

D/33-41/25-26

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

Nesbitt

(Applicant)

and

National Association of Schoolmasters Union of Women Teachers

(Respondent)

Date of Decision:

26 March 2026

Contents

Decision	3
Background	3
The Relevant Statutory Provisions	7
The Relevant Rules of the Union	8
Findings of Fact.....	14
Reasons	16
Conclusion	30

Decision

1. Upon application by Mr Paul Nesbitt (“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 declaration sought for the reasons given in paragraphs 39.

Background

2. The Applicant has been a qualified teacher since 1996, predominantly teaching art/design as well as media and computing. He has also been a member of the National Association of Schoolmasters Union of Women Teachers (“NASUWT” or “the Respondent”) since 2008. He served on the Respondent union’s National Executive from 2012-2022, serving its District 13, until his resignation from the Respondent union on 28 November 2022. He sought to rejoin the Respondent union on 2 December 2024 and was re-admitted on 3 April 2025.
3. By application under section 108A of the Trade Union and Labour Relations (Consolidation) Act 1992, submitted on 29 August 2025, the Applicant makes complaints in relation to the Respondent’s 2025 General Secretary election.
4. The Applicant’s application was acknowledged by my office on 2 September 2025.
5. The Respondent was notified of the Applicant’s application by my office on 30 September 2025, however due to technical issues were not able to access the documents until 2 October 2025 and the Respondent duly acknowledged their receipt on 2 October 2025.

6. The Applicant confirmed his complaints as follows:

Complaint 1

That on or around 4th April 2025 the Union breached rule 19(d) when it appointed Matt Wrack as the Acting General Secretary. With the advanced notice of Patrick Roach stepping down, the Deputy General Secretary should have been asked to step in the Interim period. At no point within the Rules of the union or within the remit of the Staffing Review Committee does it allow for an Acting General Secretary.

Complaint 2

That on or around 16th June 2025 the Union breached rule 20 (5)(a) when Members, National Executive members and Ex-President canvassed for Matt Wrack. Rule 20 (5)(a) clearly states that a prospective candidate may use the Central team for one email. Nowhere does it permit the use of self-publication on the union Facebook page.

Complaint 3

That around 6th February 2025 and again 20th February 2025, the Union breached rule 20 (5)(b) when guidance was unobtainable or shared (despite requests for this information being made), leading to one candidate, Matt Wrack, having an advantage over other candidates either seeking nomination or taking part in the election.

Complaint 4

That on or around 17th June 2025 Rule 20(7)(a) was breached when Matt Wrack sent out an independent Election Address through the social media site mattwrack.com. This should realistically be sent to the Union Headquarters and

distributed simultaneously with other potential candidates to avoid disadvantaging any other candidate.

Complaint 5

That on or around 19th June 2025 the union breached rule 20 (7) (b) (c) when Local Associations distributed election information, including election addresses separately on social media, when only ballot paper addresses are allowed by rule breaching parts of the BLUE PAPER 0.14/23 Presented to National Officers 13 June 2023 and National Executive on 7 July 2023 on the matter of canvassing and election addresses.

Complaint 6

That on or around 19th June 2025 the union breached the following requirements in the BLUE PAPER 0.14/23 Presented to National Officers 13 June 2023 and National Executive on 7 July 2023, titled 'Guidance Canvassing and Campaigning in Connection with National Elections' which states that Candidates must not:

- use databases or mailing lists held by the NASUWT for any purpose connected to the elections.
- use an NASUWT email address, social media account, branding, or stationery to conduct canvassing.
- conduct any canvassing through the national media or press.

It is clear that NASUWT Local Association sites (funded through Imprest funds or updated using facility time allocation) which have access to the names of members have been promoting the Matt Wrack.com site which places other candidates at a disadvantage and is in breach of the above criteria.

The use of NASUWT Local Association sites, would be deemed as third parties, have been promoting Matt Wrack.com site which places other candidates at a disadvantage and is in breach of the above criteria.

Complaint 7

That on or around 29th May 2025 the union breached rule 20(9)(b) when the National President emailed me in an attempt to combine two complaints of a similar nature, but they are separate. At no time has the President presented a report about the issue raised about the complaint.

Complaint 8

That on or around 29th May 2025 the union breached rule 20(9)(c) when the National officers have failed to act on the Election misconduct complaint that was in relation to the actions of Becky Tebbett. In relation to the circulation of information that was misleading about a candidate seeking nomination. This was not vexatious or frivolous, it was based on fact. However, this complaint was not acted upon as per this rule.

Complaint 9

That on or around 29th May 2025 the union breached rule 20(9)(c) when the National officers have failed to accept a genuine complaint over misconduct within the election process and the disadvantage now given to one candidate seeking nomination and failed to act under this rule. This prevented Rules 20 (9)(g) – 20 (9)(k) being considered or enacted after a tribunal being established and discussed with the NEC.

