

D/2-3/25-26

**Decision of the Assistant Certification Officer on an application made
under Section 31(1) of the Trade Union and Labour Relations
(Consolidation) Act 1992**

Moosa

v

Unite the Union

Date of Decision

19 June 2025

Contents

| | |
|--|-----------|
| Decision | 3 |
| Background | 3 |
| Agreed facts | 4 |
| The Relevant Statutory Provisions..... | 6 |
| Findings and conclusions..... | 10 |
| Introduction to findings and conclusions | 10 |
| The steps taken by the Union to remedy the breach | 10 |
| Confidentiality | 12 |
| Limited date options | 13 |
| One-hour time limitation | 14 |
| Enforcement | 15 |

Decision

Background

6. On 4 December 2024, Mr Moosa sought access to the Union's accounting records. On 6 January 2025, he submitted his first application to the Certification Office citing the Union's failure to give him access to its accounting records within the statutory deadline for doing so (Complaint 1).
7. On 7 March 2025, Mr Moosa submitted a second application to the Certification Office citing a further failure by the Union to grant him access to its accounting records following his request of 28 January 2025 (Complaint 2).
8. Through correspondence with Mr Moosa, the complaints were confirmed by him in the following terms:

Complaint 1

The Union breached its statutory duty under section 30 of the Trade Union and Labour Relations (Consolidation) Act 1992, following its failure to provide, within 28 days, its accounting records relating to the Union's General Fund for Quarter 1, 2, 3 & 4 of 2022 and 2023, and Quarter 1, 2 & 3 of 2024, in respect of a request made on 4th December 2024 by Mr Raffiq Moosa.

Complaint 2

The Union breached its statutory duty under section 30 of the Trade Union and Labour Relations (Consolidation) Act 1992, following its failure to provide, within 28 days, its accounting records relating to redundancy payments, severance payments and settlement agreement payments in respect of a formal request made on 28th January 2025 for Quarter 1, 2, 3

& 4 of 2022; Quarter 1, 2, 3 & 4 of 2023; and Quarter 1, 2, 3 & 4 of 2024 by Mr Rafiq Moosa.

9. A Case Management Meeting (CMM) took place by video conference on 7 May 2025. The CMM was attended by Mr Moosa and Stephen Pinder, the Union's Director of Legal & Membership Services. At the CMM, the format of the Hearing was agreed, the facts recorded below at paragraphs 13 to 18 were agreed by the parties, and the parties agreed the issues that were to be resolved at the hearing.
10. The hearing took place by video conference on 22 May 2025. Mr Moosa represented himself, and the Union was represented by Madeline Stanley of Counsel, instructed by Mr Pinder. Mr Moosa submitted a skeleton argument which he prepared himself. The Union submitted a skeleton argument prepared by Mr Pinder. The Union submitted a further written submission the day before the hearing, also prepared by Mr Pinder. Neither party called any witnesses.
11. There was also in evidence a bundle of documents consisting of 52 pages of correspondence and relevant extracts from the 1992 Act. The Union requested the inclusion in the bundle of two documents in the days immediately prior to the hearing. Having sought Mr Moosa's views, I agreed to include these documents. This increased the bundle to 56 pages.

Agreed facts

12. The following facts were agreed at the CMM held on 7 May 2025.
13. Raffiq Moosa is a member of Unite the Union. He is also a member of the Executive Council ("EC").
14. On 4 December 2024, Mr Moosa made a request, under section 30 of the 1992 Act, for access to the Union's accounting records in relation to its

general fund. In his letter to Emma Gibbons, the Union's Director of Finance, he wrote:

"I am making a formal request as an executive council member of Unite and as a member of Unite the Union to access the union's accounting records under Section 30 of the Trade Union and Labour Relations (Consolidation) Act 1992. The accounting records I am requesting access to, relate to the union's general fund and all associated records for the following periods:

2022 qtr1, qtr2, qtr3, qtr4

2023 qtr1, qtr2, qtr3, qtr4

2024 qtr1, qtr2, qtr3

I look forward to a timely response and access to records within the statutory time period."

15. On 18 December 2024, Ms Gibbons acknowledged Mr Moosa's request, adding "we will be back in touch."

16. On 6 January 2025, Mr Moosa made a complaint to the Certification Officer. He told the Certification Officer that the Union had failed to provide access to the accounting records he had requested.

17. On 28 January, Mr Moosa made a second request under section 30 of the 1992 Act, for access to the Union's accounting records. In his letter to Ms Gibbons, he wrote:

"I am making a formal request as an executive council member of Unite and as a member of Unite the Union to access the union's accounting records under Section 30 of the Trade Union and Labour Relations (Consolidation) Act 1992. The accounting records I am requesting access to, relate to the union's records for

redundancy payments, severance payments and settlement agreement payments.

