

SD/5/25-26

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

Abdi

Applicant

and

UNISON: The Public Service Union

Respondent

Date of Decision

9 February 2026

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Decision

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

I find that Mo Abdi’s 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. Mo Abdi is a member of UNISON: the public service union (“the union” or “Respondent”). He first submitted an application for a declaration that there has been a breach of the rules of the union on 13 October 2025.
3. In the course of correspondence with the Certification Office, the Applicant summarised his complaint as:

My complaint concerns two linked categories of breaches:

A. Breaches in Formal Decisions on Status and Representation (October–November 2025)

1. Misclassification and Misrepresentation (5 November 2025)

The East Midlands Regional Complaints Team issued a **formal written decision** (Exhibit MA5) incorrectly: classifying my complaint of **13 October 2025** as “concluded”; and misrepresenting my objection to a conflicted representative as having “declined representation.”

This was a **materially false statement** and a breach of mandatory rules governing the fair and accurate administration of union decisions.

2. Improper Escalation to a Conflicted Regional Organiser

The Branch Secretary escalated my case to Regional Organiser for case management (Exhibit MA6), despite the union's full knowledge that:

- she was the subject of my complaint, and
- she had expressly acknowledged a conflict of interest on 12 June 2025 (Exhibit MA4).

This was not a refusal of branch representation on my part; it was an objection to the case being assigned to a conflicted Regional Organiser. The branch's decision to conflate case management with representation left me without branch-level representation, which deprived me of representation at a critical stage, a direct consequence of the branch's failure to comply with its own rules (Exhibit MA7).

B. Breaches in the Conduct of the Internal Complaint (May–June 2025)

3. Omission of Mandatory Stage 1 Process

The union failed to conduct the required **Stage 1** phase of the UNISON Complaints Procedure in relation to my complaint of **27 May 2025** (Exhibit MA1). This procedure is not optional; it is a **mandatory step** under rules authorised by the NEC.

4. Appointment of a Conflicted Investigator

The union appointed Regional Organiser—a subject of the complaint—to conduct the **Stage 2 investigation**.

The union had explicit and contemporaneous knowledge of this conflict; stated on **12 June 2025** that she should “step away” (Exhibit MA4). This constitutes a clear breach of the Rulebook governing fairness, impartiality, and proper governance.

4. The Applicant also supplied the following table intended to clarify the nexus between each allegation and each alleged rule breach:

Union Action (Documented Breach)	Rules Violated	Nature of Governance Failure
Misclassification & misrepresentation by Regional Complaints Team	C.6.1, B.4.6	Failure to accurately administer the rules; disrespectful treatment of member position
Imposition of conflicted Regional organiser	Rule G, B.3.1	Failure of branch governance; breach of guaranteed minimum standards
Omission of Stage 1; conflicted investigator (May–June)	C.6.1, D.2.11, Rule G	Failure to observe NEC-mandated procedures; procedural unfairness

5. On 25 November 2025, the Applicant was written to by the Certification Office informing him that a preliminary view that his complaint did not fall within the jurisdiction of the Certification Officer (CO) had been reached.
6. 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 his complaint did not fall within the CO's jurisdiction, the Applicant was informed that he had two options:

6.1. **Option 1** was to withdraw his complaint, in which case no formal decision would be made or issued and the matter would be closed;

OR.

6.2. **Option 2** was to request that a formal decision be made following the preliminary view. The Applicant was told that if he 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.

7. The Applicant was also told that should he select option 2, he would then have 2 weeks to provide any supplementary evidence or argument on which he wished me to rely in determining the issue of jurisdiction.
8. On 26 November 2025, the Applicant wrote to the Certification Office confirming his preference for a formal decision regarding the issue of jurisdiction.
9. Following this, on 9 December, the Applicant submitted a written submission, accompanied by 8 pieces of supporting evidence. While I have not found it necessary to refer to any of the supporting evidence in this decision, I have carefully considered all the documentation which has been submitted.
10. In the course of reviewing the Applicant's submissions, on 30 January 2026, I wrote to the Applicant. I explained that in respect of the alleged breach of a rule titled "G Branches", he had identified a section of the union's rule book, rather than a specific rule. I therefore asked him to specify which clause or clauses within the section of the rule book titled "G Branches" he alleged to have been breached.

11. On 5 February 2026, the Applicant responded by email, stating:

In respect of Rule G, I rely specifically on the clauses requiring that:

- the Branch Committee shall administer branch business in accordance with the branch rules; and
- shall establish effective representation of members' interests.