7. A Case Management Meeting (CMM) took place, remotely by Video Conference, on 11 March 2026. The CMM was attended by the Applicant and Mr Stuart Brittenden KC of Counsel accompanied by his instructing solicitors (Mr Edward Cooper) from Slater and Gordon on behalf of the Respondent.
8. A hearing took place on 17 March 2026, by Video Conference. The Applicant represented himself. He submitted a skeleton argument which he had prepared himself. The Respondent was represented by Mr Stuart Brittenden KC of Counsel,

instructed by Mr Ed Cooper of Slater & Gordon. The Union submitted a skeleton argument prepared by leading Counsel.

9. The Applicant submitted a witness statement and gave oral evidence. He also submitted witness statements from Mr Seán Taylor who also gave oral evidence and Ms Yvonne Fegan who did not give oral evidence.
10. The Respondent submitted witness statements from Ms Maggie Bremner (Assistant General Secretary, Administration & Resources) and Mr Wayne Broom (President). Both Union witnesses gave oral evidence.
11. Before the hearing, there were 2 bundles of documentary evidence: an agreed hearing bundle (HB 1) consisting of 236 pages; and the Applicant's Supplementary Bundle (ASB 2) consisting of 415 pages.

The Relevant Statutory Provisions

12. 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 –

- 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;

The Relevant Rules of the Union

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

NATIONAL RULES

7. The National Executive

(k) The National Executive shall, subject to these Rules and to the decisions of Conference, have full power and authority to take such action as it deems necessary for the conduct of the Union's affairs and the realisation of the objects set out in Rule 3.

(l) Without prejudice to the generality of the power set out in Rule 7(j) the National Executive shall:

- i. subject to ratification at the Conference immediately following such decision, make such bye-laws and regulations as to the management of the Union not inconsistent with these Rules as the National Executive may consider desirable and to rule upon any question as to the construction of any Rule, bye-law or regulation;
- ii. determine the remuneration and duties of the General Secretary;
- iii. appoint such officials, other than the General Secretary, as the National Executive considers necessary for the good conduct of the affairs of the Union;

....

19. General Secretary

....

(d) Throughout these Rules wherever there is reference to the General Secretary (with the exception of Rule 20(4)) the General Secretary may nominate the Deputy General Secretary or any other member of staff to act in their place.

20. Elections

....

(4) *General Secretary*

Any election for the position of General Secretary shall be called by the National Executive who shall cause to be published a timetable for the election.

(5) *Canvassing*

- (a) Upon request to the General Secretary (or in the event of an election for General Secretary, the President) a prospective candidate may request an email to be sent to Local Associations relevant to the election concerned, for the sole purpose of corresponding with Local Associations to seek nomination.
- (b) The National Executive shall adopt and publish such appropriate guidance and protocols as it shall deem necessary.

...

(7) *Election address*

- (a) Validly nominated candidates shall be entitled to submit an election address.
- (b) Election addresses shall be produced in accordance with a protocol agreed and published by National Executive.
- (c) The election address shall be distributed at no cost to the candidate to those members who are entitled to vote in the election concerned at the same time as the ballot paper is dispatched to those members.

...

(9) Election misconduct

- (a) Any complaint of election misconduct shall be made by a member in writing to the General Secretary (or to the President in the case of an election for General Secretary) to be received within twenty eight days of the act or omission, the subject of the complaint.
- (b) The General Secretary (or the President in the case of an election for General Secretary) shall have power to dismiss a complaint they consider to be frivolous or vexatious. The General Secretary (or the President as the case may be) shall report the dismissal of such a complaint to the National Officers' Committee Meeting immediately following their decision.
- (c) The National Officers' Committee (with the exclusion of an individual whose election is the subject of complaint) shall consider any complaint of misconduct not ruled frivolous or vexatious.
- (d) The National Officers' Committee in investigating a complaint of election misconduct may set up a Tribunal of Inquiry to investigate the complaint which Tribunal shall comprise either three members of the National Executive or three past Presidents or a combination thereof (save that any individual whose election is the subject of complaint shall not be eligible to serve on such a Tribunal).
- (e) A Tribunal of Inquiry constituted under this Rule shall have power to investigate such matters as it believes relevant, and to question such witnesses and to call for such documents as it considers necessary.
- (f) A Tribunal of Inquiry shall report to the National Officers' Committee in writing. The National Officers' Committee shall provide a copy of such report to the Complainant(s) and to any individual(s) who are the subject of the complaint.
- (g) Upon receipt of a report of a Tribunal of Inquiry the National Officers' Committee shall consider the report and thereafter either uphold the election or declare the

election invalid and set a date for a new election, subject to confirmation by the National Executive.

