

D/27-28/19-20

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

Dinsdale

V

GMB (2)

Date of Decision

6 January 2020

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Decision

1. Upon application by Mr Edwin Dinsdale (“the claimant”) under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”):

I refuse to grant Mr Dinsdale’s application for a declaration that on or around 23 October 2018, the union breached rule 43 of the GMB rulebook by removing Mr Dinsdale from the post of shop steward/safety representative without replacing him.

I refuse to grant Mr Dinsdale’s application that on or around 20 September 2018 and continuing, the union breached rule 35(7) of the union rulebook because the Sellafield Branch Committee has not been elected as required by rule 35 (7).

Reasons

2. Mr Dinsdale brought this application as a member of GMB (“the Union”). He did so by a registration of complaint which was received at the Certification Office on 14 December 2018.
3. Following correspondence with my office, Mr Dinsdale confirmed his complaints as follows: -

Complaint 1

On or around 23 October 2018, the Union breached rule 43 of the GMB rulebook by removing Edwin Dinsdale from the post of Shop Steward/Safety Representative for EARP for the LAEMG Department on the Sellafield Site without appointing a representative to replace him under rule 43.2(a)-(d).

Complaint 2

On or around 20 September 2018 and continuing, the union breached rule 35(7) of the union rulebook because the Sellafield Branch Committee has not been elected as required by rule 35 (7).

4. At a hearing before me on 17 December 2019 Mr Dinsdale represented himself. A witness statement and oral evidence was given by Mr Dinsdale. The Union was represented by Mr Edward Cooper of Slater and Gordon. Witness statements and oral evidence for the Union were given by Ms Diane Robertson, Mr Christopher John Jukes, Mr William Coates and Mr Joseph Murdock. There was also in evidence a bundle of documents consisting of over 158 pages containing correspondence and the rules of the Union. Both the Union and Mr Dinsdale provided skeleton arguments.
5. At the hearing, the Union gave notice that they wished to make an application to use my powers under Section 256ZA of the 1992 Act to strike out a portion of Mr Dinsdale's own witness statement.
6. The Union argued that these parts were irrelevant to the determination of the two complaints and contained personal information about other individuals. I declined to use my powers to strike out part of Mr Dinsdale's witness statement; however, I explained that I would disregard those parts of the statement which were irrelevant to the complaint before me for the purposes of my decision. This was accepted by both parties without further application.

Findings of fact

7. Having considered the written evidence ahead of the Hearing, I find the agreed facts to be as follows:
8. Mr Dinsdale is a member of the Sellafeld branch of GMB. He has been a shop steward within the Union during his membership. He was first elected around 1992. His appointment as a shop steward was endorsed in June 2017.
9. In May 2017, the Sellafeld branch of GMB held elections for its Branch Officers. The elections were to the roles of Branch President, Branch Secretary, Branch Equalities Officer and Branch Youth Officer. There were no elections for other Committee members at that time.

10. On 23 September 2018, the Branch considered a complaint about Mr Dinsdale's conduct and asked the Regional Committee to consider removing his authority to act as a shop steward.
11. On 25 September 2018, Mr Dinsdale submitted a request to the Regional Committee for his election to the shop steward role to be endorsed. He included, with his request, a document signed by five people indicating that they wished to elect Mr Dinsdale as their shop steward.
12. The Regional Committee met on 19 October 2018 and took the view that Mr Dinsdale had resigned from his previous term of office as a shop steward and that, consequently, there was no need to consider the Branch's request to remove Mr Dinsdale from the role of shop steward. The Committee also decided that they should not endorse any new appointments to the shop steward role.
13. Mr Coates, GMB Northern Regional Secretary, wrote to Mr Dinsdale on 25 October 2018 to inform him that the Regional Committee were not prepared to provide authority for Mr Dinsdale to work as a shop steward after the election on 25 September 2018.

The Relevant Statutory Provisions

14. The provisions of the 1992 Act which are relevant for the purposes of this 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;

108B Declarations and orders.

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

15. The rules of the Union which are relevant for the purposes of this application are

GMB rules: -

BRANCHES

Rule 35 Branches

1a The purpose of each branch is to help us achieve the aims set out in these rules, giving priority to recruiting, organising, providing services for and keeping members. As the basic unit of the union Branches will encourage members to take part in its democracy.

b In January each year, branches will set out a development plan for the year ahead.

