

**D/19-25/25-26**

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

**Farwell**

**(Applicant)**

**and**

**University College Union**

**(Respondent)**

**Date of Decision**

**18 March 2026**

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## Decision

1. Upon application by Dr Mark Farwell (“the Applicant”) under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”) I made the following declaration:

**I do not uphold the Applicants’ application for the declarations sought for the reasons given at paragraph 20.**

## Background

2. The Applicant is a member of University College Union (“UCU” or “the Respondent”). By application under section 108A of the Trade Union and Labour Relations (Consolidation) Act 1992, submitted on 14 July 2023, the Applicant makes complaints in relation to the 2023 Branch elections of the Respondent union’s Solent Branch.
3. The Applicant’s application was acknowledged by my office on the same day.
4. The Respondent was notified of the Applicants application by my office on 10 January 2024 and the Respondent duly acknowledged their receipt on 12 January 2024.
5. The Applicant confirmed his complaints as follows:

### **Complaint 1**

That on 12 May 2023 the Union breached UCU Local Rule 9.1 when the General Secretary appointed as the Returning Officer UCU South Regional Official (Moray McAulay) for the Solent University Branch Elections.

## **Complaint 2**

That on 12 May 2023 the Union breached UCU Local Rule 9.2 when the Returning Officer rejected a nomination form from an eligible candidate for Solent University Branch Chair (Dr Farwell). The Returning Officer claimed that Dr Farwell had not followed the Returning Officer's instruction to "cc" his proposer and seconder, rather he bcc'd his proposer and seconder when submitting the nomination form and was consequently disqualified. Furthermore, the Returning Officer did not notify Dr Farwell of the rejection of his nomination form until six days after the deadline for nominations had closed on 31 May 2023 in which time a candidate for Chair had been declared elected unopposed.

## **Complaint 3**

That on 12 May 2023 the Union breached UCU Local Rule 9.3 when the Returning Officer, Moray McAulay, disqualified Dr Farwell from participating in the 're-run' Solent University branch election claiming that he had now exceeded the five-year rule in one capacity. Dr Farwell was eligible to stand on the date of the original elections held on 17 January 2023. The Returning Officer consequently imposed new results in respect of the Solent University UCU branch elections.

## **Complaint 4**

That on 28 June 2023 the Union breached UCU Local Rule 9.3 when the Returning Officer, Moray McAulay, declared one candidate elected to more than one Officer position on the Solent UCU branch committee (Branch Chair and Co-Branch Secretary) at an inquorate AGM (five members present).

### **Complaint 5**

That on 28 June 2023 the Union breached UCU Local Rule 10.4 when the Returning Officer, Moray McAulay, declared a candidate “elected to more than one officer position” - that cannot be held concurrently under rule. Furthermore, by conducting an affirmative ballot at an inquorate Solent UCU AGM, the Returning Officer failed to disregard the “votes for that candidate in subsequent elections.”

### **Complaint 6**

On the 12 May 2023, the General Secretary breached paragraph 6.1 of the UCU Rule 13 Procedure for the Regulation of the Conduct of Members on two occasions. Firstly, by failing to appoint as an Investigating Officer an elected senior officer of the Union - Immediate Past President, the President-Elect, and the Vice-President - to carry out a preliminary investigation into a Rule 13 complaint regarding breach of rules at Solent University UCU (none identified). Secondly, the General Secretary breached Rule 13 by delegating powers to a paid employee of the union, Greg Barnett (Head of Bargaining), to adjudicate on Rule 13 matters solely reserved for elected officers of the NEC (Appendix 3).

### **Complaint 7**

On or around 28 April the General Secretary delegated authority to two Union paid employees, UCU Head of Bargaining (Greg Barnett) and the UCU South Regional Official (Moray McAulay), in breach of UCU National Rule 28 (General Secretary). The General Secretary is prohibited by rule from delegating authority solely reserved to the a. National Executive Committee (NEC). The Head of Bargaining (Greg Barnett) subsequently overturned, “under the authority of the General Secretary” (Greg Barnett letter dated 28 April 2023), the Solent UCU branch elections held on Tuesday, 17 January 2023 by nullifying the results (including all branch motions, resolutions and joint agreements made between Solent

University UCU and Solent University between 16 January 2023 and 12 May 2023). This resulted in the removal from office all Officers elected in that elections. The Removal from Office (Local Rule 12) can only be carried out by a resolution at a general or extraordinary meeting of the branch. The powers to overturn local elections are held by the branch or by the National Executive Committee.

