

D/12-16/25-26

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

Gomes (Applicant)

and

Unite the Union (Respondent)

Date of Decision

27 February 2026

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Decision

1. Upon application by Mr Valdemar Gomes (“the Applicant”) under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) I make the following declaration:

I do not uphold the Applicants’ application for the declaration sought in Complaint 1 for the reasons given in paragraphs 17.1 to 17.1.7.

I uphold the Applicants’ application for the declaration sought in Complaint 2 for the reasons given in paragraphs 17.2 to 17.2.5.

I do not uphold the Applicants’ application for the declaration sought in Complaint 3 for the reasons given in paragraphs 17.3 to 17.3.5.

I do not uphold the Applicants’ application for the declaration sought in Complaint 4 for the reasons given in paragraphs 17.4 to 17.4.4.

I do not uphold the Applicants’ application for the declaration sought in Complaint 5 for the reasons given in paragraphs 17.5 to 17.5.6.

Where I make a declaration upholding a complaint, I may, under Section 108 B (3) of the 1992 Act, 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.

In the circumstances of this case, I consider that is appropriate to make such an order and the order I make is as follows:

That the Respondent publishes, to the whole BASSA Branch, the 2025 Branch Election results, including turnout, spoiled ballots and votes cast for candidates in all contested positions.

Background

2. The Applicant is a member of UNITE the Union (“UNITE” or “the Respondent”). By application under section 108A of the Trade Union and Labour Relations (Consolidation) Act 1992, submitted on 24 July 2025, the Applicant makes complaints in relation to the 2025 elections for Officers of the Respondent’s British Airways Stewards and Stewardesses Association (“BASSA”), LE/2000 branch.
3. The Applicant’s application was acknowledged by my office on 4 August 2025.
4. The Respondent was notified of the Applicant’s application by my office on 26 August 2025 and the Respondent duly acknowledged their receipt on 8 September 2025.
5. The Applicant confirmed his complaints as follows:

Complaint 1 - Use of SurveyMonkey without guaranteeing secrecy

That on or around the 12th of January 2025, the Union breached the BASSA branch election rules, which state that “Balloting and conduct of elections to be via an electronic ballot. A ballot may also be conducted through ERS or a similar organisation, if required by the Branch Committee” and Rule 18.3. The January 2025 branch election was conducted on SurveyMonkey, a platform that allowed administrators (current BASSA reps) to view individual votes and monitor results in real time. No independent scrutineer or third-party monitoring was used.

Complaint 2 - Failure to publish complete election results

That on or around the 21st of January 2025, the Union breached the BASSA branch election rules, which state “All relevant Rules governing Rep/Branch elections to be made available to all members prior to the commencement of any nomination process” (Implied transparency through the long-standing practice of publishing results) and Rules 18.7 and 18.3. Only percentage outcomes for the contested role were provided to me. Requests for the total number of votes, ballots cast, spoiled ballots, and confirmation of vote security were refused.

Complaint 3 - Unequal enforcement of campaigning rules

That on or around 12th of January 2025, the Union breached BASSA branch election rules which states that “No bulk and or replicated use of social media, phone calls or non-unique use of communication is permitted to ensure a level playing field for all candidates”, “To ensure an inclusive election process, no social media feeds, bulk emails etc are to be used in campaigning. For the avoidance of doubt, this includes third-party distribution of material and or information.” and “Any breach in the rules will be subject to a review by the Branch Secretary (or Chair), Regional Officer and an independent party appointed through the Unite legal director” and Rules 18.2 and 18.3. The Chair ordered members to remove endorsements from social media, while allowing the Agreement Secretary to circulate WhatsApp messages endorsing certain candidates and advising a restricted voting strategy. In the 2022 election, endorsements were permitted.

Complaint 4 - Omission of candidate employment status

That on or around the 12th of January 2025, the Union breached BASSA branch election rules, which state that “Election addresses must be truthful and accurate and not contain any misleading information or statement” and Rules 18.3 and 18.6. On the 24th of March 2022, members were informed that a Chair candidate was no longer employed by British Airways but still eligible under Unite rules. In 2025, no such disclosure was made for a Branch Secretary candidate also no longer employed.

Complaint 5 - Lack of investigation into complaints

That on or around the 14th of June 2025 & 2nd of July 2025, the Union breached BASSA Election Rules, which state that “Any breach in the rules will be subject to a review by the Branch Secretary (or Chair), Regional Officer and an independent party appointed through the Unite legal director. Complaints can only be registered via the designated election email address” and Rules 18.8 and 18.9. Formal complaints were submitted, yet no substantive investigation was conducted, and no independent review was initiated.

