

**SD/1/26-27**

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

**Ogbonna Nnamuchi**

Applicant

and

**UNISON: The Public Service Union**

Respondent

**Date of Decision**

**17 April 2026**

## **Contents**

<b>Decision.....</b>	<b>3</b>
<b>Background.....</b>	<b>3</b>
<b>The relevant statutory provisions .....</b>	<b>6</b>
<b>The relevant rules of the Union .....</b>	<b>10</b>
<b>The Applicant’s submissions .....</b>	<b>22</b>
<b>The jurisdiction of the Certification Officer .....</b>	<b>24</b>
<b>Conclusions .....</b>	<b>28</b>

## Decision

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

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

## Background

2. Ogbonna Nnamuchi was a member of UNISON: The Public Service Union (“the Union” or “Respondent”). They first submitted an application for a declaration that there has been a breach of the rules of the Respondent on 11 February 2026.
3. On the application form to the Certification Office, the Applicant summarised the complaint as:

1 Under UNISON’s own Rule Book, notice to a member (including termination of membership) must be served personally or by the General Secretary sending a prepaid letter to the member’s last-known address.

2 Extract from UNISON Rule Book — Service of Notices

3. Rule M – Service of notices

7.1 Service of any notice upon a member may be effected personally or by the General Secretary sending it through the post in a prepaid letter addressed to such member at their last-known address.

7.2 Any notice if served by post shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post.

#### 4 Other rules – DETAILS ATTACHED

4. The closing phrase “DETAILS ATTACHED”, referred to an accompanying document of 1047 words.
5. Within that document, the Applicant referred to other rules as follows:

The Applicant relies upon Rule C (Membership – Ceasing to be a Member) of the UNISON Rule Book (2024 edition).

Rule C provides, in summary:

2

- (a) Membership ceases automatically only in defined circumstances, including arrears exceeding three months of subscriptions properly due;
- (b) Otherwise, termination requires authority of the National Executive Council (NEC);
- (c) Termination by decision requires written notice;
- (d) The Rule Book provides for service of notice by post to the member’s last known address;
- (e) The Rule Book provides for retention of membership for unemployed members, including members pursuing dismissal proceedings, subject to payment of a reduced

annual retention contribution (approximately £4 per annum).

6. On 27 February 2026, the Certification Office wrote to the Applicant to inform them that a preliminary view had been reached that the application did not fall within the jurisdiction of the Certification Officer (CO).
7. The letter explained to the Applicant that the CO had delegated to me, as the Assistant Certification Officer (ACO), responsibility for determining questions of jurisdiction arising at the stage of initial consideration of applications. In light of the preliminary view that the application did not fall within the CO's jurisdiction, the Applicant was informed that they had two options:
  - 7.1. **Option 1** was to withdraw the application, in which case no formal decision would be made or issued and the matter would be closed;
  - OR,
  - 7.2. **Option 2** was to request that a formal decision be made following the preliminary view. The Applicant was told that if they chose this option, I would formally consider whether the complaint fell within the CO's jurisdiction and issue a written decision. That decision would be sent to the Applicant, and the Union, and would be published on the CO's website.
8. The Applicant was also told that should they select option 2, they would then have 2 weeks to provide any supplementary evidence or argument on which they wished me to rely in determining the issue of jurisdiction.
9. Following this, the Applicant submitted a separate complaint under a different jurisdictional heading of the CO, requesting that the two applications be combined. The Applicant was told that this would not be possible and on 23 March 2026, they confirmed their preference for a formal decision regarding the issue of jurisdiction in respect of the first application.

10. For the avoidance of any doubt, because the application has not been accepted for determination by the CO for want of jurisdiction, there has been no correspondence with the Respondent Union in respect of the application.

### **The relevant statutory provisions**

11. The statutory provisions which are relevant for the purposes of this application are as follows:

The Trade Union and Labour Relations (Consolidated)  
Act 1992:

#### **Right to apply to Certification Officer – s108A**

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

(2) The matters are—

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

(b) disciplinary proceedings by the union (including expulsion);

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

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

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

(3) The applicant must be a member of the union or have been one at the time of the alleged breach or threatened breach.