6. A Case Management Meeting (CMM) took place, remotely by Video Conference, on 25 November 2025. The CMM was attended by the Applicant and Mr Brown of Counsel accompanied by his instructing solicitors (Ms Oprey and Mr Park) from UCU.
7. A hearing took place over 3 days, by Video Conference, on 3 December 2025, 28 January and 4 March 2026. The Applicant represented himself. He submitted a skeleton argument which he had prepared himself. The Respondent was represented by Mr Tom Brown of Counsel. The Union submitted a skeleton argument prepared by Mr Brown.
8. The Applicant submitted a witness statement and gave oral evidence.
9. The Respondent submitted witness statements from Greg Barnett (Head of bargaining and representation) and Moray McAulay (Regional Official, South). Both Union witnesses gave oral evidence.
10. Before the hearing, there were 3 bundles of documentary evidence: Bundle 1 consisted of 328 pages of correspondence received and sent by the Certification Office; Bundle 2 consisted of 135 pages made up of union rulebooks; and, Bundle 3 consisted of 350 pages of documents received from the Respondent union.

## **The Relevant Statutory Provisions**

11. 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**

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).

The matters are –

the appointment or election of a person to, or the removal of a person from, any office;

disciplinary proceedings by the union (including expulsion);

the balloting of members on any issue other than industrial action;

the constitution or proceedings of any executive committee or of any decision-making meeting;

such other matters as may be specified in an order made by the Secretary of State.

## **The Relevant Rules of the Union**

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

### **NATIONAL RULES (2022)**

#### **28 General Secretary**

28.1 The General Secretary shall be the chief executive of the Union, responsible for duties specified by the Rules and Standing Orders of the Union, and duties allocated by the National Executive Committee, and shall be elected for terms of five years by the membership of the Union, under procedures agreed by the National Executive Committee. No-one who has served three consecutive terms as General Secretary is eligible to serve again as General Secretary, except after an interval of one year or more.

28.2 The General Secretary shall act in accordance with the instructions of the National Executive Committee.

28.3 The General Secretary may delegate any power or duty of, or allocated to, the General Secretary under these Rules to another employee of the Union as the General Secretary shall determine.

**MODEL LOCAL RULES (as adopted by Congress 2016) – adopted by the Solent University Branch of the University and College Union at the AGM held on Monday , 30 October 2017 in LT2 at 12pm**

**8 OFFICERS OF THE BRANCH**

**8.1** Members will be elected in the following officer roles within the Branch:

Chair

Vice-chair

Treasurer

Secretary

Membership Secretary

Equality Officer

Anti-Casualisation Officer

Health & Safety Officer

Assistant Secretary (Warsash)

Environmental Representative

Academic Related Staff Representatives

Faculty/Department/School Representatives

These positions will be declared elected annually at the annual general meeting from members of the Branch in accordance with Rule 9.

## **9 ELECTIONS OF ORDINARY MEMBERS OF THE COMMITTEE AND OFFICERS**

### **9.1 Returning Officer**

The local committee will appoint a returning officer for elections who is neither a candidate for any office in the Branch/LA nor a member of the committee.

### **9.2. Nominations**

All nominations will be received in writing by the returning officer no later than the day that is [28] days before the day of the annual general meeting.

Nominations must be accompanied by the written consent of the nominee and supported by the identifiable signatures of [2] members of the Branch/LA.

### **9.3 Eligibility to stand for election**

Retiring officers will be eligible for re-election, except that the chair/president and vice chair/vice-president may normally hold office for not more than [5] successive years in any one capacity.

A member may not normally be declared elected to more than one officer or ordinary position of committee membership.

## **10 CONDUCT OF BALLOTS**

10.4 When officer and committee ballots are conducted over the same time period, they will be counted in the following order: officer and other positions set out in rule 8.1, in the order in which they are set out in that rule, followed by ordinary committee members. If a person is a candidate

in two or more elections over the same time period for positions that cannot be held concurrently under rule, after the successful election of that candidate to a position, votes for that candidate will be disregarded in subsequent elections.