- (h) The National Officers' Committee shall have power to suspend an election if it so considers necessary for the good management of the Union.
- (i) The National Officers' Committee, subject to confirmation by the National Executive shall make such arrangements as it considers necessary to ensure the good management of the Union should an election be suspended, which power includes the nomination of a member to perform the duties of the post, the subject of the contested election until the exhaustion of all and any misconduct claims and conclusion of that election.
- (j) In the absence of the suspension of an election by the National Officers' Committee, the election, shall proceed and the candidate(s) receiving the highest number of votes shall be declared elected and shall hold office unless and until the election is declared invalid on the grounds of electoral misconduct by the National Officers' Committee.
- (k) Nothing in this Rule shall be seen as a bar to internal Union discipline pursuant to Rule 27.

BLUE PAPER 0.14/23

Presented to National Officers 13 June 2023 and National Executive on 7 July 2023

Guidance Canvassing and Campaigning in Connection with National Elections

To ensure a process of fair elections, this guidance must be complied with by all members seeking nomination or who have been nominated as a candidate for election to national office with the Union.

Canvassing by candidates is allowed, subject to compliance at all times with the Rules of the Union and any guidance that may be issued by the National Executive.

Candidates or prospective candidates may be liable to disqualification from the election if found to be in breach of this guidance.

Local, regional or national NASUWT funds may not be used by candidates or prospective candidates when seeking election or nomination.

Candidates must at all times maintain the confidentiality, integrity and good standing of the election and its process and the NASUWT, and must not act in a manner that brings the election or the Union into disrepute.

Candidates must not:

- use databases or mailing lists held by the NASUWT for any purpose connected to the elections;
- use an NASUWT email address, social media account, branding or stationery to conduct canvassing;
- conduct any canvassing through the national media or press;
- engage agents or other third parties to act for them in the conduct of their canvassing;
- make any adverse comment about, or make reference to, another candidate or to another candidate's election.

Additional Considerations

1. Emails

All members seeking nomination are free to request an email to be sent to Local Secretaries in relevant constituencies. The request can be made via nasuwt@mail.nasuwt.org.uk providing a word-processed copy of the message to be sent.

2. Social Media

Candidates may use social media when seeking support during an election but should be mindful of their conduct in doing so and the need to comply with the

NASUWT **Code of Conduct** at all times. Local Associations and Federations may do so as well but again, offensive remarks must not be made in any postings. Candidates should refrain from making any direct or indirect comment or reference to any other candidates in their social media posts.

3. Telephone

Canvassing by telephone is allowed provided this does not conflict with the Union's advice on data protection.

4. Member meetings

Where a Local Association is hosting a nominated candidate to address a meetings, invitations should be extended to other nominated candidates in order to allow members to hear from those standing in the election.

5. Data protection

Members seeking a nomination or standing for election may not use personal information held on NASUWT systems for this purpose.

It is a criminal offence under the relevant laws to use, obtain, disclose or retain members' personal data without the explicit and prior written consent of the data controller (i.e. the NASUWT Data Protection Officer).

The creation of, or use of, members' contact information lists inside such systems and equipment as provided for lay officers, for the purposes of canvassing and campaigning is also strictly forbidden.

Breach of Canvassing Guidance

The NASUWT reserves the right to determine whether or not a candidate is complying with this guidance and will investigate any alleged breaches of this guidance. Complaints of alleged breaches by any candidate or prospective candidate must submitted in writing to the General Secretary at nasuwt@mail.nasuwt.org.uk

Findings of Fact

14. On 28 November 2022 the Applicant resigned his membership of the Respondent union.
15. On 2 December 2024 the Applicant applied to rejoin the Respondent union.
16. On 17 December 2024 the Respondent union corresponded with the Applicant to inform him that the position of General Secretary was to be readvertised (HB @ p. 108).
17. On 3 January 2025 the Applicant corresponded with the then President (Rashida Din) of the Respondent union raising concerns about the selection panel and requesting a nomination form as well as postal address labels for the Local Associations contact person (HB @ pp.139-140).
18. On 13 January 2025 the Respondent union published a timetable for its General Secretary election (HB @ p.141), as its incumbent General Secretary (Dr Roach) confirmed that he did not wish to stand for re-election.
19. On 14 January 2025 the Applicant's application to rejoin the Respondent union was considered at its National Officers' meeting and the Applicant was informed on 17 January 2025 that his readmission was dependent on him confirming his eligibility and would be subject to a dormant Rule 27 process which was outstanding at the time of his resignation in November 2022 (HB @ pp.142-143).
20. On 14 February 2025 the Applicant was informed that he was not selected for interview for the post of General Secretary (HB @ p.148).
21. On 28 February 2025 the Respondent union's National Executive endorsed the nomination of Matt Wrack as its preferred candidate (HB @ p.150).
22. On 3 March 2025, by circular the Local Associations of the Respondent union were notified of the National Executive's preferred candidate and were afforded an

opportunity to consider nominations for General Secretary within the period 4 March – 19 April 2025 (HB @ p.150).

