

D/8-9/25-26

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

Jama

v

UKPHD Union

Date of Decision

11 November 2025

Contents

Decision.....	3
Background.....	3
Agreed facts	5
The Relevant Statutory Provisions.....	8
Considerations and Conclusion	17

Decision

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

I uphold Mr Jama’s application for the declaration sought in Complaint 1 for the reasons given in this decision. I decline to make an enforcement order for the reasons given in paragraphs 85-100.

I do not uphold Mr Jama’s application for the declaration sought in complaint 2 for the reasons given in paragraph 101-112.

Background

2. Mr Jama is a member of the UK Private Hire Drivers Union (“UKPHD” or “the Union”).
3. Mr Jama first submitted an application to make a complaint on 7 March 2024.
4. Following correspondence with the Certification Office over a period of months, Mr Jama confirmed the wording of complaint 1 as follows:

Complaint 1: Breach of Rules 4.6 and 7.2

On December 5, 2023, the Union breached rules 4.6 and 7.2 of our rule book. The Chairperson unilaterally appointed unelected individuals to the Executive Central Committee (ECC). Initially, the Chairperson proposed eight unelected members, which faced strong opposition from part of the ECC. Subsequently, the Chairperson forcefully added five individuals.

5. On 26 July 2024, Mr Jama submitted a second complaint. Again, following correspondence, Mr Jama confirmed the wording of complaint 2 as follows:

Complaint 2: Breach of Rule 14.1

On June 10, 2024, the Union breached rule 14.1 of the Union's rule book. The Chairperson unilaterally introduced "Rule 26: Disciplinary Procedure" to the Rule Book. These rules were authored solely by the Chairperson without consultation with Union members or the executive board. The ECC subsequently approved the motion, amending the Rule Book.

6. A Case Management Meeting (CMM) took place by video conference on 6 August 2025. The CMM was attended by Mr Jama, who represented himself. The Union was represented by Andrew Scott, of Counsel, who was accompanied by Muhumed Ali (UKPHD Chairman). At the CMM, the format of the hearing was agreed, the facts recorded below at paragraphs 16-26 were agreed, and the parties agreed the issues that were to be resolved at the hearing.
7. Following two postponements, one at the request of the Union and the other as a result of illness, the hearing took place by video conference on 15 October 2025. Mr Jama represented himself and submitted a skeleton argument which he had prepared himself. The Union was again represented by Mr Scott. Mr Scott had also prepared and submitted a skeleton argument.
8. Mr Jama submitted a witness statement and gave oral evidence. He also submitted several other witness statements, three of which were joint statements:
 - i. Hassan Mohamed;
 - ii. Khadar Muhumad Omar, Abdi-Khayr Jama Dhoonshe, and Abdurahman M Osman;
 - iii. Ali Hussein Ali, and Mohamoud Ali;
 - iv. Liibaan Giire, Abdiqani Ahmed, and Mohamed Joma;
 - v. Abdulqadir Adan Abdille.
9. Of these witnesses, Hassan Mohamed and Abdiqani Ahmed also attended the hearing and gave oral evidence.

10. The Union submitted witness statements from Muhumed Ali (Chairman of the Union), and Ali Mahdi Abukar (a member who was co-opted to join the ECC on 5 December 2023). Both of the Union's witnesses gave oral evidence.
11. In my decision I have given appropriate weight to the written statements and oral evidence, bearing in mind that I was not able to ask questions aimed at testing the evidence of those witnesses who did not attend the hearing.
12. In advance of the hearing, two of the witnesses giving oral evidence requested an interpreter. An interpreter was provided for each, and the evidence of both witnesses was given through interpretation. I was satisfied that the interpreter assisted effectively and that the witnesses understood the proceedings and were able to participate fully.
13. There was in evidence an extensive bundle of documents consisting of 287 pages.
14. In considering Mr Jama's complaints, I was greatly assisted by the extensive documentary evidence provided by both parties, by the skeleton arguments submitted by both parties, as well as by the submissions I received on the day. I am grateful to both parties for the evident care taken in preparing for the hearing.
15. I was also greatly assisted by the participation of all of the witnesses, to whom I am also grateful.

Agreed facts

16. On 19 December 2023, a meeting of the Executive Central Committee (ECC) of the Union took place. The meeting was attended by:
- Muhumed Ali (Chair)
 - Mustafe Yusuf
 - Aanis Jama

- Liban Abdi
- Mohamood Suleiman Farah
- Mohamed Abdirahman
- Omar Faruq
- Ali Mahd
- Hassan Cisman
- Hassan Mohamed
- Said Seexiye
- Abdisalaan Abukar
- Ahmed Ismail Odugleh

17. The minutes record the following absentees from the meeting:

- Abdigani Ahmed – AA
- Abdirahman Jama – AJ

18. At the meeting, the ECC was told that a sub-committee had been formed, to look into an internal dispute within the union. The sub-committee was made up of:

- Ali Mahad
- Omar Furaq
- Hassan Cisman
- Hassan Mohamed
- Saeed Seehiye

19. The minutes recorded that the sub-committee was approved unanimously by the ECC. The minutes also recorded that the recommendations put forward by

the sub-committee would be binding on all ECC members and that on completion of their task, the sub-committee would be disbanded.