## **12 REMOVAL FROM OFFICE**

Any member of the committee (including the officers and other persons elected to represent the Branch) or department rep may be removed from office by resolution at a general meeting (including an extraordinary general meeting) of the Branch provided that (a) the terms of any such proposed resolution are received by the secretary not later than the day that is [10] days before the day of the general meeting and (b) the proposal for such a resolution is supported in writing by not less than twenty-five members or 25% of the membership, whichever is less. Upon receipt of such a proposal the secretary will take all reasonable steps to ensure that that proposal is received by each member of the Branch not later than the day that is 48 hours before the general meeting at which it is to be considered. Any general meeting which will have removed a member or members of the committee in accordance with the above will have power to replace any such member or members until such time as normal election of officers and other members of the committee next occurs.

## **RULE 13: PROCEDURES FOR THE REGULATION OF THE CONDUCT OF MEMBERS**

### **6 Appointment of Investigating Officer**

6.1 When a complaint is received the General Secretary may appoint a senior officer to the Union (“the Investigating Officer”) to carry out a preliminary investigation. Suitable officers are: the Immediate Past President, the President-Elect, and the vice-President. Should none of these be readily available, the General Secretary may appoint an experienced member of the

National Executive Committee (NEC), preferably with previous presidential experience, a senior national official of UCU or an independent person suitably qualified to conduct an investigation.

## **Findings of Fact**

13. At the material time, the Applicant is a Senior Lecturer in Criminology, employed at Solent University since 1992. From 2006 he has held several elected officer roles in the Respondent union's Solent University branch (cf. HB 3 @ p. 165). He was its Branch Chair latterly from 2012-2023.
14. From the documentary evidence before me, I identify the following chronology of events and make findings of fact, as follows:
  - 14.1. On 9 January 2016 the Respondent union agreed Model Rules;
  - 14.2. On 30 October 2017 the Respondent's Solent University Branch sought to amend the Respondent union's Model Rules;
  - 14.3. On or around 29 September 2022 concerns were raised about the operation of the Respondent Union's Solent University branch (HB 3 @ pp. 166-168). These were acknowledged by the Respondent's Regional Office on 30 September 2022;
  - 14.4. On 19 November 2022 and 22 November 2022 the individual referred to in these proceedings as the complainant raised a formal complaint about the operation of the Solent University branch (HB 3 @ pp. 182-183 and pp. 200-204, respectively);
  - 14.5. On 21 November 2022 during the Solent University Branch elections, some Nominations were rejected (HB 3 @ pp. 189-199);
  - 14.6. On 25 November 2022 the complainant instructed Solicitors to correspond with the Respondent's General Secretary about the complaints (HB 3 @ pp. 206-207);

- 14.7. On 27 November 2022 the Applicant notified Solent University branch members that the AGM would be rescheduled for 15 December 2022;
- 14.8. On 28 November 2022 the Respondent's Regional Officer spoke with the Applicant about the branch concerns (HB 3 @ pp. 208-211 and HB 3 @ p. 219);
- 14.9. On 14 December 2022 the Applicant notified Solent University branch members that the AGM would be rescheduled for 17 January 2023;
- 14.10. On 17 January 2023 the Solent University branch AGM took place, including contested branch elections;
- 14.11. Following the Solent University branch AGM held on 17 January 2023 the complainant complained to the Respondent's Regional Officer about events that had taken place at the AGM;
- 14.12. Consequently, on 21 March 2023 the Respondent's General Secretary appointed Greg Barnett (the Respondent's Head of Bargaining and Representation) to investigate complaints raised in relation to its Solent University Branch (HB 1 @ p. 50 and HB 3 @ p. 271);
- 14.13. Subsequently, on 3 April 2023 Greg Barnett contacted the Respondent's Regional Officer for the Southern Region, following the instruction given by the General Secretary;
- 14.14. On 28 April 2023 Greg Barnett invited the Applicant to meet with him and the Regional Officer (Moray McAulay). In readiness for this meeting, Moray McAulay provided Greg Barnett with an issues summary and timeline (HB 3 @ p. 279);
- 14.15. On 12 May 2023 Greg Barnett and Moray McAulay (as note-taker) met with the Applicant and the complainant, separately;