23. On 3 April 2025 the Respondent confirmed the Applicant's readmission to the Respondent union; but, simultaneously suspended him pending an investigation and any disciplinary process (HB @ pp.155-157).
24. On 16 April 2025 the Applicant requested a nomination form and election information in respect of the General Secretary election (HB @ p.159).
25. As at 19 April 2025, only one prospective candidate had received sufficient nominations. Accordingly, the Respondent union proceeded on the basis that the election was uncontested.
26. On 22 April 2025 the election result was declared and Matt Wrack appointed General Secretary from that date (HB @ p.161).
27. On 23 April 2025, Neil Butler commenced High Court proceedings contesting the legality of the election result on the basis that he had been denied the opportunity to seek nominations on the basis that he was not a member of the Union.
28. Due to High Court proceedings on 25 April 2025 the National Executive of the Respondent union resolved to appoint Matt Wrack as Acting General Secretary pending the re-opening of the nomination period (HB @ pp.162 – 63).
29. On 28 April 2025, by Consent Order, the Respondent union agreed to set aside the appointment of Matt Wrack as General Secretary following the uncontested election (HB @ pp.167-168).
30. Subsequently, nominations for its General Secretary election were reopened from 26 April 2025 until noon on 26 May 2025. Thereafter, a ballot would commence from 19 June 2025 to 23 July 2025.

31. As from April 2025, upon his readmission to the respondent union and most certainly by 18 May 2025, by his own evidence, the Applicant was able to access the membership only area of the Respondent union's website (HB @ p.180).
32. On 15 and 23 May 2025 the Applicant raised formal complaints under Rule 20 (HB @ pp.176, 179 and 182-184).
33. On 29 May 2025 the Applicant raised a Rule 27 complaint (HB @ pp.188-192). That same day, the Respondent union's President replied informing the Applicant that the Rule 27 complaint would take precedence.
34. On 17 July 2025 the Respondent union confirmed to the Applicant that his Rule 27 complaint had insufficient grounds to proceed (HB @ pp.213-218).
35. On 23 July 2025 the Respondent union declared the outcome of its General Secretary election (HB @ pp.222-223).
36. On 17 October 2025 the Respondent union's National Officers' Meeting resolved that the Applicant's Rule 20 complaint, dated 23 May 2025, was vexatious and was dismissed (HB @ pp.226-227).
37. On 20 October 2025 the Respondent union informed the Applicant that his Rule 20 complaint had been dismissed (HB @ p.219 and p.228).

Reasons

38. It emerged from hearing this application that the complaints may be clustered into 3 thematic groups, as identified by the parties. Namely, the appointment of an acting General Secretary (complaint 1); canvassing/social media (complaints 2-6); and, handling complaints/rule breaches (complaints 7-9). This proved to be a helpful typology at our hearing.

39. However, I shall determine each complaint in turn, below, as follows:

Complaint 1

That on or around 4th April 2025 the Union breached rule 19(d) when it appointed Matt Wrack as the Acting General Secretary. With the advanced notice of Patrick Roach stepping down, the Deputy General Secretary should have been asked to step in the Interim period. At no point within the Rules of the union or within the remit of the Staffing Review Committee does it allow for an Acting General Secretary.

39.1. This complaint is NOT upheld.

39.1.1. The Applicant submits that the appointment of Matt Wrack as Acting General Secretary of the Respondent union was not within the rules. In fact, he asserts there is no express provision permitting the creation of an “Acting General Secretary” role. Further, the Applicant contends that the Respondent union’s rules provide for substitution arrangements through the Deputy General Secretary or nominated staff, not an Acting General Secretary position. Moreover, the Applicant submits that this appointment occurred during an election period and therefore, he contends placed the ‘Acting General Secretary’ (Mr Wrack) in a position of institutional visibility and influence during the election process, creating perceived or actual advantage over other prospective candidates (ASB 2 @ pp.66, 301-306; 313-325; and, 351-390).

39.1.2. The Respondent contends that this complaint, based on the chronology of events, demonstrates that the complaint is also temporally unsound. For instance, the office of General Secretary was not vacant at any point in time prior to 22 April 2025 when Matt Wrack was initially declared elected. Consequently, the Respondent submits that Dr Roach, the then incumbent General Secretary, could not have exercised any power under

Rule 19(d) on or after 22 April by reason that he no longer held office. Furthermore, the Respondent submits that the Respondent's National Executive Committee having resolved to rescind its prior uncontested General Secretary election, it was within its powers to appoint an Acting General Secretary pending the conclusion of its pending new General Secretary election.