The development plan will identify:

- recruitment plan
- schedule of branch meetings including dates and venue(s)
- union democracy activity
- branch servicing and retention
- branch organising • branch resources
- communication
- training

A branch recruitment plan will identify:

- the local areas and workplaces in which the branch will make the most effort to recruit new members;
- the opportunities the branch has to increase the number of members;
- the resources the branch considers necessary to carry out the recruitment campaign; • the branch officials and members who will carry out the campaign; and
- the timetable for the campaign.

The branch secretary will send the development plan to the regional secretary for them to register it with the regional committee. Branch development plans will also be referred to the Regional Council.

c A region may set up a recruitment fund to help its branches to carry out their recruitment plans. Branches can apply to their regional secretary for support from the recruitment fund.

2 A group of new members who number more than 20 can form their own branch, subject to the agreement of the Regional Secretary. The group can appoint one of their members as secretary, who will communicate with the regional secretary and receive instructions on how to carry out their business.

3 Each branch will have a president, secretary, equality officer, youth officer, race officer and two auditors (except in branches of less than 100 members, which will only have one auditor), and a committee of no less than nine members. The president, secretary, equality officer and youth officer will all be members of the committee, and will act within the powers set out in these rules. There will need to be at least five members present at the committee meetings for any decisions to be valid (known as a quorum).

4 If, in the opinion of the regional committee and regional secretary, and with the agreement of the branch concerned, it is not practical for a member of the branch to act as branch secretary, regions have the power to direct an organiser to temporarily for up to six months carry out the branch secretary's duties, whilst the regional secretary and regional committee formally review the situation and agree the long term solution. This organiser will take part in the branch committee's meetings, and will have the right to speak but not to vote.

5 Members will not be eligible for any office (except in the case of new branches) unless they are financial members and have paid contributions for at least 53 weeks.

6 Where necessary, the branch will appoint a collecting steward or stewards.

7 All branch officers, and the branch committee, will be elected at the last meeting in June every four years. Nominations can be made at any of the three meeting nights before the general meeting, and should be displayed clearly in the meeting room. If no nominations (or not enough nominations) are made at any of the three meeting nights before the general meeting, nominations can be made at the general meeting. However, if enough nominations have been made, nominations for that particular office will not be accepted at the general meeting.

8 Voting will be by a show of hands or a ballot by those Core Rules 40 members taking part in the general meeting.

9 Representatives to trades councils and similar local organisations will be elected at the last meeting in December each year.

10 Members who have been suspended from receiving the benefits we provide must not be elected to, or allowed to hold, any office.

11 Any branch officer who the regional secretary and the regional committee believe has not satisfactorily carried out their duties can be removed from office at any time by the regional committee. The regional committee have the power to authorise the branch members to hold a new election, or to take any other action they feel is appropriate.

12 Any branch can make by-laws for how it carries out its own business. However, these by-laws must keep to our rules, and be approved by the regional council, regional committee or Central Executive Council before they are used.

13 Members or branches must not issue any addresses or circulars without getting approval from the regional council, regional committee or Central Executive Council. Also, members must not make our business known to unauthorised organisations, unofficial journals or the media without getting approval. Any member of any branch who:

- issues or hands out any circular;
- makes our business known, or calls unauthorised meetings, without the approval of the regional committee; or
- breaks this rule in any other way; will be suspended from receiving all benefits we provide and could have their membership cancelled.

14 The regional secretary will have the power to close any branch or merge any branches for any reason they consider reasonable or necessary.

15 The regional committee will have the power to suspend or remove from office any branch officer who:

- acts incompetently or dishonestly; or
- fails to carry out any instructions or decisions of the Central Executive Council, regional council or regional committee; or
- for any other reason it considers reasonable

In giving its decision, the regional committee must tell the member, in writing, of their right to appeal. Branch officers who are suspended or removed from office can appeal in writing within one month to the general secretary. If successful, the general secretary will refer the case to the Central Executive Council, who will make the final decision. Before the regional committee and the Central Executive Council, the branch officer will have the rights set out in rule 5.8. The Regional Committee or Central Executive Council may order an appeal to be struck out for scandalous, vexatious or unreasonable behaviour by an appellant or for excessive delay in proceeding with the case. Before making such an order the appellant will be sent notice giving them an opportunity to show why the order should not be made. A member who, for any reason, has been disqualified from holding a particular office will not be eligible to be nominated for and elected to any other office without the regional committee's approval.

16 Branches who want to place motions on the agenda of the regional council meeting must send them to the regional secretary at least 21 days before the meeting.