20. On 11 February 2024, Mr Jama wrote to the ECC stating that he had been sacked from his position on the ECC and as treasurer of the UKPHD. He wrote that his sacking followed an investigation by a group appointed by the ECC, which resulted in a recommendation that he abandon his positions with immediate effect.

21. Mr Jama also wrote that on 10 February 2024, the ECC voted to adopt the recommendations by 8 votes against 6.

22. Also on 11 February 2024, the Vice Chair of the ECC, Aanis Jama, wrote to Mr Jama confirming that the ECC had voted 8 to 6 to adopt the recommendations that followed the investigation. However, since the recommendations concerned formal disciplinary sanctions, the ECC had decided to establish a disciplinary process and committee, to ensure the process is fair and that the individuals have an opportunity to appeal any outcomes.

23. Aanis Jama also stated that since this is the first time the Union had needed to undertake such a process, it would be seeking external advice, and that no sanctions would apply until a disciplinary process had been established and followed. He confirmed that this meant Mr Jama's position on the ECC and as treasurer of the Union would continue until the disciplinary process had concluded.

24. On 18 May 2024, the ECC voted by an instant messaging application on the appointment of a disciplinary committee. 8 members of the ECC voted, with 4 in favour of the appointment of a disciplinary committee, 3 against, and 1 abstention. The disciplinary committee was appointed.

25. On 20 May 2024, the ECC voted by an instant messaging application on the approval of a motion to amend the rules of the Union, to include "Rule 26: Disciplinary procedures". 8 members of the ECC were included in the vote, with

5 voting in favour of the adoption of the new rule, and 3 not voting. The rulebook was amended to incorporate the new rule.

26. On 6 October 2024, at the Annual General Meeting of the Union, a vote was held on the adoption of "Rule 26: Disciplinary procedures". The vote was carried, with 88% of attendees voting yes, 12% abstaining, and 0% voting no.

The Relevant Statutory Provisions

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

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

Right to apply to Certification Officer – s108A

(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.

(3) The applicant must be a member of the union, or have been one at the time of the alleged breach or threatened breach.

(4) A person may not apply under subsection (1) in relation to a claim if he is entitled to apply under section 80 in relation to the claim.

(5) No application may be made regarding—

(a) the dismissal of an employee of the union;

(b) disciplinary proceedings against an employee of the union.

(6) An application must be made—

(a) within the period of six months starting with the day on which the breach or threatened breach is alleged to have taken place, or

(b) if within that period any internal complaints procedure of the union is invoked to resolve the claim, within the period of six months starting with the earlier of the days specified in subsection (7).

(7) Those days are—

(a) the day on which the procedure is concluded, and

(b) the last day of the period of one year beginning with the day on which the procedure is invoked.

(8) The reference in subsection (1) to the rules of a union includes references to the rules of any branch or section of the union.

(9) In subsection (2)(c) “industrial action” means a strike or other industrial action by persons employed under contracts of employment.

(10) For the purposes of subsection (2)(d) a committee is an executive committee if—

(a) it is a committee of the union concerned and has power to make executive decisions on behalf of the union or on behalf of a constituent body,

(b) it is a committee of a major constituent body and has power to make executive decisions on behalf of that body, or

(c) it is a sub-committee of a committee falling within paragraph (a) or (b).

(11) For the purposes of subsection (2)(d) a decision-making meeting is—

(a) a meeting of members of the union concerned (or the representatives of such members) which has power to make a decision on any matter which, under the rules of the union, is final as regards the union or which, under the rules of the union or a constituent body, is final as regards that body, or

(b) a meeting of members of a major constituent body (or the representatives of such members) which has power to make a decision on any matter which, under the rules of the union or the body, is final as regards that body.

(12) For the purposes of subsections (10) and (11), in relation to the trade union concerned—

(a) a constituent body is any body which forms part of the union, including a branch, group, section or region;

(b) a major constituent body is such a body which has more than 1,000 members.

(13) Any order under subsection (2)(e) shall be made by statutory instrument; and no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

(14) If a person applies to the Certification Officer under this section in relation to an alleged breach or threatened breach he may not apply to the court in relation to the breach or threatened breach; but nothing in this subsection shall prevent such a person from exercising any right to appeal against or challenge the Certification Officer's decision on the application to him.

(15) If—

(a) a person applies to the court in relation to an alleged breach or threatened breach, and

(b) the breach or threatened breach is one in relation to which he could have made an application to the Certification Officer under this section,

he may not apply to the Certification Officer under this section in relation to the breach or threatened breach.

