

SD/4/25-26

**The Assistant Certification Officer's Sift Decision under Section 108A of the
Trade Union and Labour Relations (Consolidation) Act 1992**

Parnell

Applicant

and

**Transport and Salaried Staffs
Association**

Respondent

Date of Decision

2 February 2026

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Decision

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

I find that the application is not one which the Certification Officer has the jurisdiction to determine. Therefore, the application cannot be accepted for determination by the Certification Officer and is dismissed.

Background

2. The Applicant is a member of Transport and Salaried Staffs Association (“the Union”). She first submitted an application for a declaration that there has been a breach of the rules of the Union on 28 September 2025.
3. In the course of correspondence with the Certification Office, the Applicant summarised her complaint as:

Complaint

The TSSA Executive Committee breached Rule 9.1(e) by failing to manage the complaint process. After admitting a failure to support me (Rule 4.4.1(c)), the Committee took no action to resolve the issue, thereby neglecting its duty to enforce the rules. Rule 9.1(g) was rendered meaningless as no appeal outcome was ever reached. This failure in proceedings is compounded by the union’s inability to handle a basic administrative duty: responding to a Subject Access Request for

nearly three months. This demonstrates a systematic failure in the Executive Committee's management (Rule 9.1(e)(1)) and its duty to ensure the union operates effectively and in accordance with its obligations.

4. On 15 December 2025, the Applicant was written to by the Certification Office informing her that a preliminary view that her complaint did not fall within the jurisdiction of the Certification Officer (CO) had been reached.
5. The letter explained to the Applicant that the CO had delegated to me, as the Assistant Certification Officer (ACO), responsibility for determining questions of jurisdiction arising at the stage of initial consideration of applications. In light of the preliminary view that her complaint did not fall within the CO's jurisdiction, the Applicant was informed that she had two options:
 - i. **Option 1** was to withdraw her complaint, in which case no formal decision would be made or issued and the matter would be closed;
 - OR,
 - ii. **Option 2** was to request that a formal decision be made following the preliminary view. The Applicant was told that if she chose this option, I would formally consider whether the complaint fell within the CO's jurisdiction and issue a written decision. That decision would be sent to the Applicant, and the Union, and would be published on the CO's website.
6. The Applicant was also told that should she select option 2, she would then have 2 weeks to provide any supplementary evidence or argument on which she wished me to rely in determining the issue of jurisdiction.

7. On 15 December 2025, the Applicant wrote to the Certification Office confirming her preference for a formal decision regarding the issue of jurisdiction.
8. Following this, on 27 January 2026, the Applicant submitted a written submission which I have relied upon for the purposes of this jurisdictional sift decision.
9. For the avoidance of any doubt, there has been no correspondence with the Union in respect of Ms Parnell's application.

The relevant statutory provisions

10. 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.

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(4) The Certification Officer may delegate to an assistant certification officer such functions as he thinks appropriate, and in particular may delegate to the assistant certification officer for Scotland such functions as he thinks appropriate in relation to organisations whose principal office is in Scotland.

References to the Certification Officer in enactments relating to his functions shall be construed accordingly.

The relevant rules of the Union

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

4.4 MEMBERS' ENTITLEMENTS

4.4.1 Legal Proceedings and Legal Assistance to Members

(c) The Executive Committee may at its absolute discretion provide legal assistance to members in matters relating to their employment.

9.1 EC MEETINGS AND POWERS

(e) The Executive Committee's duties shall be:

(1) to manage and supervise the affairs of TSSA

(2) to carry out and enforce observance of its Rules

(3) to direct the actions of the Trustees

(4) to be responsible for the proper administration of the funds dealt with by Head Office

(5) to suspend, dismiss or remove from office members obtaining benefits by false pretences or engaging in or promoting racist activity or racial discrimination, or for other actions which, in the opinion of the Executive Committee, are detrimental to TSSA's interests

(6) to represent TSSA's members in disputes arising out of their employment where they are considered of sufficient importance, subject to Rules 4.4.1(a) to (e)

(7) to keep within the policy and decisions of the Annual Delegate Conference.

(g) The Executive Committee may take such action as it may deem necessary in the interests of TSSA in relation to any of the matters mentioned in this Rule, but any Member, Officer or Branch aggrieved by such action shall have the right to appeal to the next Annual Delegate Conference and shall have the right of reply

to the Executive Committee representative who speaks on the appeal. All reasonable expenses incurred by a Member, Officer or Branch making an appeal shall be borne by TSSA's Central Fund.

The Applicant's submissions

12. The Applicant seeks to bring an application alleging breach of union rules in relation to the union's Executive Committee ("EC").
13. In summary, she alleges that the EC failed for nearly three months to respond to a subject access request made by her on 26 September 2025 and only did so on 28 November 2025 after a referral to the Information Commissioner's Office. She also alleges that the EC took no effective or timely action to address that failure. Finally, she alleges that the union continued to withdraw membership fees from her bank account after she had asked the union to cancel her membership in September 2025.
14. The Applicant characterises these matters as failures by the EC to conduct its "proceedings" properly because, in her submission, the EC has overarching governance and oversight duties under "Rule 9 – EC Meetings and Powers" of the union's rule book. She emphasises that her complaint is not about the quality of representation but about the EC's failure to ensure lawful and proper administration in accordance with the union's own rules.
15. From this, the Applicant argues that her complaint is within the jurisdiction of the Certification Officer. She argues that the rules she alleges to have been broken relate to the constitution or proceedings of an executive committee or decision-making meeting.