17 Before the first branch meeting in each year, the branch secretary must give the members of the branch a schedule for when meetings will be held in that year. The schedule will give the date, time and place of each meeting, together with the main business that the branch secretary expects to be dealt with at each meeting. The branch secretary will give a copy of the schedule to each new member of the branch.

18 The meetings of each branch will be held at least once in each quarter.

19 Branch committees or meetings of branch members will not have the authority to decide anything not given as being within their powers as set out in our rules. Meetings of either members or committees must not authorise payments for any purpose or approve any action in connection with disputes, delegations, wage claims or benefits for members without first getting permission from the regional secretary.

20 Meetings of branch members must only include the members of the branch concerned. Members of any branches will not be entitled or allowed to take part in

another branch's meetings unless this has been approved by the regional secretary. Any member who fails to keep to this condition will be dealt with by the regional committee in line with the powers set out in these rules. Core Rules 42

21 If a branch ('a composite branch') is made up of members of more than one section of the union, procedures for things such as nominating candidates (including nominating candidates for election to the Central Executive Council under rule 11, and nominating candidates for election to regional councils under rule 19) and voting (which is usually carried out by branches or members of one particular section) will be carried out by the members of that section in the composite branch. The number of members of that section in the composite branch will, where appropriate, be counted as the number of members of the branch. The Central Executive Council can make by-laws to set out how this rule should be applied, and the procedures that composite branches must follow.

Rule 43 Representatives in the workplace

1 Shop stewards or staff representatives will be appointed (or elected by the members employed where necessary), if approved by the branch committee or regional secretary (if more than one branch is involved).

2 These representatives will be appointed in any of the following ways, depending on which is the most suitable.

a By a majority vote, through

a show of hands or a ballot, of the members at the workplace.

b By a majority vote, through a show of hands, at a branch meeting.

c If all the members concerned agree that a member appointed by the regional secretary should act as representative.

d By shop stewards or staff representatives at the workplace electing one of themselves as convenor or chief staff representative.

3 The shop stewards and staff representatives and their convenor or chief staff representative will work under the authority of the regional committee. They must follow the decisions and policies set out by the governing authorities of the union.

4 Once a shop steward or staff representative has been appointed, their name, address and branch should be sent to the regional secretary, who will then give that person a credential card, shop steward's or staff representative's badge, and a handbook. When that shop steward or staff representative no longer holds office, they must return the credential card and badge to the regional secretary.

5 With the regional committee's permission, a branch may be allowed to levy its members to help create a fund to pay loss of earnings to shop stewards and staff representatives. The regional committee will only give permission once the branch has sent a report, setting out its income and expenses, which has been examined by the branch auditors.

6 Shop stewards or staff representatives who have been appointed in line with clause 2 of this rule will also take on the role of safety representative, in line with the conditions of the Health and Safety at Work Act 1974 and any schedules, regulations and codes of practice issued under that act.

7 If, after consulting the regional committee, the branch committee feels that people other than the shop stewards or staff representatives are needed, safety representatives Core Rules 47 should be appointed separately, in the same way as set out under clause 2 of this rule.

8 Safety representatives appointed under clause 7 of this rule will report to the shop stewards' or staff representatives' committee, and will work under the authority of the regional committee.

9 Clauses 1 to 5 of this rule will apply to learning representatives in the same way as they apply to shop stewards and staff representatives.

Considerations and Conclusions

Summary of Evidence

Complaint 1

16. All witnesses agreed that the normal process for appointing shop stewards would be for Union members in the relevant work area to elect, through a ballot under Rule 43 (1), a shop steward. The nomination would then be passed to the Convenor, currently Mr Murdock, who would send the nomination to the Regional Office. Mr

Jukes told me, and Mr Coates agreed, that the Regional Office would check that the proposed shop stewards and those nominating him or her were members before referring the nomination to the Regional Committee. Once a shop steward had been appointed, they would remain in post until they resigned or were removed from office.

17. Mr Dinsdale told me that he had first been nominated in 1992 or 1993. He was then nominated again in 2017. He told me, at the Hearing, that he had not resigned his position at all since he was first appointed. He had previously assumed that he had ceased to be a shop steward at some point before 2017 which was why he sought endorsement again in 2017. However, he now realised that, as he had neither resigned nor been removed from office, he must have remained in office since his first nomination in 1992 or 1993.