(4) A person may not apply under subsection (1) in relation to a claim if he is entitled to apply under section 80 in relation to the claim.

(5) No application may be made regarding—

(a) the dismissal of an employee of the union;

(b) disciplinary proceedings against an employee of the union.

(6) An application must be made—

(a) within the period of six months starting with the day on which the breach or threatened breach is alleged to have taken place, or

(b) if within that period any internal complaints procedure of the union is invoked to resolve the claim, within the period of six months starting with the earlier of the days specified in subsection (7).

(7) Those days are—

(a) the day on which the procedure is concluded, and

(b) the last day of the period of one year beginning with the day on which the procedure is invoked.

(8) The reference in subsection (1) to the rules of a union includes references to the rules of any branch or section of the union.

(9) In subsection (2)(c) “industrial action” means a strike or other industrial action by persons employed under contracts of employment.

(10) For the purposes of subsection (2)(d) a committee is an executive committee if—

(a) it is a committee of the union concerned and has power to make executive decisions on behalf of the union or on behalf of a constituent body,

(b) it is a committee of a major constituent body and has power to make executive decisions on behalf of that body, or

(c) it is a sub-committee of a committee falling within paragraph (a) or (b).

(11) For the purposes of subsection (2)(d) a decision-making meeting is—

(a) a meeting of members of the union concerned (or the representatives of such members) which has power to make a decision on any matter which, under the rules of the union, is final as regards the union or which, under the rules of the union or a constituent body, is final as regards that body, or

(b) a meeting of members of a major constituent body (or the representatives of such members) which has power to make a decision on any matter which, under

the rules of the union or the body, is final as regards that body.

(12) For the purposes of subsections (10) and (11), in relation to the trade union concerned—

(a) a constituent body is any body which forms part of the union, including a branch, group, section or region;

(b) a major constituent body is such a body which has more than 1,000 members.

(13) Any order under subsection (2)(e) shall be made by statutory instrument; and no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

(14) If a person applies to the Certification Officer under this section in relation to an alleged breach or threatened breach he may not apply to the court in relation to the breach or threatened breach; but nothing in this subsection shall prevent such a person from exercising any right to appeal against or challenge the Certification Officer's decision on the application to him.

(15) If—

(a) a person applies to the court in relation to an alleged breach or threatened breach, and

(b) the breach or threatened breach is one in relation to which he could have made an application to the Certification Officer under this section,

he may not apply to the Certification Officer under this section in relation to the breach or threatened breach.

#### **254 The Certification Officer**

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

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

### **The relevant rules of the Union**

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

**Rule M.7.1:** Service of any notice upon a member may be effected personally or by the General Secretary sending it through the post in a prepaid letter addressed to such member, at their last-known address.

**Rule M.7.2:** Any notice if served by post shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and it shall be sufficient proof of service that the letter containing the notice was properly addressed and posted.

## **Rule C Membership**

### **1 Scope of Representation**

#### **1 The Union shall seek to represent:**

1.1 those employed by any body, authority, company or corporation which has a public, charitable, educational, or statutory function, including those employed in the local government service, the health services, the electricity supply industry, the gas, transport and water industries, the education services, the police and justice sectors and in the voluntary and community sectors.

1.2 those employed in such other areas of work and such other persons as may be provided for in these Rules, and as the National Executive Council may from time to time determine.

#### **2 Categories of membership**

2.1 Membership shall be open to any person employed in the provision of public services and in such other employment as may come within the meaning of Rule C.1 above.

#### **2.2 Subscriptions**

According to their category of membership as set out below, members shall pay subscriptions as provided in Schedule A. Schedule A may be changed from time to time by the National Delegate Conference in accordance with Rule N. In addition members shall pay any local levy fixed by their branch in accordance with Rule H.

## 2.3 Full membership

2.3.1 Full members shall be eligible for full rights and benefits.

2.3.2 Membership shall extend to persons who have previously been members of the Union in employment within the meaning of Rule C.1 and who are currently:

1 On unpaid maternity, paternity, adoption, medically approved compassionate leave or other unpaid leave from their employment.