My complaint concerns non-compliance with these mandatory duties.

12. These clauses are both found in Rule (G)2.2. Accordingly, I have treated Rule (G)2.2 as one of the relevant rules for this jurisdictional sift decision.

13. For the avoidance of any doubt, there has been no correspondence with the Union in respect of the Applicant's complaint.

The relevant statutory provisions

14. 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.

254 The Certification Officer

(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

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

(B) Aims and objectives

3 Service to members

3.1 To provide minimum guaranteed standards of advice, representation and service.

4 General

4.6 To seek to ensure that members, activists, representatives and staff are treated with dignity and respect at all times when participating in the Union's democratic structures. Also that members, activists, representatives and staff seeking the Union's services provided by external suppliers are treated similarly by the providers of those services.

(C) Membership

6 Obligations of membership

6.1 Every member shall observe all the Rules of the Union.

(D) Structure of the union at national level

2 National Executive Council

- 2.11 Powers
- 2.11.2 to augment the Rules by making regulations subject to their approval by Annual Conference
- 2.11.3 to interpret the Rules in event of doubt, conflict or dispute

(G) Branches

2 The branch committee

2.2 The Branch Committee shall administer branch business in accordance with the branch rules and any guidelines issued by the National Executive Council, and in particular:

1. shall co-ordinate local negotiations conducted by stewards in the branch;
2. shall establish effective representation of members' interests by stewards in each work group;
3. shall organise around workplace learning and co-ordinate the activities of learning representatives;
4. shall recruit and organise members in all employers and workplaces within the scope of the branch;

5. shall co-ordinate health and safety activities conducted by health and safety representatives;

6. shall maintain a record of membership showing the work group in which each member is employed;

7. shall ensure that the branch officers are properly exercising their functions;

8. shall from 1 January 2014 maintain records of its financial transactions, assets and liabilities using the national online branch accounting system (OLBA);

9. shall from 1 January 2014 develop an appropriate annual budget as part of the joint branch assessment process in accordance with the Union's objectives and priorities.

The Applicant's submissions

16. The application concerns what the applicant describes as a series of failures by the union in the handling of an internal complaint, including alleged departures from the union's established complaints procedure and the involvement of individuals whom he says had a conflict of interest.

17. The applicant told me that these alleged procedural failings, together with later decisions made at branch and regional level, resulted in his complaint

being mismanaged and in him being deprived of appropriate representation during related internal proceedings.

18. The applicant argues that his application falls within the jurisdiction of the CO because it relates to “the constitution or proceedings of executive committees or decision-making meetings; and, the failure of union bodies to act in accordance with binding rules.”
19. He also argues that rules (D)2.11.1 and (D)2.11.2 grant the National Executive Council authority to establish and oversee the complaints procedure, with the effect being that the complaints procedure forms part of the rules of the union. From this he argues that rule (C)6.1 should be read to be inclusive of regulations made by the National Executive Council, such that a breach of the complaints procedure is a breach of the rules.

The jurisdiction of the Certification Officer

20. The CO’s jurisdiction to hear complaints of breach of union rules is narrow. It is not a general supervisory jurisdiction over union rule books. 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.

21. Complaints about breaches of rules that do not relate to any of these specific matters remain to be enforced through the Courts.
22. 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.
23. 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 CO or ACO must consider whether the rule is so closely related to one of those matters that it should be thought of as "relating" to it.
24. In respect of section 108A(2)(d), the jurisdictional requirement has two stages.
25. **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".
26. **Secondly**, the rule must relate to either the constitution or proceedings of the relevant committee, as discussed in the following paragraphs.
27. 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.

28. 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. In this context, questions of remit, vires or 'competent business' concern whether a qualifying body had authority under the rules to consider and decide a category of matter, or was required to proceed by a particular procedure (for example, notice, quorum, voting method or thresholds); they do not concern whether the outcome was correct or aligned with the union's principles, aims or objects.
29. Therefore, although complaints about decisions taken during proceedings are not generally within jurisdiction, the CO may determine an application where the rule relied upon (a) allocates the subject matter to a particular qualifying body or withholds it from that body, (b) imposes mandatory procedural requirements or decision criteria, or (c) limits the options available and the body chose an option outside those permitted; those are questions of authority and process, not merits. By contrast, where the rules confer discretion within the subject matter (for example, to grant or refuse representation), disagreement with which permitted option was chosen, or a contention that a different outcome would better reflect the union's aims or objects, would typically be better characterised as a complaint about the merits of the decision, which would not engage section 108A(2)(d), and would therefore not fall within the jurisdiction of the CO.