2022 qtr1, qtr2, qtr3, qtr4

2023 qtr1, qtr2, qtr3, qtr4

2024 qtr1, qtr2, qtr3, qtr4.

I look forward to a timely response and access to records within the statutory time period.”

18. On 7 March 2025, Mr Moosa submitted a second complaint to the Certification Officer, in relation to his second request for access to the Union’s accounting records. He told the Certification Officer that the Union had failed to provide access to the accounting records he had requested.

The Relevant Statutory Provisions

19. The statutory provisions which are relevant for the purposes of this application are as follows:

The Trade Union and Labour Relations (Consolidated) Act 1992:

28 Duty to keep accounting records

(1) A trade union shall

(a) cause to be kept proper accounting records with respect to its transactions and its assets and liabilities, and

(b) establish and maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and remittances.

(2) Proper accounting records shall not be taken to be kept with respect to the matters mentioned in subsection (1)(a) unless there are kept such records as are necessary to give a true and fair view of the state of the affairs of the trade union and to explain its transactions.

29 Duty to keep records available for inspection

(1) A trade union shall keep available for inspection from their creation until the end of the period of six years beginning with the 1st January following the end of the period to which they relate such of the records of the union, or of any branch or section of the union, as are, or purport to be, records required to be kept by the union under section 28. This does not apply to records relating to periods before 1st January 1988.

(2) In section 30 (right of member to access to accounting records)—

(a) references to a union's accounting records are to any such records as are mentioned in subsection (1) above, and

(b) references to records available for inspection are to records which the union is required by that subsection to keep available for inspection.

(2) The expiry of the period mentioned in subsection (1) above does not affect the duty of a trade union to comply with a request for access made under section 30 before the end of that period.

30 Right of access to accounting records

(1) A member of a trade union has a right to request access to any accounting records of the union which are available for inspection and relate to periods including a time when he was a member of the union.

In the case of records relating to a branch or section of the union, it is immaterial whether he was a member of that branch or section.

(2) Where such access is requested the union shall

(a) make arrangements with the member for him to be allowed to inspect the records requested before the end of the period of twenty-eight days beginning with the day the request was made,

(b) allow him and any accountant accompanying him for the purpose to inspect the records at the time and place arranged, and

(c) secure that at the time of the inspection he is allowed to take, or is supplied with, any copies of, or of extracts from, records inspected by him which he requires.

(3) The inspection shall be at a reasonable hour and at the place where the records are normally kept, unless the parties to the arrangements agree otherwise.

(4) An “accountant” means a person who is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006. (5) The union need not allow the member to be accompanied by an accountant if the accountant fails to enter into such agreement as the union may reasonably require for protecting the confidentiality of the records.

(6) Where a member who makes a request for access to a union’s accounting records is informed by the union, before any arrangements are made in pursuance of the request-

(a) of the union’s intention to charge for allowing him to inspect the records to which the request relates, for allowing him to take copies of, or extracts from, those records or for supplying any such copies, and

(b) of the principles in accordance with which its charges will be determined, then, where the union complies with the request, he is liable to pay the union on demand such amount, not exceeding the reasonable administrative expenses incurred by the union in complying with the request, as is determined in accordance with those principles.

(7) In this section “member”, in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes a member of any of the constituent or affiliated organisations.

31 Remedy for failure to comply with request for access

(1) A person who claims that a trade union has failed in any respect to comply with a request made by him under section 30 may apply to the court or to the Certification Officer.

(2) Where the Certification Officer is satisfied that the claim is well-founded he shall make such order as he considers appropriate for ensuring that the applicant

(a) is allowed to inspect the records requested,

(b) is allowed to be accompanied by an accountant when making the inspection of those records, and

(c) is allowed to take, or is supplied with, such copies of, or of extracts from, the records as he may require.

(2A) On an application to him the Certification Officer shall—

(a) make such enquiries as he thinks fit, and

(b) give the applicant and the trade union an opportunity to be heard.

(2B) Where the Certification Officer is satisfied that the claim is well-founded he shall make such order as he considers appropriate for ensuring that the applicant—

(a) is allowed to inspect the records requested,

(b) is allowed to be accompanied by an accountant when making the inspection of those records, and

(c) is allowed to take, or is supplied with, such copies of, or of extracts from, the records as he may require.

(2C) In exercising his functions under this section the Certification Officer shall ensure that, so far as is reasonably practicable, an application made to him is determined within six months of being made.