18. Mr Dinsdale told me that he sought a new nomination from his colleagues once he realised that the Branch Meeting had recommended to the Regional Committee that he should be removed from office. He discussed this with his colleagues who agreed that they wanted him to represent them. He told me that they had the opportunity to seek nomination if they had wished to and, if so, there would have been a ballot. Once the form had been completed, he passed it to Mr Coates by email. He did not send it to Mr Murdock or the GMB office because he did not wish there to be any delay.

19. Mr Murdock told me that had not seen Mr Dinsdale's nomination form, nor been aware of it, until he had seen the papers for this Hearing. He had seen four nomination forms from other prospective shop stewards within the Branch and had passed these on to the Regional Office for consideration at their meeting in September 2019.

20. Mr Jukes told me that he was aware of these four nomination forms and that he had concerns about the number of shop stewards within the Sellafeld Branch. He explained that, in Autumn 2018, there were 209 shop stewards representing 2,480 members. Consequently, the Regional Committee had decided, in September 2019,

that there should be a review of the operational requirements at the Sellafield site and that there may be a need for a potential moratorium to be placed on granting authority to new GMB shop stewards at the site. The four nominations which Mr Murdock had passed to Mr Jukes were not endorsed at that meeting.

21. Mr Dinsdale told me that his intention in seeking a new nomination was to ensure that, should the Regional Committee remove him from his role, he could continue to represent his colleagues as shop steward whilst he challenged his removal from office. He was clear that he had not resigned his role as shop steward. He explained that his intention was that, should the Regional Committee have declined to remove him from office, he would have remained in post as shop steward which would mean that the nomination would not have been required.
22. Mr Coates told me that it was obvious from Mr Dinsdale's email to him, and the nomination form, that Mr Dinsdale had resigned so that he could be elected into the role again. On receipt of the email Mr Coates arranged the necessary checks to ensure that Mr Dinsdale and the named electors were Union members. Having done so, he placed the matter on the agenda for the Regional Committee. He did not discuss the matter with anyone or seek advice. Nor did he seek any clarification from Mr Dinsdale as to his intentions.
23. Mr Coates told me that the request from the Branch to remove Mr Dinsdale's credentials as a shop steward was discussed by the Regional Committee at its meeting on 19 October 2019. He told me that the Committee decided that Mr Dinsdale had resigned in order to seek election and so there was no need to consider the request for his removal. The minutes of that meeting record that:
 - a. The Sellafield Branch at their meeting on Friday 21 September 2018 indicated that they wanted the authority of Mr Dinsdale as a GMB shop steward/work representative to be revoked/removed under Rule 43.3;
 - b. Mr Dinsdale has since been elected as shop steward/work representative at Sellafield on 25 September 2018;

- c. Mr Dinsdale had therefore vacated his term of office as shop steward/work representative in order to face re-election on 25 September 2018;
- d. Regional Committee therefore noted that there was no need to consider the request from the branch that the authority for the branch for Mr Dinsdale to work as shop steward/workplace representative that was in place on 21 September be revoked. That authority had lapsed on Mr Dinsdale vacating office on 25 September 2018.

24. The Regional Committee also considered Mr Dinsdale's nomination form together with the four which had not been endorsed in September 2019. Mr Coates told me that they decided to place a moratorium on granting authority for new shop stewards at Sellafield pending a thorough review of operational requirements. The minutes of the meeting record that:

- a. The Regional Secretary reported that the numbers of GMB members at Sellafield Ltd was currently 2,480 and serviced by 209 shop stewards. This equated to a ratio of 1 shop steward for every 11.87 members.
- b. A discussion took place in relation to the number of shop stewards at Sellafield Ltd and how they were elected. Regional Committee decided, following on from September 2018 Regional Committee meeting, that a thorough review of operational requirements takes place of GMB at Sellafield. Regional Committee also decided that an immediate moratorium be placed on granting authority to any new shop stewards at Sellafield Ltd.
- c. Regional Committee in light of the review and moratorium that was agreed by Regional Committee determine that they are not currently prepared, under GMB rule 43.3 and to provide authority for five GMB members ED, WK, PM, AW, LW following their election to work as a GMB shop steward/work representative.

25. Mr Coates wrote, on 23 October 2019, to Mr Dinsdale to inform him that the Regional Committee would not be granting authority to him to act as a shop

steward/work representative in light of the ongoing review of operational requirements.

Complaint 2

26. Mr Dinsdale, Mr Murdock and Mrs Robertson agreed that the practice of the Branch for many years had been to hold elections only for the four positions of Branch President, Branch Secretary, Branch Equality Officer and Branch Youth Officer. Mr Jukes told me that this was the practice across many GMB branches in the Northern Region.