6. A Case Management Meeting (CMM) took place via Video Conference on 16 December 2025. The CMM was attended by the Applicant and Miss Madeline Stanley of Counsel on behalf of the Respondent, instructed by Mr Neil Gillam from UNITE’s legal department.
7. A hearing took place by Video Conference on 20 January 2026. The Applicant submitted a skeleton argument which he had prepared himself. The Respondent was represented by Miss Stanley of Counsel who also submitted a skeleton argument.
8. The Applicant submitted a witness statement and gave oral evidence. He also submitted witness statements from Ms Annie Bartzsch, Mr Neil Blackburn and Ms Tanya Cumming. They all gave oral evidence.
9. The Respondent Union submitted witness statements from Ms Marie-Louise Elliot, Branch Chair of LE/2000 BASSA Branch; Mr Oliver Richardson, Acting Co-ordinating Officer for the Transport sector; and Mr Steve O’Donnell, Regional Secretary for London and Eastern Regions. They all gave oral evidence.
10. There was documentary evidence before me comprising of 2 agreed hearing bundles: Hearing Bundle 1 [HB 1] containing 262 pages consisting of the key documentation as agreed between the parties; and Hearing Bundle 2 [HB 2] containing 161 pages comprised of the Respondent Union’s Rulebooks.

11. Both parties provided a copy of one legal authority (Gates v BECTU – D/23-24/00). Further, post-hearing, both parties submitted final written submissions on 28 January 2026, as directed.
12. At the material time, the Applicant was and remains to be employed as cabin crew with British Airways (BA). He has been a member of BASSA since 2005 and he has held several elected officer roles in the Respondent's BASSA branch since 2010. He stood in the BASSA branch elections in 2025 as a candidate for its Branch Secretary.
13. In relation to key events relevant to these complaints, from the documentary evidence before me, I identify the following:
 - 13.1. The nominations for the BASSA branch elections opened on **1 January 2025**.
 - 13.2. The branch elections ballot was open between **12 January and 19 January 2025**.
 - 13.3. During the ballot period, the following electronic communications took place:
 - 13.3.1. On **12 January 2025**, Marie-Louise Elliott to Annie Bartzsch requesting her to remove a post from her Facebook page;
 - 13.3.2. On **12 January 2025**, Marie-Louise Elliott to Amanda Green asking her to delete a message on her Facebook page;
 - 13.3.3. On **18 January 2025**, Peter Breslin sent a text message endorsing certain candidates in the 2025 BASSA branch election.
 - 13.4. On **21 January 2025**, the results of these branch elections were published, noting those candidates that were elected. Consequently, that same day the Applicant requested disclosure of the full election results, including votes cast and votes received.

- 13.5. On **14 January 2025**, the Applicant raised concerns about the conduct of the 2025 branch election with Steve O'Donnell, the Respondent's Regional Secretary.
- 13.6. On **17 January 2025**, Mr O'Donnell responded to the Applicant's concerns.
- 13.7. On **14 June 2025**, the Applicant made a formal complaint about the conduct of the 2025 elections.
- 13.8. On **22 June 2025**, Ms Elliott as the Respondent's BASSA Branch Chair and Ms Bir, a regional UNITE officer, had reviewed the Applicant's complaint and responded to him.
- 13.9. On **2 July 2025**, the Applicant escalated his complaint and appealed to Oliver Richardson, the Respondent's Co-ordinating National Officer for Transport Sectors and the designated appeal officer.
- 13.10. On **22 September 2025**, Mr Richardson responded to the Applicant's Appeal.
- 13.11. On **24 September 2025**, the Applicant replied to Mr Richardson affirming his intention to pursue his complaint through the Certification Officer.

The Relevant Statutory Provisions

14. The provisions of the 1992 Act which are relevant for the purposes of this application are as follows:

108A Right to apply to Certification Officer

(1) A person who claims that there has been a breach or threatened breach of the Rules of a trade union relating to any of the matters mentioned in subsection (2) may apply to the Certification Officer for a declaration to that effect, subject to subsections (3) to (7).

(2) The matters are –

- (a) the appointment or election of a person to, or the removal of a person from, any office;
- (b) disciplinary proceedings by the union (including expulsion);
- (c) the balloting of members on any issue other than industrial action;
- (d) the constitution or proceedings of any executive committee or of any decision-making meeting;
- (e) such other matters as may be specified in an order made by the Secretary of State.

108B Declarations and orders

- (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.