Declarations and orders – s108B

(1) The Certification Officer may refuse to accept an application under section 108A unless he is satisfied that the applicant has taken all reasonable steps to resolve the claim by the use of any internal complaints procedure of the union.

(2) If he accepts an application under section 108A the Certification Officer—

- (a) shall make such enquiries as he thinks fit,
- (b) shall give the applicant and the union an opportunity to be heard,
- (c) shall ensure that, so far as is reasonably practicable, the application is determined within six months of being made,
- (d) may make or refuse the declaration asked for, and
- (e) shall, whether he makes or refuses the declaration, give reasons for his decision in writing.

(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.

(4) The Certification Officer shall in an order imposing any such requirement as is mentioned in subsection (3)(a) specify the period within which the union is to comply with the requirement.

(5) Where the Certification Officer requests a person to furnish information to him in connection with enquiries made by him under this section, he shall specify the date by which that information is to be furnished and, unless he considers that it would be inappropriate to do so, shall proceed with his determination of the application notwithstanding that the information has not been furnished to him by the specified date.

(6) A declaration made by the Certification Officer under this section may be relied on as if it were a declaration made by the court.

(7) Where an enforcement order has been made, any person who is a member of the union and was a member at the time it was made is entitled to enforce obedience to the order as if he had made the application on which the order was made.

(8) An enforcement order made by the Certification Officer under this section may be enforced [\[F2](#)(by the Certification Officer, the applicant or a person mentioned in subsection (7))][\]](#) in the same way as an order of the court.

(9) An order under section 108A(2)(e) may provide that, in relation to an application under section 108A with regard to a prescribed matter, the preceding provisions of this section shall apply with such omissions or modifications as may be specified in the order; and a prescribed matter is such matter specified under section 108A(2)(e) as is prescribed under this subsection.

The relevant rules of the Union

28. The Rules of the Union which are relevant for the purposes of this application are as follows:-

RULE 4 THE GOVERNMENT OF THE UNION

4.1 The supreme authority of the Union shall be vested in the elected Executive Central Committee.

4.2 The Executive Board will run the day to day general administration of the union's operations.

4.3 All resolutions submitted to the Executive Central Committee must be forwarded to the Chairperson or Vice-Chairperson not later than two weeks before the Annual General Meeting.

4.4 The Executive Central Committee cannot transact any business unless a quorum of members is present.

4.5 A "quorum of members" is defined as "two-thirds of the Executive Central Committee to be present at the meeting".

4.6 All Executive Board members and Executive Central Committee members shall be elected by the members.

RULE 7 EXECUTIVE CENTRAL COMMITTEE

7.1 The Government of the Union in the period between annual meetings and the conduct of its business shall be vested in the Executive Central Committee.

7.2 The Executive Central Committee shall be elected by the Annual meeting. Such committees shall serve for three years.

7.3 The composition of the Executive Central Committee is as follows:

7.3.1. The Executive Board and representatives from the regions of the union.

7.4 No person shall be eligible to serve as a member of the Executive Board or Executive Central Committee, who at the time of nomination is not a financial member.

7.5 The Executive Central Committee must meet two a month. But can meet when necessary, and at a time and place deemed most expedient for the transaction of the Union's business. All emergency meetings shall be approved by the Executive Central Committee. For emergency meetings to take place, a minimum period of 24 hours is required.

7.6 Both the Executive Board and Executive Central Committee must at all times maintain and protect the aims and objectives of the Union and guard its funds against extravagance and misappropriation.

7.7 Each elected member of the Executive Board and Executive Central Committee shall hold office for three (3) years commencing immediately after the Annual General Meeting, provided that the said member does not break or breach the rules of the Union, or act against the interest of the Union.

7.8 In such a situation, the Executive Board with the advice of the Discipline Committee has the authority to take disciplinary action against the said member/s. The expulsion of any member shall be decided upon by the Executive Board.

7.9 The Executive Central Committee will need at least two-thirds (known as a quorum) committee members to be present at the committee meetings for any decisions to be valid.

7.10 The Executive Central Committee can also give instructions to the staff and other elected officers for the smooth conduct of the union's affairs.

7.11 The Executive Central Committee can dismiss or suspend any managerial full-time staff or full-time officer for neglect of duty, dishonesty, incompetence, accepting bribes, conflict of interest, refusal to carry out instructions given by the Chairman or Executive Central Committee, and for any other reason that is deemed to be against the interest of the Union.

7.12 Any Executive Central Committee officer who has the necessary qualification and ability to serve the Union in a full-time capacity must be recommended by the Chairman for an appointment.

7.13 Salary structure for full-time officers must be recommended by the Finance Committee after consultation with the Chairman and further approved by the Executive Board and Executive Central Committee.

7.14 Should a vacancy occur during the Executive Central Committee's term of office as a result of resignation, expulsion or otherwise, the Executive Central Committee would then have the right to co-opt a member to serve on the Executive Central Committee. That member will be scrutinized by the Executive Board.