27. Mr Murdock and Mrs Robertson told me that the Branch acted as the Committee and that all Branch members were Committee Members. All members were invited to the Branch meetings which was the decision-making body for the Branch. Mrs Robertson told me that, before 2009, there had sometimes been difficulty in securing a quorum but that since 2009 between 25 and 35 members usually attended.

28. Mr Dinsdale told me that he had not raised this complaint when he complained to my office, in December 2017, because there were monthly Branch meetings. Branch meetings were now held quarterly, which he felt was not sufficiently frequent. He explained that he brought this complaint to me only because of the change in frequency in meetings.

Summary of Submissions

Complaint 1

29. Mr Dinsdale explained that he had not resigned from his role as shop steward and that there was no evidence that he had done so. His election by his colleagues was an attempt to ensure that, should he be removed from office by the Regional Committee, he could continue to represent his colleagues. None of his colleagues had sought to stand against him and all had supported him. He told me that the Regional Committee had no evidence of his resignation and should not have assumed that he had resigned. He referred me to the case of Robinson v GMB (D/39/18-19) in which I had found that a similar election had been, in effect, a vote of

confidence, and that I should treat his nomination form in the same way. He also referred me to Government, and other, advice on resignation which demonstrated, in his view, that the Regional Committee were wrong, in the absence of a resignation letter, to assume that he had resigned. He also referred me to my decision in *Dinsdale v GMB (D/7/19-20)* and argued that his initial appointment in 1992/1993 should stand because he had previously been a full-time shop steward who had now returned to his local area as a shop steward. As to the construction of his complaint he was clear that his main complaint was his removal from office rather than the Regional Committee having failed to appoint someone to replace him.

30. Mr Cooper told me that it was clear that Mr Dinsdale had resigned from his role as shop steward as he would not otherwise have been able to stand for election. Had he not been successful in the election he could not have relied on his earlier authority (in 1992/93 or 2017) to continue in that role. Additionally, in Mr Cooper's view, the nomination form provided by Mr Dinsdale clearly records that the signatories would like to elect Mr Dinsdale as their shop steward. It does not record that his election is conditional upon Mr Dinsdale being removed from office.
31. Mr Cooper did not agree that the case of *Robinson v GMB* was sufficiently similar to this case to draw a precedent. He argued that the core issues in that case were the removal of facilities time and whether Mr Robinson had been in the role of convenor, rather than shop steward, before his facilities time was removed. Mr Dinsdale's position is different because he appeared to be seeking re-election to a role which he already held.
32. Finally, Mr Cooper referred me to the complaint itself which is, in essence, that Mr Dinsdale was removed from his post as shop steward without a representative to replace him. Mr Cooper's view is that Rule 43 (a) to (d) does not require the Union to appoint a fixed number of representatives and nor is there any obligation to appoint a replacement for any representative who leaves office.
33. This final point is, for me, the key point in reaching a decision as to whether the Union breached its Rules. Rule 43 (a) to (d) sets out the procedure by which shop

stewards are elected and/or appointed. Mr Dinsdale, Mr Murdock and Mrs Robertson agreed that the procedure followed by the Sellafield Branch would be the election of a preferred candidate by GMB members in a given work area whose name would be passed to the Regional Office. Checks would be undertaken at the Regional Office as to the eligibility of the preferred candidate and the electors before the nomination was put before the Regional Office for endorsement. This is largely consistent with Rule 43(a) and (d) although, in my view, Rule 43 (a) requires that the Sellafield Branch Committee should approve all nominations going forward from the Sellafield Branch.

34. Rule 43(3) is clear that shop stewards work under the authority of the Regional Committee. Mr Dinsdale has not challenged this authority, and nor has he argued that the Regional Committee has the power to remove that authority. His challenge is that he has been removed without a replacement being appointed. There is, however, nothing in the Rules which require a replacement to be appointed. Nor is there anything in the Rules which require the Regional Committee to follow a given process when removing a shop steward from office. Consequently, even if I were to consider the complaint without reference to a replacement being appointed, I find it hard to see how the Union can have breached any part of Rule 43.
35. It is not necessary for me to reach a decision as to facts here. If Mr Dinsdale is right that he had no intention of resigning from office as a shop steward, and did not do so, then the Regional Committee have effectively removed him from office. Rule 43 appears to give them discretion as to the process they should follow when removing someone from office and so it is difficult to see how their actions could have breached Rule 43. If, however, the Regional Committee were right to treat Mr Dinsdale as having resigned when he stood for election then they have not removed him from office and there is no breach of Rule 43.
36. For these reasons I do not uphold Mr Dinsdale's complaint and refuse to make the declaration he has requested. I have noted above that Mr Dinsdale believes that the Union's actions were inconsistent with its purpose as set out on Page 2 of the GMB

Rulebook. This is not, however, part of Mr Dinsdale's complaint before me and I have not considered it.