The Relevant Rules of the Union

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

BASSA branch election rules

- Balloting and conduct of elections will be via an electronic ballot. A ballot may also be conducted through ERS or similar organisation, if required by the Branch Committee.
- All relevant Rules governing Rep/Branch elections to be made available to all members prior to the commencement of any nomination process.
- Election addresses must be truthful and accurate and not contain any misleading information or statement.
- No bulk and or replicated use of social media, phone calls or non-unique use of communication is permitted to ensure a level playing field for all candidates.
- To ensure an inclusive election process, no social media feeds, bulk emails etc are to be used in campaigning. For the avoidance of doubt this includes third party distribution of material and or information.
- Unique exchanges by text, email, phone and Internet forum are allowed.
- Any breach in the rules will be subject to a review by the Branch Secretary (or Chair), Regional Officer and an independent party appointed through the Unite legal director.

Complaints can only be registered via the designated election email address.

- Any decision reached may be subject to appeal or otherwise to the Civil Air Transport National officer. Any appeal is to be notified to the National Officer directly within 7 days.

UNITE NATIONAL RULES

Rule 18 - Workplace representation:

18.2 The election of workplace representatives shall, where practicable, have a gender and ethnic balance at least reflecting the proportion of Black and Asian ethnic minority and women members which they represent. Election to one

representative role shall not preclude election to another such role within the same workplace.

18.3 The method of election shall be by such means as authorised by relevant guidance which shall be issued by the Executive Council from time to time.

18.7 Following election of a workplace representative the appropriate Regional Officer shall be informed of the election by the elected representative without delay. The Regional Officer shall ensure that the Regional Industrial Sector Committee and the Union's membership department are informed of the date of the election and the identity, constituency and contact details of the elected workplace representative.

18.8 The Executive Council may issue guidance on the powers and procedures of the Regional Industrial Sector Committee in relation to ratification of such election. The Regional Industrial Sector Committee shall ensure compliance with such procedures.

18.9 Shop stewards/workplace representatives shall receive the fullest support and protection from the union, which includes the provision of a Shop Stewards Handbook/ Health and Safety Handbook/Branch Officers Handbook. Officers should be able and willing to fully support shop stewards/workplace representatives facing victimisation/ bullying/disciplinary action. Officers should consistently support all shop stewards/ workplace representatives and where appropriate be able to provide support in legal referrals to the Union's solicitors. Officers should ensure shop stewards/workplace representatives are updated within a reasonable time. An immediate inquiry shall be undertaken by the appropriate regional industrial sector or regional committee into every case of dismissal of a shop steward with a view to preventing victimisation, either open or concealed. If it is deemed necessary, a ballot for industrial action will be convened.

Findings of Fact

15. Having considered the written and oral evidence and the written representations of the parties, I find the facts to be as follows:

- 15.1. The Applicant commenced his membership of BASSA in or around 2005. He first served as a BASSA workplace representative from 2010-2017.
- 15.2. The Respondent has over 1.2 million members and several regionally based branches. Its branch based at Heathrow Airport (Terminal 5) for cabin crew is known as the BASSA branch. It is in the Union's London and Eastern Region. Its official number is LE/2000. BASSA is one of the largest branches in the Respondent Union. It has around 11,500 members. The BASSA Branch constitution operated by the branch at the material time provided for 22 workplace representatives and 8 branch officers including Branch Chair and Branch Secretary. Rule 17 of the Respondent's Rulebook governs its branches constitution.
- 15.3. Pursuant to Rule 18.1 of the Respondent's Rulebook the elections for workplace representation take place triennially. This application concerns the branch elections held between 12-19 January 2025.
- 15.4. The BASSA branch January 2025 elections did take place. The Applicant submitted his nomination for election on 7 January 2025. Subsequently, the Applicant found himself in a contested election for Branch Secretary with one other candidate, who was the incumbent seeking re-election.
- 15.5. The 'Election Rules' for these BASSA 2025 branch elections were as previously used and as advertised on the BASSA website. Consequently, the 'balloting and conduct of [these] elections [was] via an electronic ballot'. As a result, Survey Monkey was used as the electronic platform for balloting in these branch elections, as previously used in the 2022 BASSA branch elections and as was previously proposed by the Applicant at that time. At the material time, for the 2025 BASSA branch elections, Peter Longden was the

BASSA representative who was assigned as the Survey Monkey IT Administrator (i.e. he had sole technical access to the Survey Monkey system on behalf of the BASSA branch).