7.15 The Executive Central Committee shall have all the powers to draw up rules and guidelines for the orderly conduct of union activity.

7.16 If the Annual General Meeting (AGM) cannot take place because of national calamity, the ECC and EB will hold office as deemed.

RULE 14 AMENDMENTS

14.1 This Constitution may be amended by majority votes at any Annual General Meeting or Emergency meetings provided that due notice was given by resolution and such resolution was accepted by the majority.

RULE 22 ECC DUTY

22.7 Members of the central executive committee wishing to step down should notify the Chairperson who will notify all the executive committee via email.

Findings

29. Having considered the oral and documentary evidence alongside the facts agreed by the parties in advance of the hearing, I have reached the following findings. My findings are predominantly based on the documentary evidence available in the bundle. Where I have reached findings based on the oral evidence, I have indicated this. Where a conflict arose between the oral evidence of 2 or more witnesses, I have indicated this and explained which account I have accepted and why.

Findings relating to ECC membership

30. In December 2023, 5 members of the Union were co-opted onto the ECC. The names of the co-optees were:

- Abdisalaan Abukar
- Ali Mahdi Abukar
- Hassan Cisman
- Hassan Mohamed
- Said Seexiye

31.4 of the 5 co-opted members attended the meeting of the NEC referred to at paragraph 16 of the agreed facts.

32. Hassan Mohamed, who appeared at the hearing as a witness for Mr Jama, was one of those co-optees. In his witness statement, he told me that he resigned from the ECC in early February 2024 because he felt the rules did not allow co-option. Muhumed Ali, the Chairman of the Union, and who appeared at the hearing as a witness for the Union, also told me that Hassan Mohamed had resigned in February 2024. I accept Hassan Mohamed's and Muhumed Ali's evidence on this and find that Hassan Mohamed resigned from the ECC in February 2024 and ceased to be a member of the ECC from this point on.

33. In his witness statement, Muhumed Ali told me that he believed a custom and practice around co-option onto the ECC had developed. However, he added that because of differing views at the ECC, the Executive Board (which for the purposes of the Rules consists of the Chairperson, Vice-Chairperson, Secretary, Vice-Secretary and Treasurer) commissioned legal advice to provide clarity. The advice, which was included in the evidence bundle, stated that the position of the 4 remaining co-opted members was potentially challengeable.

34. Muhumed Ali also told me that this legal advice was shared with the co-opted members, and that on 29 April 2024, they all resigned from the ECC. Ali Mahdi Abukar, one of the co-optees, in his witness statement told me that he resigned on 29 April 2024 and notified the ECC of his resignation by sending a voice note on the ECC Telegram channel, “Executive Central Committee (ECC)”. He also told me that Abdisalaan Abukar, Hassan Cisman, and Said Seexiye resigned on the same date and by the same means.

35. I do not have access to the voice notes themselves, and I was told that they were recorded in Somali. The evidence bundle included screenshots of the Telegram channel “Executive Central Committee (ECC)”, showing that all 4 sent a voice note, and that after each voice note, the channel displayed a notification that the person had “left the group”.

36. In his witness statement, Ali Mahdi Abukar provided a translation of the entirety of his voice note. I have noted an extract here:

[...] speaking on behalf of the four ECC members – myself (Ali Mahdi), Hasan (Cisman), Abdisalam (Abukar), and Saed (Hersi) – we have agreed that the Union must move forward, and that the (ECC) brothers involved in conflict should resolve their differences directly. We are leaving the ECC. As of today, 29 April, we have left the ECC [...]

37. Mr Jama and Abdiqani Ahmed both told me that they had not heard the voice notes. Mr Jama also told me that the rules of the Union provide a process for resignation from the ECC, and that since a voice note did not conform with the process, the resignations were invalid.

38. I accept Ali Mahdi Abukar’s evidence about the contents of the voice notes. Further, since much ECC business is conducted via the Telegram channel, “Executive Central Committee (ECC)”, the fact that the 4 co-optees left that

channel following voice notes in which they indicated their resignation, leads me to find that it was their intention to resign.

39.5 sets of ECC minutes dated between 29 April 2024 and the AGM on 6 October 2024 were included in the evidence bundle. Each set of minutes records ECC members as either in attendance, absent, or having sent apologies.

40. None of the co-optees' names appear on any of these sets of ECC minutes. I find therefore that the Union did not continue to treat the co-optees as official members of the ECC beyond their resignation on 29 April 2024.

41. Mr Jama told me that the resignation of the 4 co-optees was a sham resignation, and that an unofficial Telegram channel called "Elected ECC (UKPHD)" was created. He told me that on this channel, the co-opted members continued to act as ECC members.

42. Muhumed Ali agreed that the Telegram channel "Elected ECC (UKPHD)" had been created but rejected Mr Jama's account of its purpose. He told me that to understand the circumstances surrounding the new Telegram channel, I needed to view it in the context of the nomination process leading up to the 2024 AGM. I have summarised that context in the following paragraphs.