39.1.3. Having considered the evidence before me, I find that Complaint 1 is misconceived. It is erroneously predicated on the engagement of Rule 19(d) when, on the facts, there was no General Secretary in post at the material time. Given that there was no individual in post who could delegate their functions to the Deputy General Secretary, Rule 19(d) being silent on what happens in these circumstances, appointing an Acting General Secretary is reasonable in the circumstances. Certainly, more so permitted, when a candidate who had previously been elected, uncontested, now has to stand for re-election. The incumbent General Secretary, having vacated the position in readiness for the election which was now voided, enabled the powers conferred upon the Respondent union's National Executive to appoint Matt Wrack as Acting General Secretary, pursuant to Rules 7(k) and (l). In any event, applying Parlour v NASUWT (D/19/19-20), appointing an Acting General Secretary is not prevented by any rule, case law or statute, in such exceptional circumstances. In fact, as illustrated by Certification Officer v FBU (D/12/24-25) in granting an enforcement order, requiring the re-run of the General Secretary election and ordering that in the event of a contested election, that the incumbent would assume the position of Acting General Secretary, reinforces that unions are able to appoint Acting officers, including General Secretary, when such exceptional circumstances arise. For these reasons, this complaint is not upheld.

Complaint 2

That on or around 16th June 2025 the Union breached rule 20 (5)(a) when Members, National Executive members and Ex-President canvassed for Matt Wrack. Rule 20 (5)(a) clearly states that a prospective candidate may use the Central team for one email. Nowhere does it permit the use of self-publication on the union Facebook page.

39.2. This complaint is NOT upheld.

39.2.1. The Applicant complains that canvassing irregularities occurred in the re-run General Secretary election. Namely, the Applicant asserts that the Respondent union's National Executive did not adopt and publish appropriate guidance and protocols. Further, the Applicant submits that election addresses were not centrally managed, nor distributed. Moreover, the Applicant alleges that certain 'selective candidates' were promoted through union-associated platforms and social media. Also, the Applicant complains that there was a lack of transparency in making the protocols accessible to all members. Consequently, the Applicant asserts that such practices resulted in unequal exposure and disadvantage to others seeking nomination, as no equal access was available (ASB 2 @ pp. 307-316 and p.411).

39.2.2. The Respondent vigorously points out that this complaint does not assert that the Acting General Secretary (Matt Wrack) breached Rule 20(5)(a). Furthermore, the Respondent submits that any prospective candidate may request an email to be sent to Local Associations relevant to the election concerned, for the sole purpose of corresponding with Local Associations to seek nomination, as prescribed by Rule 20(5)(a). Namely, Rule 20(5)(a) does not prohibit any member from communicating their support for or endorsement of a preferred candidate on social media.

39.2.3. In evidence before me, there was much debate between the witnesses who gave oral evidence about the comparison of the guidance since 2023 (HB @ pp.68-70) and the previous, more prescriptive and restrictive guidance, up and until 2023 (ASB 2 @ pp.335) (*Douglas v. GPMU [1995] IRLR 426*). In my view, the guidance since 2023 unequivocally sets out what the candidates 'must not' do. Moreover, Rule 20(5)(a) provides a particular mechanism through which a prospective candidate can request the President to send an e-mail to every Local Association for the purpose of communicating their intent to seek nomination. In evidence before me, Ms Bremner, as Assistant General Secretary for Administration & Resources, confirmed the new guidance enables the usage of any social media by individual members or any members of the National Executive. The only restriction in the Guidance is that a candidate must not use the Respondent union's social media account. Therefore, I find no breach and for these reasons, this complaint is not upheld.

Complaint 3

That around 6th February 2025 and again 20th February 2025, the Union breached rule 20 (5)(b) when guidance was unobtainable or shared (despite requests for this information being made), leading to one candidate, Matt Wrack, having an advantage over other candidates either seeking nomination or taking part in the election.

39.3. This complaint is NOT upheld.

39.3.1. The Applicant contends that the guidance was unobtainable and not shared which directly affected the Applicant's ability to secure nomination support. In fact, the Applicant vigorously asserts that he requested the requisite information and guidance from the Respondent

union to no avail. Consequently, the Applicant submits that he was disadvantaged due to no equal access being given. The latter caused the Applicant to raise a formal complaint. The Applicant therefore submits that inadequate investigation took place and the election was not suspended (ASB 2 @ pp.192-213 and 390-415).

39.3.2. The Respondent submits that this complaint is temporally limited to the period 6 – 20 February 2025. Consequently, the Respondent submits that this complaint concerns an election which was rescinded by the Respondent union, declaring it null and void.