- 14.16. Thereafter, on 16 May 2023 Greg Barnett declared that the January 2023 University Branch elections were to be re-run. All Solent University branch members were notified of this action that same day and a new branch elections timetable was issued;
- 14.17. On 2 June 2023 the Applicant's nomination (HB 3 @ p. 311-312 and 315) for Branch Chair was rejected as invalid (HB 3 @ pp. 325-326);
- 14.18. As a result, on 4 June 2023, the Applicant complained to the Respondent's Regional Officer, acting as the Solent University branch elections Returning Officer about his nomination rejection;
- 14.19. On 6 June 2023 the Respondent's Southern Regional Officer (Moray McAulay) responded to the Applicant informing him of the defects in his nomination form as well as advising him of his ineligibility having served for 5 consecutive years;
- 14.20. On 15 June 2023 the Respondent's Southern Regional Office reminded all Solent University branch members about their branch AGM to be held on of the re-run elections outcomes;
- 14.21. On 28 June 2023 the Solent Branch AGM took place and its branch elections' results were reported (HB 1 @ pp. 102-105 and HB 3 @ pp. 348 and 349-350).

## Reasons

15. I am rightly reminded by the parties that my predecessor Certification Officers have relied on its own wise counsel as set out in Street and Street v UNISON (D/28-29/12-13) {@paragraphs 56—57} that there exists 'real practical difficulties' which trade unions experience in ensuring the proper functioning of their branches.
16. Such an industrial reality requires that unions must operate within their collectively agreed rules. However, this well-established principle was refined by the then House

of Lords in 1973 when Lord Wilberforce in Heatons Transport (St Helens) Ltd; v Transport and General Workers' Union [1973] AC 15 (@ paragraph 101, A-D) opined that: '...it is not to be assumed, as in the case of a commercial contract which has been reduced into writing, that all the terms of the agreement are to be found in the rule book alone'. Consequently, many of my predecessors have had to imply rules having carefully considered custom and practice, relevant procedural rules which have developed over the years and trade union rule books. Yet, as Lord Wilberforce warned Courts and Tribunals alike, and the Certification Officer for that matter, they must resist the temptation to construe them as if they were set out in the rule book. In fact, the Employment Appeal Tribunal guided, on appeal from the Certification Officer, in UNISON v Street and Street (2013) [UKEAT/0256/13], that a term could be implied to give effect to the presumed intention of the parties or by custom or practice. The Applicant asserts and urges me to apply the local branch rules, as he believes that these were approved by the Respondent and operative in his branch (ie the Solent University branch), approved on 30 October 2017 and adopted by his branch from 1 December 2017. Whilst the Respondent advocates that the union's actions should be viewed through the lens of the 'real-world context'. To that end, I concur with the Respondent that it is unattractive, if not most unsatisfactory, for the Applicant to complain about breaches of branch rules where his own conduct appears to have disregarded those very rules. Moreover, there is no evidence before me that the Respondent ever received the Solent University Branch proposed local rules nor even approved them (cf. HB 1 @ p. 63 and HB 3 @ p.213). Consequently, the Applicant finds himself misconstruing the actual applicable rules.

17. Therefore, for the avoidance of any doubt, the relevant and applicable rules material to these complaints are the Respondent's Rules of 2022 (HB 2 @ pp. 102-135) and the Respondent's model branch rules (HB 1 @ pp. 302-316). There was much discussion before me as to what the rules could and/or should in fact say.
18. However, it is the agreed rules which are binding. Applying the long-established rule in Jacques v. AUEW [1982] ICR 683, as Warner J observed, the union rules can be

amended and such amended rules bind all its members. However, whilst not construing all rules, not just literally or expressly, but reasonably so as to interpret them as intended.