Findings relating to the Telegram channel "Elected ECC (UKPHD)"

43. On 29 July 2024, a letter was sent to all members of the Union, inviting nominations for elected positions within the Union. The letter indicated that the nomination window would close on 12 August 2024, and it included a hyperlink, through which more details about the election process could be found. By following the link, members could learn that UK Engage had been appointed by the Union as the independent scrutineer and about other matters including relating to the submission of statements and photographs.

44. At midday on 1 August 2024, a vote to approve the election process, held on the Telegram channel, "Executive Central Committee (ECC)", closed. The vote

resulted in the approval of the proposed election process. Mr Jama was included in the vote but did not participate.

45. I find that by approving the election process, the ECC agreed that a ballot would not be held where any positions were uncontested.

46. In respect of the size of the ECC, the rules of the Union say:

7.3 The composition of the Executive Central Committee is as follows:

7.3.1 The Executive Board and representatives from the regions of the union.

47. The wording of the rule makes no explicit reference to a cap on the number of representatives from the regions of the union.

48. Accordingly, when 14 members of the union were either nominated or self-nominated, the Union treated them as elected unopposed, in accordance with the policy voted on and agreed by the ECC, as noted at paragraph 44.

49. Mr Jama told me that he was not nominated for election to the ECC and did not nominate himself.

50. A screenshot in the evidence bundle showed that on 19 August 2024, Muhumed Ali, in his capacity as Chairman, created a new Telegram channel called "Elected ECC (UKPHD)". He added the 14 members who had been nominated to join the ECC, and sent the following message:

Congratulations on being nominated for a position in the union.
This Telegram channel has been created to share important information and updates exclusively with all nominated members.
Please stay tuned for upcoming announcements regarding responsibilities, and other relevant details.

51. At an ECC meeting on 20 August 2024, the results of the nomination process were reported. The minutes record that the ECC were informed that 14 nominations were received before the deadline, checks had been conducted, and all 14 members qualified for election. The ECC were told that as there were no contested positions, all 14 nominees were automatically elected to their respective positions. The minutes record Mr Jama as absent from this meeting.

52. Mr Jama directed me to an undated screenshot in the bundle which showed a message from Muhumed Ali on the new Telegram channel, "Elected ECC (UKPHD)". The message read as follows:

AGM Meeting
(Zoom or Face to face)
(Result so far)
[... list of names ...]
Face to face = 2
Zoom = 9

53. Mr Jama told me that this was evidence that decisions were taken on the new Telegram channel, "Elected ECC (UKPHD)", which should have been taken by the ECC.

54. Mr Jama directed me to another screenshot in the bundle, this time in the Telegram channel, "Executive Central Committee (ECC)", dated 1 September 2024, which read:

We would like to ask the Executive Central Committee (ECC) to approve our Annual General Meeting (AGM) for 2024, which is scheduled for October 6, 2024.

The meeting will be held via Zoom.

Please cast your vote by selecting "YES" if you agree. "NO" if you disagree, or "ABSTAIN".

[... list of names ...]

RESULT:

Motion is pass

55. The message quoted at paragraph 52 is undated, but Mr Jama told me he believed it took place before 1 September 2024. He told me that he believed the statement “The meeting will be held via Zoom”, in the message quoted at paragraph 54, was evidence that the “Elected ECC (UKPHD)” Telegram channel had been conducting ECC business. He told me this was because it had reached a decision that the AGM would take place on Zoom, which was then incorporated as a fait accompli in the motion that was circulated on the “Executive Central Committee (ECC)” Telegram channel.
56. The message quoted in paragraph 52 shows a discussion about possible formats for the AGM. It does not use language to suggest that a formal motion was being debated, nor does it indicate that the voting would lead to a decision, and nor does it communicate an agreed outcome.
57. In contrast, the message quoted in paragraph 54 shows a formal voting process, with participants given instructions on the method through which they should cast their votes. It is also clear to me that the decision to hold the AGM on Zoom was not a fait accompli. Rather, I find that it was presented as an element of the motion, and participants were able to respond negatively if they were unhappy with the proposal. I also find that the voting that took place on the “Executive Central Committee (ECC)” Telegram channel resulted in a formal decision.
58. On balance, therefore, and on the evidence available to me, I find that the Telegram channel named “Elected ECC (UKPHD)” was not conducting ECC business. I find that the existence of the channel, and the screenshot quoted from in paragraph 52, do not demonstrate that the co-optees continued to act as members of the ECC after they gave notice of their resignation on 29 April 2024.