39.3.3. I am duty bound to conclude that this complaint is superfluous, given that the legal consequence of the resolution passed by the Respondent union's National Executive on 25 April 2025, in compliance with a Court Order by Consent, ordered by Mr Justice Goose., as I explained to the Applicant at the hearing itself, serves to extinguish any legal complaint that he has in relation to the earlier election process. By rescinding the previous General Secretary election and re-starting the nominations process, any breaches (if at all) are in fact resolved. In any event, Rule 20(5)(b) is a permissive rule which affords the National Executive the power to "adopt and publish such appropriate guidance ... as it shall deem necessary". It was plain, in evidence before me, that the guidance since 2023 was more progressive and provided greater clarity than the previous guidance. It is therefore not a breach of Rule 20(5)(b) for the Respondent union to have published the Guidance on a members-only section of its website since 17 July 2023. The Applicant was able to access such information and guidance from around April 2025, when he was readmitted to the Respondent union. For these reasons, this complaint is not upheld.

Complaint 4

That on or around 17th June 2025 Rule 20(7)(a) was breached when Matt Wrack sent out an independent Election Address through the social media site mattwrack.com. This should realistically be sent to the Union Headquarters and distributed simultaneously with other potential candidates to avoid disadvantaging any other candidate.

39.4. This complaint is NOT upheld.

39.4.1. The Applicant essentially contends that the mattwrack.com website posts were recirculated. Accordingly, the Applicant's complaint was that the Respondent union's own guidance was not adhered to (HB 1 @ pp 230-235 and ASB 2 @ pp.307-316).

39.4.2. The Respondent submits that Rule 20(7)(a) provides that: 'Validly nominated candidates shall be entitled to submit an election address'. Therefore, the Respondent contends that Rule 20(7)(a) is not intended to, nor does it, provide for an exclusive means whereby an election address is published. Moreover, the Respondent union's Guidance expressly permits a candidate to use social media to engage in canvassing, including through a personal website.

39.4.3. I concur entirely with the Respondent's interpretation of Rule 20(7)(a). For those reasons, the Applicant's complaint is without merit and is therefore, not upheld.

Complaint 5

That on or around 19th June 2025 the union breached rule 20 (7) (b) and (c) when Local associations distributed election information, including election addresses separately on social media, when only ballot paper addresses are allowed by rule breaching parts of the BLUE PAPER 0.14/23 Presented to National Officers 13 June 2023 and National Executive on 7 July 2023 on the matter of canvassing and election addresses.

39.5. This complaint is NOT upheld.

39.5.1. The Applicant submits that only ballot paper addresses are allowed to be distributed by the Respondent union's Local Associations under the new guidance (referred to as Blue Paper 2023) (ASB 2 @ pp. 192-213, 313-320 and 351-353).

39.5.2. The Respondent contends that this complaint proceeds on the erroneous premise that an 'Election Address' can only ever be communicated within the same envelope as the ballot paper. Rules 20(7)(b) and (c) provide that 'Election addresses shall be produced in accordance with a protocol agreed and published by National Executive' and that 'The election address shall be distributed at no cost to the candidate to those members who are entitled to vote in the election concerned at the same time as the ballot paper is dispatched to those members. Accordingly, Rule 20(7) is not intended to, nor does it provide for, an exclusive means whereby an election address is published.

39.5.3. It is clear to me that the Respondent union's 'Guidance' expressly permits each Local Association of the Respondent union to engage in campaigning, or synonymously termed 'electioneering' activity (as the Respondent suggests), on social media. Furthermore, from the evidence before me electoral candidates may use social media when seeking support during an election, but, as the guidance notes, they should be

mindful of their conduct in doing so, in compliance with the Respondent union's Code of Conduct. As I noted above, the 2023 Guidance is very clear on what candidates 'must not' do. I believe that the Applicant became confused by what the Guidance enabled in contrast to the previous guidance. Therefore, Local Associations of the Respondent union are permitted to use social media to express support for or to endorse any candidate. For these reasons, this complaint is not upheld.

Complaint 6

That on or around 19th June 2025 the union breached the following requirements in the BLUE PAPER 0.14/23 Presented to National Officers 13 June 2023 and National Executive on 7 July 2023, titled 'Guidance Canvassing and Campaigning in Connection with National Elections' which states that Candidates must not:

- **use databases or mailing lists held by the NASUWT for any purpose connected to the elections.**
- **use an NASUWT email address, social media account, branding, or stationery to conduct canvassing.**
- **conduct any canvassing through the national media or press.**

It is clear that NASUWT Local Association sites (funded through Imprest funds or updated using facility time allocation) which have access to the names of members have been promoting the Matt Wrack.com site which places other candidates at a disadvantage and is in breach of the above criteria.

The use of NASUWT Local Association sites, would be deemed as third parties, have been promoting Matt Wrack.com site which places other candidates at a disadvantage and is in breach of the above criteria.