Conclusions

30. I must decide whether this application falls within the jurisdiction conferred by section 108A of the 1992 Act. The application relies on several rules. I must assess jurisdiction under section 108A in relation to each rule identified.

31. **Rule (B)3.1**

31.1. In my view, Rule (B)3.1 is a rule relating to the provision of representation within the union. It does not relate to either the constitution or proceedings of any executive committee or decision-making meeting. On the approach I have set out, jurisdiction under section 108A(2)(d) is engaged only where the rule relied upon either requires a qualifying body to take a particular decision or prescribes a process for doing so; this rule does neither.

31.2. Accordingly, in respect of Rule (B)3.1, the application is not within the jurisdiction of the Certification Officer.

32. **Rule (B)4.6**

32.1. Rule (B)4.6 expresses a general object of the Union. It does not relate to either the constitution or proceedings of any executive committee or decision-making meeting. On the approach described above, the rule does not engage the Certification Officer's jurisdiction under section 108A(2)(d).

32.2. Accordingly, in respect of Rule (B)4.6, the application is not within the jurisdiction of the Certification Officer.

33. Rule (C)6.1

33.1. Rule (C)6.1 imposes a general obligation on members to observe the Union's Rules. It is not a rule about the constitution or proceedings of an executive committee or decision-making meeting. It therefore does not satisfy the jurisdictional requirement under section 108A(2)(d) as framed in my approach above.

33.2. Accordingly, in respect of Rule (C)6.1, the application is not within the jurisdiction of the Certification Officer.

34. Rule (D)2.11.2

34.1. In my view, Rule (D)2.11.2 grants a general power to the National Executive Council to make regulations, subject to approval by Annual Delegate Conference. It does not relate to the constitution of the National Executive Council or Annual Delegate Conference, nor does it relate to the proceedings by which either body must conduct itself.

34.2. Accordingly, in respect of Rule (D)2.11.2, the application is not within the jurisdiction of the Certification Officer.

35. Rule (D)2.11.3

35.1. Rule (D)2.11.3 grants the National Executive Council a power to interpret the Rules where there is doubt, conflict or dispute. It does not prescribe how the National Executive Council must reach an interpretation (for example, there is no required notice, no expressed quoracy requirement, no prescribed voting method), and it does not mandate that the National Executive Council take any particular decision. As such, it does not relate to the constitution or proceedings of an executive committee or decision-making meeting for the purposes of section 108A(2)(d), on the approach consistently outlined by the CO.

35.2. Accordingly, in respect of Rule (D)2.11.3, the application is not within the jurisdiction of the Certification Officer.

36. Rule (G)2.2

36.1. Rule (G)2.2 lists the Branch Committee's functions and responsibilities (e.g., coordinating local negotiations, ensuring representation, organising around learning, recruitment and organising, coordinating health and safety, maintaining membership and financial records, overseeing branch officers, and preparing an annual budget). On the approach adopted throughout this decision, and consistently adopted by the Certification Officer, it does not relate to its constitution or proceedings of the Branch Committee.

36.2. Accordingly, in respect of Rule (G)2.2, the application is not within the jurisdiction of the Certification Officer.

37. On my reading, none of the rules allegedly breached are rules that relate to the constitution or proceedings of an executive committee or a decision-making meeting within the statutory definitions and as discussed above.

38. In his written submission, the applicant argued that because the NEC has authority to establish and oversee a complaints procedure, that procedure forms part of the rules of the union and brings the matter within section 108A(2)(d). Even if I were to assume that the complaints procedure forms part of the rules, the applicant has not identified any specific rule that relates to the constitution or proceedings of a body which meets the definitions in section 108A(10) or (11), nor has he shown that the bodies he names (such as a regional complaints team) meet those definitions.

39. Therefore, I find that taken at its highest, the application concerns the administration of the union's internal complaints process, it does not concern

alleged breaches of rules relating to the constitution or proceedings of a qualifying committee or meeting.

40. For these reasons, the application does not arguably disclose a breach (or threatened breach) of a rule relating to any of the matters listed in section 108A(2). Accordingly, the application is not one that the CO 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

9 February 2026