision because, in his experience, panels usually discuss a decision and bounce ideas off each other before reaching a decision. Mr Cooper appeared to see this as an

allegation that Mr Al-Haque had been appointed by Mr Skwierawski to influence the Panel and that Mrs Wigham and Mrs Goodwin had been unduly influenced. He pointed out that I had seen no evidence to support this. I agree with Mr Cooper that there is no evidence to support this but I understood Mr Vincent's point to be that the decision was taken by a Panel of three people any one of whom could have influenced the other two. Consequently, the fact that Mr Al-Haque participated in the decision was sufficient to amount to a breach of rule 20(4).

42. I have not, therefore, considered whether there was any bias on the part of any of the three Panel Members. I have seen no evidence of this. I cannot agree with Mr Cooper, however, that I should ignore the fact that it was not the Branch Committee which took the decision to remove Mrs Connolly's credentials as a shop steward under Union Rule 20(4). It seems to me that the presence of Mr Al-Haque was a significant procedural defect resulting in a breach of Rule 20 Section 4. The decision was not taken by the Branch Committee; it was taken by the Branch Committee and Mr Al-Haque.

43. Mrs Connolly's complaint is that the members of the Panel were appointed by Mr Skwierawski. I have already found that Mrs Wigham and Mrs Goodwin were elected at the meeting on 7 November 2017. It is clear, from Mr Skwierawski's evidence, that he recommended that Mr Al-Haque join the Committee to take the decision as to whether to remove Mrs Connolly's credentials. I have seen no evidence, however, that either Mrs Goodwin or Mrs Wigham objected to this. On the contrary, Mrs Goodwin told me that she felt that they needed a third panel member. I, therefore, find it hard to reach the conclusion that Mr Skwierawski appointed Mr Al-Haque. I am clear, however, that as he was not a Committee Member his inclusion in the Panel resulted in a breach of Rule 20(4).

Enforcement Order

44. Mr Vincent told me that following discussions with Mr McCrossen, now Deputy General Secretary of Usdaw, Mrs Connolly had, at his suggestion, asked to move

branches as she found it difficult to be in the same room as Mr Skwierawski. As a consequence of her move, she was now unable to be elected as a shop steward. She had successfully sought election but this was considered invalid because it contravened the Union's Partnership agreement with her employer as she was not a member of the branch in the store in which she worked. These actions, in Mr Vincent's view, flowed directly from the decision to remove her as shop steward and so he requested that I make an Order to return her to her original branch and require Usdaw to endorse her election as shop steward.

45. Mr Cooper told me that the term of office for the shop steward post from which Mrs Connolly had been removed had now ended and so it was not possible to restore her to that position. His view was that the actions Mr Vincent requested were outside my powers and were a consequence of her request to move branches.

46. My powers are limited in this area. I can only make an order which will require the Union to take steps to remedy the breach and/or to prevent a similar breach occurring in the future. The direct consequence of this breach is that Mrs Connolly was removed from a post as shop steward. As the term of office has now expired I cannot require that the Union restore her to that post. Nor are there any obvious steps I can order the union to take to prevent a similar breach happening again.

47. I agree with Mr Cooper that the Order which Mr Vincent requests is outside my powers. Following her removal as shop steward Mrs Connolly sought a move to a different branch and, as a consequence of that move, she is now unable to stand for election. It is, however, open to Mrs Connolly to seek a return to her original branch if she wishes.

48. I, therefore, decline to make an enforcement order as it would not be appropriate to do so.

Observations

49. I have already commented on the poor governance arrangements in place in the branch. The current Branch Chair and Branch Secretary were very new to their roles when they were required to consider the removal of Mrs Connolly's credentials. Mrs Goodwin told me that she had not dealt with a similar issue before. When giving evidence, following questions from myself and Mr Vincent, Mr Swierawski said that it was not his role to offer support or advice to the Branch on this issue. I would have expected the Union to have given more support to an inexperienced Branch Committee in dealing with an issue which, from Mr Swierawski's own evidence, is rare. He told me that, in his thirteen years working for USDAW, he had only dealt with three or four such cases.
50. There was clearly a difficult relationship between Mr Swierawski and Mrs Connolly which led to Mrs Connolly making allegations, which were not upheld, that she had been bullied by Mr Swierawski. In that context, and with an inexperienced Committee, my view is that it would have been good practice for another Union official to support the Branch Committee in managing the process to consider removing Mrs Connolly's credentials. This would have prevented any real or perceived bias thus protecting the integrity of the process as well as offering the Branch more support in dealing with Mr Swierawski's request to remove Mrs Connolly's credentials. I recommend that the Union review their procedures for dealing with such issues to ensure that a Branch facing such issues adopts processes which are consistent with the Union Rule Book and give all parties confidence in the decision-making.
51. Finally, I have already commented that Mrs Goodwin's evidence was inconsistent at times. I believe that she was genuinely trying to answer questions to the best of her ability and I am pleased that she was doing her best to be helpful to me. I recognise that some of these events were some time ago and that it can be hard to recall exactly what happened. My impression of Mr Swierawski when giving evidence, however, was that he was defensive and seemed, at times to be doing his best to be

unhelpful especially when Mr Vincent was asking questions. Both Mr Vincent and myself had to ask questions more than once before he answered the question directly. This called into question the credibility of his evidence and his accountability.

A handwritten signature in black ink, appearing to read "Sarah Bedwell", with a horizontal line underneath it.

Sarah Bedwell

The Certification Officer