39.6. This complaint is NOT upheld.

39.6.1. The Applicant explained in his closing submissions that this complaint is essentially that he believes that mailing lists and social media controlled by the Respondent union were used by Matt Wrack which demonstrates that the Respondent union gave preferential treatment to some candidates (ASB 2 @ pp.141-191 and 326-350).

39.6.2. The Respondent accepts that its Local Association sites would promote candidates they wished to. Yet, this complaint, the Respondent opines, is limited to the fact that one or more (unspecified) Local Associations included a reference to the mattwrack.com website on their Local Association website. In fact, the Respondent contends that there is no suggestion that Matt Wrack personally used the Respondent union's database, mailing list, email address or social media account to conduct canvassing.

39.6.3. I need not repeat my reasoning for complaints 4 and 5, above, regarding the relevant election Guidance. However, from the rules before me, there is no prohibition on a Local Association of the Respondent union to refer to mattwrack.com or any other candidates for that matter. During union elections, particularly for its General Secretary, it is commonplace for Local Associations to communicate with its members the fact that it has nominated a candidate and the reasons why they have been nominated. For these reasons this complaint is not upheld.

Complaint 7

That on or around 29th May 2025 the union breached rule 20(9)(b) when the National President emailed me in an attempt to combine two complaints of a similar nature, but they are separate. At no time has the President presented a report about the issue raised about the complaint.

39.7. This complaint is NOT upheld.

39.7.1. The Applicant submits it is not merely the substance of the complaints, but how they were handled. He insists that his complaints were not processed in accordance with the Respondent union's rules. The Applicant submits that these failures amount to procedural unfairness. The Applicant contends that the attempt to merge and/or conflate both of his Rules 20 and 27 complaints was wrong, as there are separate processes for dealing with them under the Respondent union's Rules. The Applicant opines that he was subject to detriment by the Respondent union in that they impaired his ability to seek nomination; his reputation was affected by unchallenged misinformation; and his complaints were not properly investigated. This, he asserts, identifies a pattern of unfairness towards him, procedural unfairness and a lack of transparency (ASB 2 @ pp.141-191 and 321-325).

39.7.2. The Respondent accepts that the Applicant submitted two complaints under Rule 20 in respect of election misconduct on 15 and 23 May 2025 (HB 1 @ pp.176; 179; and 182-184) and a complaint under Rule 27 in relation to discipline on 29 May 2025 (HB 1 @ pp. 189-92]). However, the Respondent asserts that both these complaints were of a "similar nature", and for that reason, it is entirely reasonable that the Respondent opined that any investigation into both were capable of overlap and that the Rule 20 complaint would effectively be put on hold until the disciplinary matter

had been investigated (HB 1 @ p.193). 39.7.3 In the documentary evidence before me, on 17 July 2025 (HB 1 @ p. 213) the Applicant was informed that his complaint under Rule 27 (ie the disciplinary complaint) was rejected and he was provided with the report which concluded that the complaint was vexatious. Furthermore, on 17 October 2025, the Respondent union's President formally presented a report dismissing the Applicant's complaint under Rule 20 (HB 1 @ pp.226 -227). Evidently, both complaints had been dealt with; and separately; and in compliance with the Respondent union's Rules. Albeit there had been an overdue delay in respect of the Rule 20 complaint due to 'an oversight', as explained in evidence before me by the Respondent union's President, Mr Broom. The President's ruling was formally reported to the National Officers Committee on 17 October 2025 (HB 1@ pp.226-227) and the Applicant was duly notified on 20 October 2025 (HB 1 @ p.219). Nevertheless, I find that there is no breach. It is clear from the evidence before me that both complaints under Rules 20 and 27 concerned precisely the same factual matrix. Accordingly, the findings of fact reached in relation to the Rule 27 complaint could inform any conclusion and/or action to be taken under Rule 20. To pretend otherwise would be to defy reasonable interpretation and common sense (see Kelly v Musicians' Union [2020] IRLR 809; McVitae v UNISON [1996] IRLR 33; and, Embery v FBU [2023] EAT 134). Accordingly, there has been no breach of Rule 20(9)(b). For these reasons, this complaint is not upheld.

39.7.3. However, leading Counsel, Mr Brittenden, on behalf of the Respondent raises a jurisdictional point with me in respect of this complaint. Namely, he doubts whether I hold jurisdiction to consider this complaint. Firstly, I remind myself that I hold jurisdiction under s. 108A to entertain a complaint about a threatened or anticipatory breach of rule. Leading Counsel cites a passage from Harvey on Industrial Relations and Employment Law {3912} in support of his jurisdictional point. Essentially the legal point being mooted here by leading Counsel is whether the

threat needs to be a continuing threat at the time the Applicant brings his application before me. On the facts, of the instant complaint, the Applicant's Rule 27 complaint had been dealt with and closed on 17 July 2025 which predates the Applicant's application on 29 August 2025. For the avoidance of any doubt, I accept that my jurisdiction over threatened breaches is to allow me to give a ruling to prevent the threatened or imminent wrong ('quia timet'). In fact, to prevent the anticipated harm because the Applicant fears that still. In the instant case, that was removed. Therefore, in any event and in the alternative, this complaint would fall for want of jurisdiction.