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

### **Complaint 1**

**That on 12 May 2023 the Union breached UCU Local Rule 9.1 when the General Secretary appointed as the Returning Officer UCU South Regional Official for the University Branch Elections.**

19.1. This complaint is NOT upheld.

19.1.1. As the Respondent posits this complaint concerns the timeframe after the January 2023 election results had been set aside on 16 May 2023. Evidently, it is incontrovertible that up and until those results were set aside, there was no need to appoint a Returning Officer. However, having done so, there was no branch committee and therefore, consequently there was no one nor union entity to appoint a Returning Officer. Accordingly, absent of any branch official of the Respondent union, the only person with authority to appoint a Returning Officer is a national or regional UCU official. Therefore, in my view, it was within the scope of the authority conferred on Mr Barnett by the Respondent's General Secretary (cf. HB 1 at p. 63) to appoint Mr McAulay as the Returning Officer, as the Respondent's Regional Officer for the Southern region in situ, in those circumstances. In fact, to support this action, the Respondent prays in aid its own custom and practice where Mr McAulay, amongst many others, would act as Returning Officer for branch elections (cf. HB 3 at pages 107—110 and 274). In fact, in his evidence before me, Mr McAulay gave several examples over many years, including at least 6 recent examples, where he had acted as Returning

Officer. For these reasons, there is no breach of the rules and this complaint is not upheld.

## **Complaint 2**

**That on 12 May 2023 the Respondent Union breached UCU Local Rule 9.2 when the Returning Officer rejected a nomination form from an eligible candidate for Solent University Branch Chair (ie the Applicant). The Returning Officer claimed that the Applicant had not followed the Returning Officer's instruction to "cc" his proposer and seconder, rather he bcc'd his proposer and seconder when submitting the nomination form and was consequently disqualified. Furthermore, the Returning Officer did not notify the Applicant of the rejection of his nomination form until six days after the deadline for nominations had closed on 31 May 2023 by which time a candidate for Chair had been declared elected unopposed.**

19.2. This complaint is NOT upheld.

19.2.1. From the evidence heard, the nomination form for the relevant 2023 elections complained of was unambiguous in its requirements either physical signatures or the copying of the email nomination to the proposer and seconder (HB 1 at p. 83 and HB 3 at p. 299, respectively). This was common practice in the Respondent Union's elections (see HB 3 at pp. 258, 259 and 316). In fact, this requirement ensures that the Returning Officer knows that the candidates' proposer and seconder were aware of their nomination and approved the same. From the evidence, it was clear that the Applicant was aware of these requirements. Though, because the Applicant blind copied rather than copied his proposer and seconder, the Returning Officer was therefore unable to see that the Applicant's supporters were aware of his nomination nor whether they had tacitly approved and supported his nomination. Consequently, the Applicant's failure to copy rather than blind copy resulted in his nomination being invalidated. Rule 9(2) (cf. HB

1 at p. 307) confirms that “*written consent of the nominee and supported by the identifiable signatures of 2 members of the Branch*” is required. Whilst the Applicant prays in aid Mehta v, Pereira [2006] EWHC 813, HHJ Pelling KC affirming that an e-sign off can be construed as a signature in the traditional sense, applying such reasoning to the instant complaint does not remove the requirement of those signatures being visible. Consequently, the usage of e-communication in no way validates the Applicant’s nomination, since it remained defective, and thereby invalid, as the signature and/or e-signatures were not visible, as required by the rules. For these reasons, complaint 2 is not upheld.

### **Complaint 3**

**That on 12 May 2023 the Union breached UCU Local Rule 9.3 when the Returning Officer disqualified the Applicant from participating in the ‘re-run’ Solent University branch election claiming that he had now exceeded the five-year rule in one capacity. The Applicant was eligible to stand on the date of the original elections held on 17 January 2023. The Returning Officer consequently imposed new results in respect of the Solent University UCU branch elections.**

19.3. This complaint is NOT upheld.

19.3.1. It is clear from the evidence before me that both the Respondent Union’s model local rules (Rule 9.3) and/or the Applicant’s local rules confirm that a Branch Chair “*may normally hold office for not more than [5] five successive years*” (HB 1 at p. 307). Whilst the Applicant had asserted in the first instance that he had attained an exemption to that rule under the Solent University Branch rules (HB 1 @ p. 322); the Solent University branch rules had not been approved and therefore did not apply. Moreover, the Applicant now contends that Rule 9.3 applied only to years of office after the rule came into force. In evidence, before me, there was a debate as to whether the Respondent’s rules were retrospective or

prospective. Mr Barnett, on behalf of the Respondent, gave a robust and clear response to this question, in that the rules “became operative at the time when they were introduced unless otherwise stated”. Plainly the Respondent’s Model Local Rules, as adopted by their Congress in 2016 have applied since that date and up until they are amended. In any event, on the facts before me, the Applicant had held office in the Respondent union for substantially more than five consecutive years and therefore, as the Respondent correctly submits it was immaterial on the face of the rule which of these years pre-dated or post-dated the coming into force of the rule. Accordingly, the Applicant’s nomination was properly invalidated and therefore, this complaint is not upheld.