- 15.6. The BASSA Branch 2025 branch elections balloting period opened on 12 January 2025. During the balloting period, the BASSA Branch Chair (Marie-Louise Elliott) communicated with some BASSA members regarding their online endorsements of candidates, requesting that they remove them.
- 15.7. On 14 January 2025 the Applicant reported his concerns about the ongoing BASSA branch elections to Steve O'Donnell, the Respondent's Regional Officer for the London and Eastern regions. Mr O'Donnell acknowledged the Applicant's email reporting his concerns about the branch elections, on 17 January 2025 and responded that same day, having 'had the opportunity to look into [his] complaint'.
- 15.8. The BASSA branch elections 2025 balloting period closed on 19 January 2025, and the election outcomes were published on 21 January 2025 declaring only who had been elected. There was no publication of votes cast, and actual votes received by the candidates.
- 15.9. On 21 January 2025 the Applicant requested the publication of the detailed (i.e. votes cast, votes received and % of votes received) report of the results of the 2025 BASSA Branch election.
- 15.10. On 4 February 2025 a BASSA member (Karen Bradshaw) raised concerns with the Respondent's General Secretary about the 'lack of transparency' surrounding the 2025 BASS branch election, complaining that no ballot result figures had been published. That same day the Applicant met with the BASSA Branch Chair (Ms Elliott) and the Respondent's Regional Officer (Balvinder Bir), having not received a reply to his request for the publication of the votes cast, votes received and % of votes received. At that meeting the Applicant was shown the number of votes cast for the Branch Secretary

election, which he had contested as well as the votes he and his opponent received and the % votes received. In fact, the Applicant received 1,084 votes and 47% of the vote and his opponent received 1,204 votes and 53% of the vote share. It was therefore a closely contested branch election with a majority of 120 votes from a total of 2,288 votes being cast in the BASSA 2025 branch elections for the position of Branch Secretary. After that meeting the Applicant congratulated his opponent.

15.11. On 14 June 2025 the Applicant raised a formal complaint to his branch about the 2025 BASSA branch election.

15.12. On 22 June 2025 the BASSA Branch Chair (Ms Elliott) responded to the Applicant's formal complaint.

15.13. On 2 July 2025 the Applicant 'escalated' his formal complaint (i.e. appealed) to Oliver Richardson, the designated appeal officer.

15.14. On 22 September 2025 Mr Richardson, as appeal officer, responded to the Applicant.

15.15. On 24 September 2025 the Applicant reaffirmed his pursuit of his complaints with the Certification Officer.

Reasons

16. I shall now determine each complaint, in turn, as follows:

Complaint 1 - Use of SurveyMonkey without guaranteeing secrecy

That on or around the 12th of January 2025, the Union breached the BASSA branch election rules, which state that "Balloting and conduct of elections to be via an electronic ballot. A ballot may also be conducted through ERS or a similar organisation, if required by the Branch Committee" and Rule 18.3. The January 2025 branch election was conducted on SurveyMonkey, a platform that allowed

administrators (current BASSA reps) to view individual votes and monitor results in real time. No independent scrutineer or third-party monitoring was used.

16.1. This complaint is NOT upheld.

16.1.1. The BASSA Election Rules for the 2025 branch elections provide that the 'Balloting and conduct of elections to be via an electronic ballot. A ballot may also be conducted through ERS or a similar organisation, if required by the Branch Committee'. Rule 18.3 of the Union's Rule Book requires the Respondent union to conduct the election in line with relevant Executive Committee guidance. There is no such relevant guidance.

16.1.2. I am rightly reminded by the parties that the approach to be taken to construction of a rule is as guided in Gates v BECTU (2000) that:

"In cases like this it is clearly inappropriate to treat union rule books as if they were statutes or subject to all the rules of grammatical construction. Three tests seem more appropriate. First what was the intention of those who framed the rule? Second what does the rule, taken in the context of the whole rule book, seem to mean? Third what would the ordinary member reading the rule take it to mean?" [at para.2.27].

16.1.3. The Applicant asserted that Survey Monkey does not ensure the necessary secrecy required for balloting. This was on the basis that he believed that the existing Branch representatives and Officers had access to individual votes; real-time voting trends; voter participation levels; and the ability to delete responses. Whilst the latter was asserted; there was no evidence before me to support that assertion. In his rebuttal, the Applicant contends that Mr Longden (the Survey Monkey Administrator for these branch elections) did not give evidence;

and, therefore, did neither confirm nor deny whether others (than him) had accessed the Survey Monkey system.