Conclusion on membership of the ECC

59. In paragraph 38, I found that Abdisalaan Abukar, Ali Mahdi Abukar, Hassan Cisman, and Said Seexiye intended to resign from the ECC when they recorded voice notes indicating their resignation and left the Telegram channel “Executive Central Committee (ECC)” on 29 April 2024.
60. In paragraph 40, I also found that the Union did not continue to treat them as members of the ECC following 29 April 2024.
61. Finally, in paragraph 58, I found that they did not continue to conduct ECC business on the Telegram channel “Elected ECC (UKPHD)”.
62. Therefore, on the basis of these 3 findings, I find that Abdisalaan Abukar, Ali Mahdi Abukar, Hassan Cisman, and Said Seexiye effectively resigned from the ECC of UKPHD on 29 April 2024.
63. For completeness, I repeat my finding of paragraph 32, that the fifth and final co-opted member of the ECC, Hassan Mohamed, had already resigned from the ECC in February 2024 and ceased to be a member of the ECC from February 2024 onwards.

Findings relating to Rule 26: Disciplinary Procedures

64. Separately to the matter of co-option to the ECC, and as indicated in the agreed facts recorded at paras 22, the need for a disciplinary procedure had been identified by the Executive Board of the Union in February 2024. In a letter to the applicant dated 11 February, the Vice Chair of the Union indicated that the Executive Board had decided that external advice was necessary.
65. Muhumed Ali told me that following this decision, he, the Vice Chair and the Office Manager drafted the disciplinary procedure that would come to be referred to as “Rule 26: Disciplinary Procedures”. I accept his evidence on this.

66. Subsequently, on 20 May 2024, a motion was put to the ECC via the “Executive Central Committee (ECC)” Telegram channel. The motion asked ECC members to approve the new “Rule 26: Disciplinary Procedures”.

67. 8 members of the ECC were included in the vote. The vote carried the motion, with the outcome recorded as “Rule 26: Disciplinary Procedures is approved”. Mr Jama was included in the vote but did not participate.

68. On 10 June 2024, the Chair sent a message to the Telegram channel, “Executive Central Committee (ECC)” sharing a document called “UKPHD – Rulebook”, with an accompanying message that said, “Rulebook now contains Disciplinary Procedure”.

69. There was agreement between the parties that the updated rulebook was only shared within the Telegram channel, “Executive Central Committee (ECC)”. It was not shared on any other Telegram channels, nor was it published on the Union’s website.

70. On 4 September 2024, the Union circulated a letter to members informing them that the AGM would be taking place on 6 October 2024. The letter provided details on registration for the AGM, and stated:

It is important for you to attend to take part in the democratic running of your union, so we hope you can make it!

71. The minutes of the ECC meeting held on 10 September 2024, record that the ECC noted that the AGM would be held on 6 October 2024, and that the agenda for the AGM would be circulated on 27 September 2024. The minutes record Mr Jama as absent from this meeting. The minutes also record that in Mr Jama’s absence, he was nominated to join the AGM Committee, “to help organise the AGM meeting”.

72. On 19 September 2024, the Union circulated a letter to members reminding them that the AGM would be taking place on 6 October 2024. The letter repeated the details on registration, and stated:

Your participation is crucial for the democratic running of the union, and we strongly encourage you to attend!

73. On 27 September 2024, a letter was sent to members with the subject “Agenda Annual General Meeting 2024”. The letter included a hyperlink to the agenda, and hyperlinks to 5 motions, 1 of which related to the proposal to include “Rule 26 disciplinary procedures” in the rulebook.

74. The proposed “Rule 26: Disciplinary Procedures” featured in the motion to the AGM were not exactly the same as the “Rule 26 Disciplinary Procedures” voted on by the ECC on 20 May 2024. A typo occurred in paragraph 26.2, which resulted in paragraph 26.2.1 being replicated three times in succession. Further, in the earlier version, paragraph 26.9 stated that appeals against decisions of the Discipline Committee were to the ECC, who would refer the matter back to the Discipline Committee, who would appoint an Appeals Panel. In the version voted on by members at the AGM, paragraph 26.9 stated that appeals were made directly to the Appeals Panel.

75. The letter of 27 September 2024 stated:

The documents which you can find at the bottom of this email outline the key matters that will be discussed and voted upon during the meeting, and your input will be invaluable to the decision-making process.

If you wish to propose any amendments to the motions, please send them to AGM@ukphd.org.uk by 5:00 PM Monday 1st October 2024.

76. On 1 October 2024, the Union circulated another letter to members. The letter notified members that the registration deadline had been extended to 4 hours before the start of the meeting.

77. On 5 October 2024, the Union circulated a final reminder letter to members. The letter stated:

Please ensure you have registered and are ready to join us for important discussions on the Union's achievements, future plans, and key motions.

Your participation is vital to the success of our Union!

78. On 6 October 2024, the AGM took place. The minutes record that 38 members attended. The minutes also record that votes on the various motions took place, and that 88% of voting members voted in support of the inclusion of "Rule 26 disciplinary procedures" in the rulebook, 12% abstained, and none voted against.