Findings and conclusions

Introduction to findings and conclusions

20. The parties were in agreement that the two requests made by Mr Moosa, which are recorded above at paragraphs 14 and 17, were valid requests under section 30 of the 1992 Act.
21. The parties also agreed that the statutory 28-day deadline for allowing access to the requested accounting records, was not met in either case.
22. Despite the agreement between the parties on these points, on 30 April 2025, the Union stated that it was not conceding that Mr Moosa's complaints were well-founded.
23. On the day before the hearing, I received a letter from the Union. In it, the Union accepted that the complaints were well-founded. The breaches are therefore established and conceded.
24. The question that remains to be resolved, is whether the steps taken by the Union to remedy the breach are sufficient to lead me to a finding that it would be inappropriate to issue an enforcement order.

The steps taken by the Union to remedy the breach

25. The Union wrote to Mr Moosa on 6 May 2025 and 21 May 2025 to invite him to inspect the relevant accounting records. Both offers were made by email, and copies of these emails were included in the bundle of documents.
26. Both emails stated that the Union was happy to accommodate Mr Moosa's request to inspect the accounting records. Both emails informed Mr Moosa of his right to be accompanied by an accountant. Only the email of 21 May 2025

informed Mr Moosa of his right to take, or be supplied with, any copies or extracts from the records which he might require.

27. Both emails offered a choice of three one-hour time slots, with each slot scheduled on a different date. Both emails informed Mr Moosa that he was invited to select one option to conduct his inspection.
28. Both emails included a statement about confidentiality. The statement told Mr Moosa that the Union expected him to treat the material with respect and to maintain appropriate confidentiality.
29. Mr Moosa did not reply to either of the Union's emails.
30. On 6 May 2025, after sending the first email to Mr Moosa, the Union contacted the Certification Office, making an application to include the email it had sent to Mr Moosa within the bundle of evidence for the hearing.
31. At the CMM the following day (7 May 2025), I sought Mr Moosa's views on the Union's application to include the additional document in the bundle. He submitted those views in writing on 8 May 2025. Having sought Mr Moosa's views, I agreed to include the Union's email to him of 6 May 2025, and it was therefore included in the original 52-page bundle.
32. While Mr Moosa's views were provided in the context of the Union's application to include an additional document in the bundle, the views he expressed went beyond the procedural matter. Rather, his concerns related to the contents of the email itself. The email containing Mr Moosa's concerns was among the documents referred to in paragraph 11, which the Union applied to include in the bundle shortly before the hearing.
33. I will now turn to the substantive concerns raised in Mr Moosa's email of 8 May 2025. Mr Moosa expressed concerns about what he described as a "vague and open-ended expectation to maintain appropriate confidentiality which the union could potentially use to stop me sharing information with

other trade union members and constitutional union committees including the EC". He also explained that he felt the Union should agree mutually acceptable arrangements, rather than offering a limited selection of dates, with one-hour slots.

34. I must consider whether any of Mr Moosa's concerns are well-founded and, if so, whether I am satisfied that an enforcement order is appropriate.

35. Mr Moosa has argued that there are three elements within the offers made to him that place conditionalities on his right to access the accounting records, none of which have any basis in the 1992 Act. These are:

- a. Confidentiality
- b. Limited date options
- c. A one-hour time limitation.

36. I will now deal with each of these elements in turn.

Confidentiality

37. Ms Stanley argued that broadly speaking, it is open to the Union to place confidentiality obligations on its members and that complaints about such obligations would not, on their face, fall within the jurisdiction of the Certification Officer. I agree.

38. Building upon this, Ms Stanley also argued that the references to confidentiality in the offers made to Mr Moosa were not intended to impose new obligations, but to remind him of existing obligations. However, I am conscious that the Union presented no evidence of any established confidentiality obligations (whether rules-based or otherwise) that applied to Mr Moosa outside of his request to access the Union's accounting records. In the absence of such evidence, I am not satisfied that the references to confidentiality were mere reminders of existing duties. I find that their effect

was to impose a new confidentiality obligation on Mr Moosa, thereby imposing a conditionality on his access to the accounting records.

39. Conditionality of this kind has no basis within the rights afforded to Union members in the 1992 Act, and I find therefore that the offers made to Mr Moosa did not effectively remedy the breach.

Limited date options

40. Ms Stanley argued that Mr Moosa does not have a right to a mutually agreed date of inspection. She argued that since a member of staff will be required to facilitate an inspection of the accounting records, the Union is entitled to fix the date of inspection according to staff availability.

41. Section 30(3) of the 1992 Act states that the inspection shall take place at a reasonable hour. In my view, this necessarily imposes an obligation on the Union to ensure that the day on which the inspection is proposed is itself also reasonable, as an inspection cannot occur at a reasonable hour if it is scheduled on an unreasonable day.

