

D/12/19-20

Decision of the Certification Officer on an application made under Section 72A of the  
Trade Union and Labour Relations (Consolidation) Act 1992

Oley & Others

V

Unite the Union

Date of Decision

14 August 2019

## **Contents**

Decision .....	3
Background .....	3
Reasons .....	3
The Relevant Statutory Provisions .....	4

## **Decision**

1. Upon application by Mr Oley and Others (“the applicants”) under section 72A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”):

I grant the application for a declaration that on or around 10 November 2017, Unite the Union breached section 71(1) of the 1992 Act by using £1,965.34 from its General Fund to pay for Officers and Committee Members of the NASUWT Branch of Unite the Union to attend the North East Labour Party fundraising dinner on or around 10 November 20

## **Background**

2. Mr Oley with seven other applicants brought this application as members of Unite the Union (or “the Union”). They did so by a registration of complaint received at the Certification Office 13 March 2018.
3. Following correspondence with my office Mr Oley, acting on behalf of all the applicants, confirmed the complaint as follows:-

That on or around 10 November 2017, Unite the Union breached section 71(1) of the 1992 Act by using £1,965.34 from its General Fund to pay for Officers and Committee Members of the NASUWT Branch of Unite the Union to attend the North East Labour Party fundraising dinner on or around 10 November 2017.

## **Reasons**

4. The Union has conceded the breach of section 71(1) of the Act and has transferred £1,965.34 from the Political Fund to the Branch General Fund.
5. I have been given documents to support the Union’s statement that the transfer has been made. The Union has also told me that it has taken steps, including reminding Branch Secretaries that expenditure on political purposes must be made from the political funds, to prevent a similar breach in the future. As the

breach has been remedied and appropriate steps have been taken to prevent this happening again, I do not consider it appropriate to make an enforcement order.

6. Both parties confirmed that they did not require an oral hearing.

### **The Relevant Statutory Provisions**

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

#### **71 Restriction on use of funds for political objects**

(1) The funds of a trade union shall not be applied in the furtherance of the political objects to which this Chapter applies unless—

(a) there is in force in accordance with this Chapter a resolution (a “political resolution”) approving the furtherance of those objects as an object of the union (see sections 73 to 81), and

(b) there are in force rules of the union as to—

(i) the making of payments in furtherance of those objects out of a separate fund, and

(ii) the making of contributions to that fund by members,

which comply with this Chapter (see sections 82, 84 and 85) and have been approved by the Certification Officer.

#### **72A Application of funds in breach of section 71**

(1) A person who is a member of a trade union and who claims that it has applied its funds in breach of section 71 may apply to the Certification Officer for a declaration that it has done so.

(2) On an application under this section the Certification Officer—

.....

(d) may make or refuse the declaration asked for,

(e) shall, whether she makes or refuses the declaration, give reasons for her decision in writing, and

(f) may make written observations on any matter arising from, or connected with, the proceedings.

(3) If she makes a declaration she shall specify in it—

(a) the provisions of section 71 breached, and

(b) the amount of the funds applied in breach.

(4) If she makes a declaration and is satisfied that the union has taken or agreed to take steps with a view to—

(a) remedying the declared breach, or

(b) securing that a breach of the same or any similar kind does not occur in future,

she shall specify those steps in making the declaration.

(5) If she makes a declaration she may make such order for remedying the breach as she thinks just under the circumstances.

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

Sarah Bedwell

The Certification Officer