Complaint 8

That on or around 29th May 2025 the union breached rule 20(9)(c) when the National officers have failed to act on the Election misconduct complaint that was in relation to the actions of Becky Tebbett. In relation to the circulation of information that was misleading about a candidate seeking nomination. This was not vexatious or frivolous, it was based on fact. However, this complaint was not acted upon as per this rule.

39.8. This complaint is NOT upheld.

39.8.1. The Applicant submits that his complaints were not investigated. Essentially the Applicant asserts that for neither the Rule 20 nor Rule 27 complaint was he asked for further comment and/or information. Therefore, he contends that he was deprived of procedural fairness (ASB 2 @ pp.313-350).

39.8.2. The Respondent contends that this complaint seeks to challenge the findings and conclusions reached by the Respondent union's Past President in respect of his Rule 27 complaint. Such, the Respondent submits is impermissible and does not fall within my jurisdiction. Further, the Respondent contends that Under Rule 20(9)(c) the National Officers

Committee is only required to consider any complaint of misconduct not ruled frivolous or vexatious by the President. Therefore, the Respondent avers that the findings and conclusions reached under the Rule 27 investigation were, in substance, dispositive of the Rule 20 complaint.

39.8.3. Applying Hamlet v GMB [1987] ICR 150, my only duty when considering questions of appeals and the internal machinery for resolving disputes in unions is to assess that internal machinery has been properly followed. In doing so, I am satisfied that in accordance with Rule 20(9)(c) the National Officers of the Respondent union would only consider a complaint of election misconduct which has not been ruled 'vexatious'. In the instant matter, the Respondent union's President had formally concluded that the complaint was vexatious, as so entitled to do. As was clarified in evidence before me, by the Respondent union's President, Mr Broom, he consequently, reported that outcome to the National Officers Committee on 17 October 2025, pursuant to and in accordance with the Respondent union's Rules. In these circumstances, there is no breach of Rule 20(9)(c). For these reasons, this complaint is not upheld.

Complaint 9

That on or around 29th May 2025 the union breached rule 20(9)(c) when the National officers have failed to accept a genuine complaint over misconduct within the election process and the disadvantage now given to one candidate seeking nomination and failed to act under this rule. This prevented Rules 20(9)(g) – 20(9)(k) being considered or enacted after a tribunal being established and discussed with the NEC.

39.9. This complaint is NOT upheld.

39.9.1. In closing submissions, the Applicant explained that he believed that his complaints ought to have been escalated to a Tribunal of Inquiry under the Respondent Union's Rule. He contends that such mandatory steps

and oversight would have ensured fairness (ASB 2 @ pp.333-337 and 351-390).

39.9.2. The Respondent submits that the Respondent union's Rules provide that there is no obligation for the National Officers to appoint a Tribunal of Inquiry even in circumstances where the President does not determine the election misconduct complaint to be frivolous or vexatious. It has a discretion whether or not to do so. Such was not exercised here nor deemed applicable.

39.9.3. The Respondent union's Rule 20(9)(b) states: 'The General Secretary (or President in the case of an election for General Secretary) shall have power to dismiss a complaint they consider to be frivolous or vexatious. The General Secretary (or the President as the case may be) shall report the dismissal of such a complaint to the National Officers' Committee Meeting immediately following their decision'. On the evidence before me, this is exactly what occurred in compliance with this Rule. For these reasons, this complaint is not upheld.

Conclusion

40. Given my findings and reasons above, I therefore do not need to address remedy.

41. However, having heard all of the evidence, I remain perplexed at the evidence of Mr Taylor and Ms Fegan, on behalf of the Applicant. Mr Taylor's evidence did not address any of the Applicant's complaints and provided background to other matters predating the Applicant's complaints. Furthermore, and for completeness, I found Ms Fegan's evidence of no probative value and not relevant to the matters before me. Accordingly, I gave it no weight.

42. Whilst I have no doubt that the Applicant brought his complaints in good faith; if not, in disappointment, at not being able to stand in the re-run General Secretary election in 2025; nevertheless, I consider that he was confused and/or misguided in much of his understanding and interpretation of the Respondent union's Rules. In my view

and reasoning, the Respondent union did comply with its own Rules and applied its own procedures properly and resolved the Applicant's complaints. As a result, the Applicant has not suffered disadvantage or any detriment; nor any procedural unfairness, as complained of.

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

S T Hardy

STEPHEN HARDY

The Certification Officer