- 16.1.4. The Respondent submits that the BASSA Rules only require that the election is conducted electronically. That is literally correct and given that Survey Monkey is an online platform which allows for electronic voting and therefore constitutes an “electronic ballot”, Survey Monkey satisfies the BASSA Rules. In fact, the BASSA Branch Rules say nothing more than that the conduct of elections is to be by electronic ballot. Evidently, that is essentially the intention of the rule, the holistic meaning of the rule and the rule as ordinarily understood by the BASSA branch electorate.
- 16.1.5. Applying Gates v BECTU (2000), there is no prohibition (under the relevant rule) on the use of an electronic system which would allow an ability to view individual results and/or to monitor results in real time. There is no requirement (under the relevant rule) either for any independent scrutineer or third-party monitoring system. The Applicant vigorously complains that an independent scrutineer was required by the rules. There is no such requirement, express or implied. In any event, the evidence before me demonstrated that the beliefs held by the Applicant were misconceived, as it was only the Branch’s designated IT administrator (Peter Longden) who had access to the Branch’s Survey Monkey for the monitoring of voting participation levels only, as well as to run off the Survey Monkey voting report. In my view, the presence of Mr Longden, as the appointed administrator, provided the necessary independence as he was not standing in the election and was the sole administrator and acted as the gatekeeper to keep others out of the Survey Monkey system. Therefore, ballot secrecy was not compromised; nor was there any evidence of such in respect of these BASSA Branch 2025 elections.

16.1.6. Furthermore, since the BASSA Branch Rules expressly permitted elections to be run via ERS or a similar organisation where required, plainly Survey Monkey satisfies the requirements of that rule. In addition, ironically, it was the Applicant who had first proposed and introduced the usage of Survey Monkey to the BASSA Branch some 12 years ago. This the Applicant confirmed in his evidence before me.

16.1.7. For these reasons, this complaint is not upheld.

Complaint 2 - Failure to publish complete election results

That on or around the 21st of January 2025, the Union breached the BASSA branch election rules, which state “All relevant Rules governing Rep/Branch elections to be made available to all members prior to the commencement of any nomination process” (Implied transparency through the long-standing practice of publishing results) and Rules 18.7 and 18.3. Only percentage outcomes for the contested role were provided to me. Requests for the total number of votes, ballots cast, spoiled ballots, and confirmation of vote security were refused.

16.2. This complaint is UPHELD.

16.2.1. The Applicant submitted that historically, BASSA elections (including those run via ERS) had published the full vote counts; turnout figures; and, spoiled ballots. In contrast to the 2025 BASSA Branch elections where only a list of those candidates “elected or not elected” was provided. The Applicant complained that this lack of transparency breached Rule 18.7 and long-standing custom and practice by BASSA.

16.2.2. The Respondent contended that the BASSA branch rule: “All relevant Rules governing Rep/Branch elections to be made available to all members prior to the commencement of any nomination process” was complied with. Namely Rule 18.3 requires the Respondent union to conduct the election in line with relevant Executive Committee guidance. As opined above, there is no such guidance. Further, Rule 18.7

provides: Following election of a workplace representative the appropriate Regional Officer shall be informed of the election by the elected representative without delay. The Regional Officer shall ensure that the Regional Industrial Sector Committee and the Union's membership department are informed of the date of the election and the identity, constituency and contact details of the elected workplace representative. Accordingly, the Respondent relies on its published results of those elected on 21 January 2025. The Respondent therefore accepts that it did not publish the number of votes received by each candidate, as arguably there is no requirement to do so under any rule. In fact, the Respondent contends that since Ms. Elliott and Ms. Bir met with the Applicant and supplied him with the results of his contested election for Branch Secretary that suffices.

16.2.3. However, in evidence before me, Ms. Elliott in her email to the Applicant on 22 June 2025, she explained that the decision not to widely publish the specific numbers of votes received by each candidate was "... to promote unity and parity for the new electoral term....to allow all newly elected reps to feel equally confident". Whether that should have applied to the Applicant and his opposing candidate; both of whom are experienced union officers/representatives, is to be seen. Yet, branch elections are in any event competitive and those venturing into them understand that. The reality of elections of all kinds is that there will always be winners and losers. However, in the witness evidence before me, the Respondent witnesses reiterated their fears that the related employer (i.e. BA) would interfere with the BASSA branch elections and/or would seek to invalidate elected candidates who had received lower margins of vote shares, as the live and relevant justification for not publishing the branch elections results in full. These fears they explained were deeply rooted and, as Mr O'Donnell asserted such had existed over the last 3 decades, as rooted in the Goodier Report which had caused the Respondent to rewrite their balloting rules. In fact, one of my

predecessors and the longest serving Certification Officers (David Cockburn CBE) had cause to record such in the Castillo case as follows:

“The origins of the Balloting Protocol are in 1995 when the TGWU commissioned a report to be prepared by a committee led by Mr Roger Goodier, a solicitor in private practice, on the internal elections of BASSA. There existed at that time, and at the present, a concern that the elections of BASSA may be corrupted by the actions of BA which it was feared might fund or support certain candidates and provide them with expensively produced literature and the opportunity to distribute it through workplace channels. The so-called Goodier Report produced a number of recommendations which remain the basis of the present Balloting Protocol and which have been applied, in one form or another, in all branch elections since they were made”.