2 On strike or locked out from their employment.

2.3.3 Eligibility for full membership shall extend to persons whether or not previously members of the Union who are undertaking a course of training or study whether full-time or part-time designed to lead to becoming employed within the scope of Rule C.1.

## 2.4 Unemployed members

2.4.1 Members dismissed, made redundant, having accepted a compromise agreement or having resigned as an alternative to dismissal from employment within the meaning of C.1 who notify the branch secretary in writing within six months of their loss of employment may achieve unemployed membership for two years from the date of dismissal, redundancy, agreement or resignation. This entitles them to retain benefits from the union for up to two years after they leave, provided they remain unemployed.

2.4.2 Unemployed members shall be entitled to attend branch meetings and to vote on issues not relating to

pay and conditions of members in employment. They are not entitled to hold office in the union unless otherwise decided by the National Executive Council providing they have not been dismissed from employment for any act of discrimination or harassment as defined in Rule I 2.3 (i) and (ii).

## 2.5 Members in education

2.5.1 This category of membership shall extend to persons not falling within Rule 2.3.3 above who are undertaking a course of education and were members of the Union in employment immediately prior to undertaking the course.

2.5.2 Persons in this category of membership shall not be entitled to hold any office in the Union.

## 2.6 Retired members

2.6.1 A member may apply at any time for retired membership if they have had at least two years' continuous membership immediately prior to their retirement from employment within those areas of work set out in Rule C.1 and who are retired.

2.6.2 Retired members who return to paid employment, which falls within the scope of Rule C.1, will be obliged to pay the appropriate subscription rate to remain in UNISON membership. Such members will be able to resume retired member status on ceasing paid employment. Retired members, who return to paid employment, which falls outside the scope of Rule C.1 will cease holding retired member status. Such

members may apply to resume UNISON retired member status when they cease paid employment.

2.6.3 Retired members shall be entitled to attend branch meetings and to vote on issues not relating to the pay and conditions of members in employment. They will be entitled to stand for office and vote only for positions in the Retired Members Organisation unless otherwise determined by the National Executive Council or as otherwise provided for in these Rules.

## 2.7 Honorary life members

2.7.1 Existing full members of the Union may be awarded honorary life membership in recognition of their service to the Union upon cessation of their normal membership. Such honorary life members must be nominated by their branch or by the National Executive Council, which body must approve all awards.

2.7.2 Honorary life members shall be entitled to participate in the Retired Members' Organisation and be eligible for the same rights and benefits as retired members. They will not be required to pay the fee for retired members set out in Schedule A(6).

2.7.3 Existing life members of COHSE and NUPE and honorary members of NALGO shall become honorary life members of UNISON on Vesting Day.

## 2.8 Honorary members

2.8.1 A person is eligible to be an honorary member who is not otherwise eligible to be a member and who has rendered outstanding service to the Union, the

Trade Union Movement, or society in general. Nominations will be considered and determined by the National Executive Council.

2.8.2 An honorary member shall not be required to pay any subscription, and shall hold the membership for life, unless they resign the membership or is deprived of it in accordance with Rule I or in such cases where a Rule I investigation is either impracticable or inappropriate, the National Executive Council shall have the power to revoke the Honorary Membership.

2.8.3 Honorary members are not entitled to hold any office, to act as delegate or representative on behalf of any branch, group or body of the Union, are not entitled to any benefit, and are not entitled to any vote.

2.8.4 Honorary members of COHSE, NALGO and NUPE at Vesting Day shall be honorary members of the Union.

## 2.9 Employees of the union

2.9.1 This category of membership shall extend to employees of the Union who shall pay contributions as provided in Schedule A(1). A central register of such members shall be maintained at Head Office. Except as specified below all such members shall be eligible for all the rights and benefits of membership.

2.9.2 Members in this category shall be excluded from eligibility to:

1 seek or hold office in any lay structure of the Union

2 be in membership of any branch or of any Group or of any Region

3 participate as a delegate in any policy-making forum of the Union

4 participate as a member in any policy-making processes of the Union (excepting as set out below) or to vote for any lay member of the National Executive Council or any lay member of any Service Group Executive Committee

5 be recognised for the purposes of collective bargaining with the National Executive Council.