The jurisdiction of the Certification Officer

16. The Certification Officer's jurisdiction to hear complaints of breach of union rules is narrow. To fall within jurisdiction, the complaint must be about a breach, or threatened breach, of a rule relating to one or more of the following matters:

- (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.

17. Complaints about breaches of rules that do not relate to any of these specific matters remain to be enforced through the Courts.

18. The breadth of the jurisdiction has been considered on numerous occasions, in particular the requirement that the rule complained of must 'relate' to one of the listed matters.

19. The CO has consistently taken the view that it is correct that he should view his jurisdiction restrictively, and that the connection between the rule allegedly breached and the relevant matter as listed in s108A(2) must be clear and direct. The CO (or ACO) must first look at the rule itself and read it objectively, without thinking about the specific complaint. If the rule does not clearly relate to any of the matters listed in s108A(2), then the ACO (or CO) must consider whether

the rule is so closely related to one of those matters that it should be thought of as “relating” to it.

20. In respect of section 108A(2)(d), the jurisdictional requirement has two stages:

20.1 **Firstly**, the rule must relate to an executive committee or decision-making meeting that meets the definitions found in section 108A subsections (10) and (11). These definitions are recorded above in the section of this decision titled “The relevant statutory provisions”.

And,

20.2 **Secondly**, the rule must relate to either the constitution or proceedings of the relevant committee, as discussed in the following paragraphs.

21. In respect of **constitution**, the CO has consistently held that this primarily refers to rules about the composition and structure of those bodies, for example, membership or quoracy. It can also include rules about when and how meetings of executive bodies are called, since these affect the proper functioning of those bodies. However, constitution does not extend to all constitutional rules of the union, as this would potentially give the CO jurisdiction over the entire rule book.

22. In respect of **proceedings**, the CO has consistently held that this primarily refers to procedural rules governing how business is conducted, rather than the decisions themselves. Accordingly, jurisdiction is not extended to rules relating to “decision-making” more broadly, such as rules governing the substance or merits of decisions. While complaints about decisions taken during proceedings are not generally within jurisdiction, the CO may determine an application concerning whether a committee acted within its remit or had the power under the rules to discuss or decide a matter, provided that the application seeks a declaration about a rule relating to the proceedings of the committee that encompasses its remit or powers.

Conclusions

23. I must decide whether Ms Parnell's application is one that falls within the jurisdiction conferred by section 108A of the 1992 Act. That jurisdiction arises only where a person applies for a declaration that a trade union has breached, or threatened to breach, a rule relating to one of the matters specified in section 108A(2).

24. Having considered the rules identified by Ms Parnell in light of the nature of the complaint, I am satisfied that the application does not seek a declaration in respect of any such matter. In my view, where an applicant is dissatisfied with a decision taken (or not taken) by a qualifying executive committee or decision-making meeting, the Certification Officer's jurisdiction is not typically engaged through reliance on a rule that simply states the general responsibilities of that body. Jurisdiction is engaged only if the rule relied upon either:

- (i) requires a qualifying body to take the particular decision, and the decision was not taken correctly; or,
- (ii) prescribes a process for taking (or declining) the particular decision, and the process was not correctly followed.

25. In my view, a broader interpretation than this would convert section 108A into a general supervisory jurisdiction over any decision taken by a qualifying body with which a member disagrees.

26. The application relies on rule 4.4.1(c), which grants the Executive Committee a discretion around the provision of legal assistance, and rules 9.1(e) and (g), which state the responsibilities of the Executive Committee. I must assess jurisdiction under section 108A in relation to each rule identified.

27. Rule 4.4.1(c)

27.1 Rule 4.4.1(c) grants an absolute discretion to the Executive Committee to provide legal assistance in employment related matters. It neither addresses the constitution of the Executive Committee nor lays down procedural steps by which the Executive Committee must consider or decide legal assistance requests.

27.2 Accordingly, in respect of rule 4.4.1(c), the application is not within the jurisdiction of the Certification Officer.

28. Rule 9.1(e)

28.1 Rule 9.1(e) states the responsibilities of the Executive Committee. It does not prescribe the composition of the Executive Committee, nor does it, for example, place any quoracy requirements on that body. Similarly, it does not prescribe procedural steps guiding the Executive Committee's conduct of business to a decision, nor does it require the Executive Committee to take any particular decision.

28.2 Accordingly, in respect of rule 9.1(e), the application is not within the jurisdiction of the Certification Officer.

29. Rule 9.1(g)

29.1 Rule 9.1(g) grants a broad discretion to the Executive Committee to "take such action as it may deem necessary" and provides a right of appeal to the next Annual Delegate Conference. It neither addresses the constitution of the Executive Committee nor prescribes procedural steps by which the Executive

Committee must transact its business or reach a decision. In my view, the availability of an appeal to conference does not alter that analysis.

29.2 Accordingly, in respect of rule 9.1(g), the application is not within the jurisdiction of the Certification Officer.

30. For these reasons, the application is not one that the Certification Officer has power to determine under section 108A and it is not accepted for determination.

A handwritten signature in black ink that reads "Michael Kidd". The signature is written in a cursive, slightly slanted style.

MICHAEL KIDD
The Assistant Certification Officer

2 February 2026