37. I would add that I agree with Mr Cooper that Mr Dinsdale is not in the same position as Mr Robinson. Mr Robinson remained a shop steward but was no longer granted full time release for Union business. Mr Dinsdale is no longer a shop steward because the Regional Committee either accepted his resignation or removed its authority for him to act in that role. The circumstances of this case are more similar to Dinsdale v GMB (7/19-20) in which I explained that Rule 43 contained no requirement to replace a shop steward who had moved into another role.

38. Finally, on this complaint, it is worth noting that I was surprised that neither the Regional Committee nor Mr Coates sought to clarify with Mr Dinsdale whether he had resigned or offered him an opportunity to make any comments on this issue before they reached a decision. Whilst they acted within the Union Rules, it would, in my view, have been good practice to have offered him this opportunity. Similarly, I am surprised that they appear to have considered his request for approval as a shop steward without consulting the Branch Committee.

Complaint 2

39. Mr Dinsdale told me that there had been no Sellafeld Branch Committee elections for some time and that this was a clear breach of Rule 35(7) which required the Branch Committee to be elected at the same time as Branch Officers. He told me that the elections should have happened at the AGM in 2017 and that the Union had missed a further opportunity to hold the election at the AGM in 2018. His view was that the Union remains in breach of Rule 35 (7) because the elections have not taken place and so the Union continues to breach the Rule.

40. He explained that he had included the date of 20 September 2018 within his complaint as it ensured that his complaint to me was within the statutory time limit. He also explained that his main driver for the complaint was the fact that the Committee now met quarterly. This was also why he had not raised the issue when he made his earlier allegations about a breach of Rules in relation to the 2017

elections because, at the time he made those allegations, the Committee was meeting monthly.

41. Mr Cooper referred to the evidence given by Mr Murdock and Ms Robertson that the Branch Committee comprised all members of the Branch. He told me that Rule 35(3) required that the Committee should have no less than nine members. Sellafield Branch complied with this Rule as the Branch and, consequently, the Branch Committee had over 2,000 members. He also told me that there was no need for an election under Rule 35(7) if all those eligible to stand were already members of the Committee. Elections were, however, required for the individual posts named in Rule 35(3) as those roles had defined responsibilities within the Rules.
42. Mr Cooper also told me that this complaint had been made out of time. The elections being challenged took place in June 2017, but Mr Dinsdale did not make his complaint to the Union until 20 September 2018. Further, it was an abuse of process because Mr Dinsdale had already made a complaint to me about the June 2017 elections and did not raise this point at that time.
43. Finally, Mr Cooper questioned why the date of 20 September 2018 was included in the complaint. He drew my attention to Mr Dinsdale's written submission that this date was relevant because it was the date on which he had made his complaint to the Union.
44. The core issue for me is whether a Branch Committee has been elected in accordance with Rule 35 (7). Both Mr Murdock and Mrs Robertson were clear in evidence that all Branch Members are Committee Members. Mr Dinsdale did not challenge this, nor did he offer any evidence to the contrary. He did not suggest that the Committee contained less than nine members.
45. On that basis, and whilst it may appear unusual for a Branch Committee to have over 2,000 members, I can only conclude that all Sellafield Branch members are also Branch Committee Members. That leads me to the question as to whether there is a need for elections under Rule 35(7) to elect the Branch Committee. In my view, Mr Cooper's position must be right that where all Branch members, who are the only

potential candidates, are automatically Branch Committee members there can be no need for an election. The only elections required are those for the Branch President, Branch Secretary, Branch Youth Officer, Branch Equality Officer and Branch Race Officer as those roles have defined responsibilities within the Rules. On that basis I cannot uphold Mr Dinsdale's complaint and I refuse to make the declaration he has requested.

46. Having reached this decision, there is no need for me to consider Mr Cooper's points around the timing of the complaint or issues around abuse of process. Nor do I need to consider any issues around the frequency of Branch meetings as, whilst he raised

47. within his complaint and has accepted that the Branch is compliant with the Rules on this point.

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

Mrs Sarah Bedwell
The Certification Officer