79. At paragraph 54, I referred to a screenshot of the Telegram channel "Executive Central Committee (ECC)". The screenshot showed the ECC agreeing that the AGM would be held on 6 October 2024. On the basis of that screenshot, I find that the ECC decided the time and place of the AGM.

80. At paragraph 70, I found that members were notified of the AGM on 4 September. I find that this means members were notified at least thirty days in advance of the AGM.

81. At paragraph 71, I found that on 10 September 2024, the ECC appointed an AGM Committee.

82. On the basis of the findings recorded in paragraphs 70-77, I find that the AGM was properly convened in accordance with the rules of the Union.

83. Mr Jama was not in attendance at the AGM.

84. The parties agreed that neither version of “Rule 26: Disciplinary Procedures” was used or relied upon by the Union between 20 May 2024, when the ECC vote occurred, and 6 October 2024, when the AGM occurred.

Complaint 1 – considerations and conclusions

85. The Union has conceded that Complaint 1 is well-founded. I have, therefore, made the declaration sought by Mr Jama. Having done so, I am required to consider whether it is appropriate for me to make an enforcement order.

86. Section 108B(3) of the 1992 Act provides that where a declaration is made pursuant to an application under section 108A, an enforcement order will be made unless such an order is considered inappropriate. The type of order that may be made is restricted to either a requirement that the Union take steps to remedy the breach, or abstain from specified acts with a view to securing that a breach of the same or a similar kind does not occur in future. There is no statutory guidance as to the circumstances to be considered when deciding if it would be inappropriate to make an enforcement order. There is, therefore, a wide discretion, and each case must be considered on its own facts and circumstances.

87. I asked the parties to make submissions regarding enforcement.

88. Mr Jama argued that it would be appropriate for me to make an enforcement order. In support of this, he argued that Union rule 22.7 prescribed that if a member of the ECC wished to resign, they must notify the Chairman, who will then notify the ECC via email. He argued that this had not happened, and that therefore the co-opted members could not be thought of as having resigned. Alternatively, Mr Jama argued that the resignation of the co-opted members had been a sham, and that they had continued to act as ECC members beyond 29 April 2024. Finally, Mr Jama argued that the Union had only taken steps

aimed at remedying the breach after his application to the CO for a declaration about a breach of rules.

89. Mr Jama argued that my enforcement order should declare that “all actions and decisions made by the unofficial ECC between December 2023 and October 2024 are invalid and have no legal effect”. He also argued that my order should require the Union to hold new elections, that those elections should be in line with the Union rules and the 1992 Act, and that I should impose compliance measures or sanctions on Muhumed Ali.

90. Mr Scott, for the Union, argued that an enforcement order would not be necessary or appropriate. He argued that the breach was a technical breach, made in good faith, for the smooth operation of the Union. He also argued that the breach had been remedied as a result of the resignation of the co-opted members, and that the Chairman had undertaken an analysis of all ECC decisions taken during the relevant period, aimed at understanding whether any decisions would have been different, had the co-opted members not participated in voting. Further, Mr Scott argued that the Union had affiliated to the General Federation of Trade Unions (GFTU), in order to secure governance training for all ECC members, to ensure they are clear on their responsibilities in respect of the Union’s rules.

91. As noted at paragraph 86, my powers in this area are limited, and any enforcement order I make must either require the Union to remedy the breach or abstain from specified acts with a view to ensuring that a similar breach does not occur in the future.

92. While I have noted Mr Jama’s argument that the Union did not take remedial action until after he had complained to the CO, the relevant issue for me to determine in this respect is whether the breach has been remedied.

93. Mr Jama relied on his argument that rule 22.7 was breached, to support his argument that the resignation of the co-opted members was a sham. However,

Mr Jama has not sought a declaration relating to an alleged breach of rule 22.7, and I did not hear full submissions from the parties on the correct construction or operation of that rule.

94. However, for the purposes of deciding whether an enforcement order is appropriate or not, it is sufficient for me to decide whether, as a matter of fact, the co-opted members ceased to be members of the ECC. I have found that Hassan Mohamed resigned from the ECC in February 2024, and I have found that the remaining co-opted members, Abdisalaan Abukar, Ali Mahdi Abukar, Hassan Cisman, and Said Seexiye all resigned from the ECC of UKPHD on 29 April 2024.

95. Accordingly, even if there were a technical irregularity in the process through which the co-opted members resigned from the ECC, that would not affect my conclusion that the co-opted members did resign from the ECC and ceased to be members of the ECC. It is therefore unnecessary for me to reach any further findings on whether rule 22.7 was breached.

96. For the reasons outlined, I find that the breach has been remedied. Therefore, I find that it would not be appropriate for me to make an enforcement order requiring the Union to remedy the breach.

97. Turning to the specifics of the enforcement order requested by Mr Jama, since I have found that those individuals who joined the ECC through co-option have since resigned, I find that it would not be appropriate for me to make an enforcement order requiring the Union to hold new elections.