However, it is incontrovertible, that notwithstanding these long-standing concerns, the BASSA branch has since 2007, according to the documentary evidence contained in HB 1, whether utilizing the services of the Electoral Reform Service, Survey Monkey and/or other similar organisations, published all branch election results (2007, 2009, 2012, 2014, 2015 and 2022), recording the turnout and the number of votes cast for each candidate. In particular, in the preceding triennial election of 2022 in which Ms Elliott (the current BASSA Branch Chair and a witness for the Respondent before me) was elected, the full election results were published to the full BASSA Branch membership, despite the ongoing concerns by the BASSA Branch about potential employer interference.

16.2.4. The reality of the situation is that elections in unions, unless uncontested, are competitive. Accordingly, to ensure the integrity of such elections the full results should have been disclosed, as was the Respondent’s custom and practice. Moreover, to publish the full election results is required in all elections, as a core democratic principle of openness and

transparency. Such democratic ideals, as are embedded in the Respondent's rules and standards. For instance, the reference in the Respondent's Branch Standards. Accordingly, whilst rules can be interpreted literally, they must also be reasoned purposively. To that end, the publication of elections results (i.e. the full electoral outcomes) is an implied term in all elections, as the publication of electoral results legitimizes the activity from start to finish. In fact, the Respondent union has ensured the same practice for decades and this branch, decided to depart from this practice on this one occasion.

16.2.5. The Respondent's well-established implied term of publishing full election results was therefore breached and for these reasons, this complaint is upheld.

Complaint 3 - Unequal enforcement of campaigning rules

That on or around 12th of January 2025, the Union breached BASSA branch election rules which states that "No bulk and or replicated use of social media, phone calls or non-unique use of communication is permitted to ensure a level playing field for all candidates", "To ensure an inclusive election process, no social media feeds, bulk emails etc are to be used in campaigning. For the avoidance of doubt, this includes third-party distribution of material and or information." and "Any breach in the rules will be subject to a review by the Branch Secretary (or Chair), Regional Officer and an independent party appointed through the Unite legal director" and Rules 18.2 and 18.3. The Chair ordered members to remove endorsements from social media, while allowing the Agreement Secretary to circulate WhatsApp messages endorsing certain candidates and advising a restricted voting strategy. In the 2022 election, endorsements were permitted.

16.3. This complaint is NOT upheld.

16.3.1. The Applicant reports that posts endorsing him the on the “Unofficial BASSA Facebook group” and on members’ private Facebook profiles were ordered to be removed by Ms Elliott (BASSA Chair). Simultaneously, the Applicant points to another (Mr Breslin) circulating WhatsApp messages endorsing specific candidates and advising a voting strategy. Moreover, the Applicant complains that such inconsistency in the treatment of such practices in the 2022 BASSA Branch Elections, in which Ms Elliott was a candidate, endorsements were permitted openly, as opposed to the 2025 branch elections, demonstrate a malevolence towards him. As a result, the Applicant asserts that there was inconsistent enforcement of these electronic communications during the balloting period and therefore, bias and unfair disadvantage against him as a candidate. The Applicant relies on Rules 18.2 and 18.3 of the Respondent’s Rule Book. In particular, Rule 18.2 provides: The election of workplace representatives shall, where practicable, have a gender and ethnic balance at least reflecting the proportion of Black and Asian ethnic minority and women members which they represent. Election to one representative role shall not preclude election to another such role within the same workplace; and, Rule 18.3 requires the Union to conduct the election in line with relevant Executive Committee guidance and there is no such guidance.

16.3.2. First and foremost, I cannot see the relevance of these Rules to this matter.

16.3.3. However, the Respondent’s Counsel reminds me that the relevant BASSA branch election rules expressly state that:

1. “No bulk and or replicated use of social media, phone calls or non-unique use of communication is permitted to ensure a level playing field for all candidates”.

2. "To ensure an inclusive election process, no social media feeds, bulk emails etc are to be used in campaigning. For the avoidance of doubt, this includes third-party distribution of material and or information".
3. "Any breach in the rules will be subject to a review by the Branch Secretary (or Chair), Regional Officer and an independent party appointed through the Unite legal director".

Essentially, this complaint is, as summarised by Miss Stanley of Counsel, on behalf of the Respondent, as concerns about the permissions in relation to the usage of communication when campaigning for elections. However, the BASSA election rules remain silent on the content of such campaigning messages. Instead, they expressly prohibit the types of electronic communications which may be made, such as "bulk or replicated use of social media, phone calls and non-unique use of communication" and "no social media feeds, bulk emails etc". As Ms. Elliott, as witness for the Respondent, explained in her evidence before me, the purpose of these rules is to 'prevent people expressing opinions'.