#### **Complaint 4**

**That on 28 June 2023 the Union breached UCU Local Rule 9.3 when the Returning Officer declared one candidate (another; not the Applicant) elected to more than one Officer position on the Solent UCU branch committee (Branch Chair and Co-Branch Secretary) at an inquorate AGM (five members present).**

19.4. This complaint is NOT upheld.

19.4.1. The evidence before me confirms that another candidate had been nominated as Branch Chair and Branch Equalities Officer. Since there was no contest in respect of either of these posts, the Respondent Union’s Returning Officer sensibly emailed that candidate on 2 June 2023 (HB 3 at page 317) stating that he could not be declared elected to both (as is compliant with Rule 9(3)) and advised him to choose which post he preferred to take up. Evidently, this course of action is in accordance with the Respondent union’s rules, as well as its custom and practice, and was compliant with the requirements as set out in Rule 9(3). For these reasons, this complaint is not upheld.

## **Complaint 5**

**That on 28 June 2023 the Union breached UCU Local Rule 10.4 when the Returning Officer declared a candidate “elected to more than one officer position” - that cannot be held concurrently under rule. Furthermore, by conducting an affirmative ballot at an inquorate Solent UCU AGM, the Returning Officer failed to disregard the “votes for that candidate in subsequent elections.”**

19.5. This complaint is NOT upheld.

19.5.1. This complaint reiterates, in part, complaint 4, which is dealt with above. However, the second limb of this complaint concerns quoracy. In fact, the Applicant quite rightly asserts that an unopposed elected Branch Chair cannot be declared at an inquorate AGM meeting. From the evidence before me, Annex 1 appended to the Applicant’s witness statement, corroborates that the AGM held by the branch on 28 June 2023 was inquorate. That is undisputable and agreed between the parties, as confirmed in the actual, formal minute of the meeting (HB 3 @ pp. 349-350). However, Rule 10(4) cited and relied upon by the Applicant for this complaint is in fact silent on quoracy. Furthermore, given that the only formal business at this inquorate AGM was the affirmation of the unopposed new Branch Chair, as minuted (HB 3 at pp. 349-350), as is the Respondent’ union’s custom and practice where inquoracy arises. Therefore, no breach has been incurred. For these reasons, this complaint is not upheld.

## **Complaint 6**

**On the 12 May 2023, the General Secretary breached paragraph 6.1 of the UCU Rule 13 Procedure for the Regulation of the Conduct of Members on two occasions. Firstly, by failing to appoint as an Investigating Officer an elected senior officer of the Union -Immediate Past President, the**

**President-Elect, and the Vice-President - to carry out a preliminary investigation into a Rule 13 complaint regarding breach of rules at Solent University UCU (none identified). Secondly, the General Secretary breached Rule 13 by delegating powers to a paid employee of the union, its Head of Bargaining, to adjudicate on Rule 13 matters solely reserved for elected officers of the NEC.**

19.6. This complaint is NOT upheld.

19.6.1. This complaint concerns the nullifying of the 17 January 2023 Branch Committee elections. The Applicant contends that Rule 12 of the local rules (HB 1 @ p. 309) and Rule 13 of the national rules (HB 2 @ p. 108) were breached in respect of the nullifying of the 17 January 2023 Branch elections and the re-running of those elections. However, the Respondent submits that neither of those rules were used as the grounds for nullifying the 17 January 2023 Branch elections. In fact, Rule 12 of the local rules states that “Any member of the [branch] Committee may be removed from office by resolution at a general meeting ....of the branch” (HB 1 @ p. 309); whereas, Rule 13 of the national rules states that “The NEC shall establish a procedure to censure or bar a member from holding any office for a specified period .....” (HB 2 @ p. 108). Evidently, absent of a lawfully constituted local branch, local Rule 12 cannot be invoked. Furthermore, Rule 13 of the national rules would not have provided for the power directly to remove individuals from offices within the branch; nor would it have enabled the reversal of other action taken by the 17 January 2023 Branch Committee before those elections were nullified. However, as Mr Barnett for the Respondent categorically explained in his evidence before me, given that the elections were not within the rules, they had to be “re-run” in compliance with the Respondent’s approved and applicable rules; as a ‘necessity’ and ‘proportionately’, guided by UNISON v. Street (2013), EAT). Therefore,