98. I am satisfied that the analysis conducted by the Chairman was sufficient to ensure that a review of decisions taken by the ECC during the period between 5 December 2023 and 29 April 2024 has already been undertaken. I therefore find that it would not be appropriate for me to make an enforcement order requiring the Union to revisit decisions taken by the ECC between 5 December 2023 and 29 April 2024.

99. Related to my finding that the resignation of the 4 remaining co-opted members on 29 April 2024 was effective, I find that they played no role in any decisions of the ECC beyond 29 April 2024. I therefore find that it would not be appropriate for me to make an enforcement order requiring the Union to revisit decisions taken by the ECC between 29 April 2024 and the AGM on 6 October 2024.

100. For the avoidance of doubt, I have no power to make an enforcement order imposing sanctions on Muhumed Ali.

Complaint 2 – considerations and conclusions

101. Mr Jama's complaint is predicated on his argument that the rules of the Union were amended on 10 June 2024. To support this, he argues that there was no reference on the document shared by Muhumed Ali on the Telegram channel "Executive Central Committee (ECC)" to the document being in draft form.

102. Mr Jama has also argued that even if I were to find that the rules of the Union were not amended until the AGM on 6 October 2024, the AGM did not remedy the earlier alleged breach, because the two versions of the rule were substantively different. Mr Jama argued that this prevents me from reaching a finding that the AGM could have remedied a breach, because Union rule 7.15 requires that any new rules are drafted by the ECC before being voted upon by the AGM.

103. Finally, Mr Jama argued that the AGM was invalid because it had been boycotted by a large proportion of the membership and because the independent scrutineer for the elections taking place at the AGM had been appointed without ECC approval. In support of this argument, Mr Jama asked me to consider that the letter of 29 July 2024, referred to in paragraph 52 was sent several days before the conclusion of the vote referred to in paragraph 54.

Mr Jama argued that this should lead me to conclude that decisions around the conduct of the elections were taken without ECC approval.

104. For the Union, Mr Scott argued that the version published on 10 June 2024 was a draft version. In support of this, he argued that the document was only shared on the Telegram channel “Executive Central Committee (ECC)”, and was not published to the wider membership.

105. In response to Mr Jama’s argument about an alleged breach of rule 7.15 resultant from the difference between the 2 versions of the draft rule, Mr Scott argued that while rule 7.15 granted the ECC a power to draw up rules, rule 14.1 grants the AGM the power to amend the constitution by majority resolution. He argued that there was no requirement in rule 14.1 that any amendments agreed by the AGM must have been drafted by the ECC.

106. At paragraph 69, I found that the document circulated on 10 June 2024 with an accompanying message “Rulebook now contains Disciplinary Procedure” was not shared by the Union beyond the Telegram channel “Executive Central Committee (ECC)”.

107. At paragraph 84, I also found that the procedure referred to as “Rule 26 Disciplinary Procedures”, was not used or relied upon by the Union between 20 May 2024, when the ECC vote occurred, and 6 October 2024, when the AGM occurred.

108. On that basis, I find that “Rule 26: Disciplinary Procedures” did not become a rule of the Union on 10 June 2024. Consequently, I do not uphold Mr Jama’s complaint.

109. Since I have reached this finding, I do not need to address Mr Jama’s arguments about alleged procedural failings relating to the AGM. However, for the sake of completeness, I have done so.

110. I find that Mr Jama's argument that the AGM was invalid because the election process was agreed without ECC approval, cannot be sustained. I am somewhat surprised that arrangements appear to have been made before the ECC had formally concluded its vote to approve the proposed process. Nonetheless, as I found at paragraph 44, the proposed process was ultimately approved by the ECC. Since the proposed process was ultimately approved, I find that this approval operated retroactively, relating back to, and validating the initial agreement of the election process.

111. Similarly, I find that Mr Jama's argument that the AGM was invalid because it had been boycotted by a large proportion of the membership is also unsustainable. As I found at paragraph 82, the AGM was properly convened, and as detailed in paragraphs 70-77, members were sent 5 letters containing registration details for the AGM. I find that the decision of some members to boycott the AGM, does not deprive the AGM of its authority to conduct business.

112. On the basis of these findings, and for the avoidance of doubt, I find that should I be wrong in not upholding Mr Jama's complaint that the Union breached rule 14.1 on 10 June 2024, the AGM of 6 October 2024 would have had the effect of remedying the breach.

Observations

113. In closing, I wish to repeat my statement of gratitude to all parties for the manner in which the hearing was conducted. I recognise that taking part in a formal process of this kind is not easy, particularly where English is not a first language.

114. It was clear to me that all those who participated in this process care very deeply about the UKPHD and share a common wish that it should continue to grow and succeed in meeting its objectives.

115. I hope that, following this decision, the Union will be able to return to focusing its energy on its core functions and on strengthening confidence in its governance.

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

MICHAEL KIDD
The Assistant Certification Officer