16.3.4. It is clear from the evidence before me that electronic communications did take place during the BASSA Branch LE/2000 elections in 2025. Moreover, those that were known on social media were reported to the BASSA Branch Chair. Such incontrovertible documentary evidence before me showed that the BASSA branch Chair (Ms Elliott) was fairly overseeing the 2025 branch elections. In fact, her making contact with supporters (i.e. the endorsees) of both the Applicant and his opponent (Mr Piggott) clearly demonstrated such fairness as well as consistency in her treatment towards both candidates. It was far from inconsistent treatment. Though, the Applicant, at times, in his evidence found himself confusing practices in 2022 with those in 2025. He was reminded that it was the 2025 branch elections which he was complaining about.

16.3.5. In any event, evidence, the Applicant when faced with the examples where the BASSA Branch Chair had consistently rebuked all social media endorsements known to her, he accepted that had taken place and demonstrated equal treatment in the 2025 branch elections. For these reasons, this complaint is not upheld.

Complaint 4 - Omission of candidate employment status

That on or around the 12th of January 2025, the Union breached BASSA branch election rules, which state that “Election addresses must be truthful and accurate and not contain any misleading information or statement” and Rules 18.3 and 18.6. On the 24th of March 2022, members were informed that a Chair candidate was no longer employed by British Airways but still eligible under Unite rules. In 2025, no such disclosure was made for a Branch Secretary candidate also no longer employed.

16.4. This complaint is NOT upheld.

16.4.1. The Applicant complains that in the 2022 BASSA branch elections members were informed when a candidate was no longer employed by their employer (BA). In 2025, a Branch Secretary candidate (i.e. his opponent) was similarly no longer employed, but no such disclosure was made as in the 2022 BASSA branch elections. The Applicant asserts that these omissions and selective allowances deprived members of material information and breached the requirement that election information be truthful, accurate and not misleading.

16.4.2. The Respondent submits that the BASSA rule which provides: “These must be truthful, accurate and must not contain unrealistic or misleading statements E.G., if you are going to promise a 100% pay increase it will not be allowed” relates solely to the content of candidate’s own election nomination. Similarly, the Respondent rightly points out that Rule 18.6 relates to the election of workplace representatives, and so

cannot be relevant to the Applicant's complaint, as Branch Secretary is a branch officer role (and in so far as elections are dealt with in the Rulebook they fall within Rule 17).

16.4.3. The evidence before me was that the Applicant's opponent in the BASSA 2025 branch elections was the incumbent since 2022 and that he was seeking re-election and he had not been employed by British Airways since 2022 and that this was well-known within the BASSA branch. Moreover, there is no rule which required the Respondent to make any specific communication as to employment status of any candidates in the 2025 BASSA branch elections.

16.4.4. For these reasons, this complaint is not upheld.

Complaint 5 - Lack of investigation into complaints

That on or around the 14th of June & 2nd of July 2025, the Union breached BASSA Election Rules, which state that "Any breach in the rules will be subject to a review by the Branch Secretary (or Chair), Regional Officer and an independent party appointed through the Unite legal director. Complaints can only be registered via the designated election email address" and Rules 18.8 and 18.9. Formal complaints were submitted, yet no substantive investigation was conducted, and no independent review was initiated.

16.5. This complaint is NOT upheld.

16.5.1. The Applicant submits that Rule 18.8 of the Respondent's Rulebook requires that "Any breach in the rules will be subject to a review by the Branch Secretary (or Chair), Regional Officer and an independent party appointed through the Unite legal director. Complaints can only be registered via the designated election email address". Further, the Applicant contends that "None of these steps occurred". Therefore, the Applicant asserts that his complaints were dismissed without investigation, in particular, none of his technical concerns were

investigated and consequently, the Applicant asserts that a clear breach of the Respondent's mandatory rules has occurred.

16.5.2. The Respondent contends that as soon as the Applicant made his complaint on 14 June 2025, the Respondent's senior branch officer, namely Ms Elliott (as Branch Chair) and a regional officer, Ms Bir, considered his complaint and responded on 22 June 2025. Moreover, Counsel for the Respondent emphasised that the relevant BASSA rules provide only that a complaint will be subject to a "review." Further, the Respondent contends that that "review" contained similar complaints which had previously been dealt with by Steve O'Donnell at the time of the election on 14 January 2025. Also, the fact that the Applicant on receipt of Ms Elliott's and Ms Bir's joint response escalated the matter to Mr Richardson, a designated appeal officer. Such an 'independent review' as conducted by Mr Richardson concluded: "As such having reviewed the matter, I do not believe that the ballot method, conduct of election, fairness, outcome and result is in question...".