given that neither Rules were applied; they are incapable of being breached. For these reasons, this complaint is not upheld.

## **Complaint 7**

**On or around 28 April the General Secretary delegated authority to two Union paid employees, UCU Head of Bargaining and the UCU South Regional Official, in breach of UCU National Rule 28 (General Secretary). The General Secretary is prohibited by rule from delegating authority solely reserved to the: a. National Executive Committee (NEC). The Head of Bargaining subsequently overturned, “under the authority of the General Secretary” (letter dated 28 April 2023), the Solent UCU branch elections held on 17 January 2023 by nullifying the results (including all branch motions, resolutions and joint agreements made between Solent University UCU and Solent University between 16 January and 12 May 2023). This resulted in the removal from office all Officers elected in that elections. The Removal from Office (Local Rule 12) can only be carried out by a resolution at a general or extraordinary meeting of the branch. The powers to overturn local elections are held by the branch or by the National Executive Committee.**

19.7. This complaint is NOT upheld.

19.7.1. The final complaint also concerns the nullification of the Branch Committee elections of 17 January 2023. The basis relied on for nullifying these elections by the Respondent is the powers conferred on the Respondent Union’s General Secretary by its National Executive Committee (see HB 2 at p. 121) to ensure that the union operated within legal compliance and by the Respondent Union’s General Secretary’s power under Rule 28.3 of its Rules to delegate duties to others as the General Secretary’s delegate to avoid the prospect of an application to the Certification Officer or any other legal action. For the avoidance of any doubt, Rule 28.3 expressly states that “The General Secretary may

delegate any power or duty of, or allocated to, the General Secretary under these rules (ie 2022 Rules in force – at the material time) to another employee of the Union as the General Secretary shall determine” (HB 2 @ p. 121; Rule 28). The Applicant invites me to interpret this action as the Respondent union’s General Secretary exceeding her powers, as in his mind she (ie the General Secretary) “acted without authority, jurisdiction and due process”. However, incontrovertibly, Rule 28 expressly empowers the Respondent union’s General Secretary to act and/or to delegate her power. Such a delegation to Greg Barnett was therefore necessary and proportionate in the instant matter where a failure to do so would have permitted its Solent University branch to operate in breach of rule(s). Accordingly, setting aside/nullifying the elections was the proper action to be taken by the Respondent union’s General Secretary or her delegate. In fact, she had the authority to do this; it was within her jurisdiction; and, she invoked due process.

Therefore, this complaint is not upheld.

## **Conclusion**

20. Given the findings above, I do not need to address remedy. Though, I am grateful to both parties for their submissions in respect of remedy, should that have been necessary.

21. Furthermore, for completeness, the Respondent’s Counsel, submitted that the Applicant’s second application to my Office in respect of alleged Rule 13 procedure breaches is misconceived (@ para 41 of Respondent’s written submissions). Moreover, the Respondent submitted that in the event that the Applicant failed in these complaints (as he has); then, those second complaints ought to be struck out. Yet, the Respondent’s Counsel did accept that the Applicant’s complaints in his second application were separate and as previously discussed at our case management meeting held on 25 November 2025, that, without prejudice to any future directions I or my Assistant Certification Officer may grant, the parties now

have ample time to reflect on this outcome and to consider whether to withdraw, or to concede, or to seek strike out; or, to proceed with a hearing of those complaints. In any event a case management meeting for those separate complaints will be convened in due course.

22. In conclusion, for these reasons, the Applicant's complaints are not upheld and are dismissed.

**S T Hardy**

**STEPHEN HARDY**

**The Certification Officer**