42. I accept that the Union may face staffing constraints. However, if staffing constraints mean that the Union cannot offer reasonable inspection options, the Union should consider whether this affects its compliance with Section 30(3) of the 1992 Act.

43. In such circumstances, a union may make a charge under section 30(6) to cover any additional administrative costs associated with facilitating the inspection.

44. However, I do not agree with Mr Moosa that reasonableness in the context of section 30(3) requires mutual agreement, and Mr Moosa has not presented any evidence to suggest that the specific dates offered by the Union were problematic for him.

45. On that basis, I find that the Union's decision to offer specified dates of inspection, did not in itself render the offers made to Mr Moosa inadequate or incapable of remedying the breaches.

One-hour time limitation

46. At the Hearing, Ms Stanley argued that it was open to Mr Moosa to respond to the Union's offer of a time-limited inspection by explaining that he needed more than one hour to conduct his inspection.

47. However, I am mindful that after the first offer of an inspection was made to Mr Moosa, the Union had sight of the comments he made to the Certification Office, which highlighted his concerns about time. When making the second offer, the Union persisted in offering a time-limited inspection, without any explicit or implicit suggestion that Mr Moosa could request more time, either in advance or at the time of the inspection.

48. On that basis, I find that the Union intended to place a time-limitation on Mr Moosa's inspection of the accounting records.

49. Ms Stanley argued that the Union was entitled to limit the amount of time Mr Moosa could spend inspecting the accounting records. Developing this argument, Ms Stanley argued that it cannot be the case that the Union is obliged to allow a member to view accounting records for as long as they wish.

50. I am mindful again of the Union's ability under section 30(6) to make a charge for allowing a member to inspect its accounting records. The wording provides that a union may notify a member of provisional charges but does not provide for a union to impose a fixed charge for inspection. That flexibility recognises that neither party can predict how long an inspection may require. By implication, a member may inspect their Union's accounting records for as long as they are willing and able to pay, which may be more or less than they would ideally prefer.

51. Drawing together my findings in paragraphs 48 and 50, I find that the Union's decision to limit the time offered to Mr Moosa's to one hour, had the effect of imposing a conditionality in the offers made to Mr Moosa.

52. Conditionality of this kind has no basis within the rights afforded to Union members in the 1992 Act, and I find again therefore that the offers made to Mr Moosa did not effectively remedy the breach.

Enforcement

53. On the basis of my conclusions recorded in paragraphs 39 and 52, I find that the Union's argument that it has now complied with its obligation to provide access to the accounting records cannot be sustained. I have therefore decided that it is appropriate to make an enforcement order.

54. In the letter I received from the Union on 21 May 2025, it argued that should I make an enforcement order, I should include a provision for the Union to amend the accounting records to remove the names of four individuals.

55. At the hearing, the Union sought to amend this to five individuals. The Union explained to me that this referred to five former members of staff who had received settlement agreements upon departure. The Union told me that the settlement agreements included confidentiality obligations.

56. The Union made no argument about why any confidentiality obligations that may be present in settlement agreements should trump Mr Moosa's right to access the accounting records of the Union.

57. The Union made no argument about the five individuals' rights to privacy.

58. The Union submitted no evidence or argument about the potential impact of disclosure on the five individuals.

59. The Union provided no evidence that it had sought the views of any of the five individuals regarding disclosure of the information.

60. On that basis, I am not satisfied that the redaction sought by the Union is justified.

61. Consequently, I consider it appropriate to make an order requiring the Union to make the requested accounting records, without any amendments and in unredacted form, available to Mr Moosa.

62. At the hearing, the Union confirmed that preparatory work for the accounting records relevant to the first of Mr Moosa's requests has been completed. The Union also confirmed its view that the second request was more focussed and would therefore require less preparatory time.

63. Mr Moosa's first request was made nearly 6 months ago, and the Union has confirmed that it is ready to facilitate access. On that basis, I consider it appropriate to require the Union to give Mr Moosa access to the records relating to both of his requests that are the subject of the complaints within this decision, within 14 days of this decision.

A handwritten signature in dark ink, appearing to read "M. Kidd".

Michael Kidd

The Assistant Certification Officer

Appendix

“The accounting records I am requesting access to, relate to the union’s general fund and all associated records for the following periods:

2022 qtr1, qtr2, qtr3, qtr4

2023 qtr1, qtr2, qtr3, qtr4

2024 qtr1, qtr2, qtr3”

“The accounting records I am requesting access to, relate to the union’s records for redundancy payments, severance payments and settlement agreement payments.

2022 qtr1, qtr2, qtr3, qtr4

2023 qtr1, qtr2, qtr3, qtr4

2024 qtr1, qtr2, qtr3, qtr4.”