16.5.3. Firstly, it is clear, from the evidence before me, that the Applicant's complaint was reviewed by the Branch Chair and another (Ms Bir, a regional officer). Furthermore, Mr O'Donnell, the relevant Regional Officer, had also reviewed the Applicant's complaints, previously. Therefore, Ms Elliott and Ms Bir had actually undertaken a second review. In any event, Mr Richardson, as the relevant appeal officer, had 'reviewed the (Elliott/Bir] review' that had taken place. Therefore, the Applicant is plainly wrong to suggest that none of those steps have occurred; in fact, he is misconceived in even suggesting the same.

16.5.4. However, it is clear that the Respondent's Rule 18.8, as expressly set out, is ambiguous. In the first instance, it has an 'and' which infers an addition or sequence in the construction of this aforementioned rule. In fact, it had to be explained to me by Mr Richardson that, as he

understood it, 'and, an independent person appointed' only applied to situations where the Union itself was being criticized. Consequently, I find that it is implied in the rule that an 'independent person' will only be appointed where the Respondent's legal department sought external, independent persons as the Respondent itself is under scrutiny.

16.5.5. As a matter of natural justice, any investigation into complaints requires that any investigation must be conducted in a fair, impartial and balanced manner. Firstly, Ms Elliott reviewing complaints about herself, in part, arguably cannot be viewed as impartial. However, she undertook her review with Ms Bir, so as to ensure some 'balance'. However, the Applicant had complained about events, such as the non-disclosure/non-publication of the 2025 BASSA branch election results in which Ms Bir had played her part in meeting with him and disclosing his results only to him, in person rather than publishing them to the whole branch. How either Ms Elliott or Ms Bir, could be considered fully impartial is unfortunate. In fact, their written response to the Applicant seemed to solely endorse Mr O'Donnell's previous view, as they provided no evidence of any investigation; that is to say, no evidence of any discussions or meetings with individuals to assess what the Applicant had said as against what Mr O'Donnell had concluded. In summary, Ms Elliott and Ms Bir failed to demonstrate objectivity, thoroughness or fairness in their review. However, Mr Richardson did a 'review of the review' which as an appellate officer is the correct approach. Unfortunately for him, he had inherited the imbalanced and unfair outcome from the BASSA branch chair and Ms Bir. Moreover, given that the Elliott-Bir review was based on Mr O'Donnell's review; merely endorsing it; Mr Richardson had to make his own enquiries as the appeal officer, independent of the situation previously, which in fact he did. Therefore, whilst the Applicant's complaint had progressed through its stages in satisfaction of Rule 18.8, it demonstrated no evidence of a review merely an endorsement of previous points until the appellate

stage. The latter stage remedying the previous natural injustice as intended by the process underlying the Respondent's Rule 18.8.

Therefore, wherever possible the Respondent should opt for an available procedure which minimizes duplication of the functions. Accordingly, Mr Richardson's appellate review redeemed the situation for the Respondent, providing the necessary impartial review.

16.5.6. For these reasons, this complaint is not upheld, as contrary to the Applicant's beliefs, an objective review was undertaken by Mr Richardson.

Remedy

17. Given the findings above and having upheld 1 complaint by the Applicant, I now address remedy. I am grateful to both the Applicant and Counsel for the Respondent parties for their respective written submissions regarding remedy.

18. I am rightly reminded by Miss Stanley on behalf of the Respondent that any declaration should remedy the breach found. With that in mind and given that the breach found is not to publish the full branch 2025 election results, I hereby make the following declaration:

18.1. That the Respondent publishes, to the whole BASSA Branch, the 2025 Branch Election results, including turnout, spoiled ballots and votes cast for candidates in all contested positions.

19. Furthermore, for completeness, this application has emphasized the importance of the need for clarity in balloting rules. As the BASSA branch, with over 11,500 members, amply evidenced its reliance on remote electronic voting for its industrial democracy, in terms of enforcement I direct that the Respondent abstain from not publishing the full election results with a view to securing that a breach or threat of the same or a similar kind does not occur in future. Accordingly, the Respondent, when using electronic voting systems, should ensure that they have the necessary safeguards surrounding access and integrity to maintain its members' confidence in

the system being used and ensure fair and democratic elections by publishing its election results in full.

Conclusion

21. In conclusion, for these reasons, the Applicant's complaint 2 is upheld and complaints 1, 3, 4 and 5 are dismissed.

S T Hardy

STEPHEN HARDY

The Certification Officer