2.9.3 Members in this category shall have the right to vote in any political fund ballot.

### **3 Allocation to categories**

In the event of uncertainty as to which category of membership it is appropriate for a member or members to belong, the National Executive Council may allocate the member(s) to the category it deems most appropriate.

### **4 Members' benefits**

4.1 Subject to Rule C7.2 below a member is eligible for benefits in accordance with their category of membership, provided that they have paid the contributions required of them under these Rules.

4.2 Details of members' respective eligibility to benefits are set out in Schedule B.

### **5 Becoming a member**

5.1 Every person wishing to become a member shall complete and sign a prescribed form of application for membership or by using the prescribed on-line system for joining, using their full name and giving their address, and shall return it either to the branch secretary of the appropriate branch or to the office specified on the form. Membership shall commence on the date details of membership are entered into the membership records system.

5.2 A member of a political party or organisation, whose constitution, aims or objectives is/are expressly or impliedly contrary to the equality objectives of UNISON set out in Rules A.3 and/or B1.2 and/or B1.3 of the UNISON Rule Book, shall not be eligible for membership of the Union. This specifically includes the British National Party, the National Front and similar parties or organisations as decided from time to time by the National Executive Council.

5.3 Members shall be entitled to vote in statutory elections from the date of inclusion in the Union's central membership register or from the qualifying date for participation in an election as specified in regulations made by the National Executive Council.

5.4 No person shall be a member of more than one branch of the Union at any one time.

5.5 Where the branch has reason to believe an applicant may be ineligible for membership, the applicant shall be given notice in writing by the branch secretary of the proposal to exclude or expel them and the reasons for that proposal;

the individual will be given a fair opportunity to make representations in respect of that proposal, and those representations will be considered fairly.

5.6 Any person whose application for membership or transfer has been rejected has the right of appeal to a regional appeals committee against the decision of the Branch. The procedure to be adopted will be the same as in the case of a disciplinary hearing.

## **6 Obligations of membership**

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

6.2 Details of where the rulebook may be downloaded from the UNISON website will be provided to each new member when they join. Hard copies of the rulebook may be requested.

6.3 Every member who changes their address shall notify the Union of the change in the prescribed way.

6.4 It is the obligation of the member to ensure that their subscription is paid to the Union at the correct rate as set out in Schedule A, and on the date on which it is due. Payment may be made in cash or by cheque (to the member's Branch Secretary or to a Union Office as directed); by standing order; by direct debit; by check-off arrangements made through the member's employer; or by any other method acceptable to the National Executive Council.

## **7 Ceasing to be a member**

7.1 Loss of eligibility

Any member ceasing to be eligible for membership within Rule C.1, and who does not fall within the classes of membership set out at Rule C.2, shall automatically cease to be a member unless:

7.1.1 the National Executive Council decides otherwise; or

7.1.2 they intend to be absent from the employment defined in Rule C.1 for a temporary period only, in which case they may be allowed by decision of their branch to retain membership.

## 7.2 Arrears of subscriptions

7.2.1 Any person owing more than three months' subscriptions shall cease to be a member of the Union (unless the National Executive Council decides otherwise) and shall forfeit all that they have paid to the Union.

7.2.2 Such a person may rejoin the Union. The National Executive Council shall require such a person to pay outstanding subscriptions or such other amount that it may determine.

## 7.3 Resignation

Any member may at any time resign their membership by submitting a written resignation to their Branch Secretary or to the General Secretary. Upon resigning, that member will forfeit any right to receive or continue to receive benefits or privileges of membership, and shall forfeit all that they have paid to the Union.

## 7.4 Suspension

7.4.1 The National Executive Council shall have the power in exceptional circumstances to suspend a member from office for a period of not more than 60 days (unless such a period is extended by agreement between the parties) if the member faces disciplinary charges under Rule I and the National Executive Council considers it appropriate in the interests of their branch or of the Union generally that they should be suspended until the charges are determined.

7.4.2 In cases of alleged financial irregularities brought under Rule I and the member faces disciplinary charges related to such allegations arising from a Rule I investigation, the National Executive Council may suspend the member(s) from holding office until the conclusion of the disciplinary investigation, hearing or appeal.

#### 7.5 Expulsion

A member may be expelled from membership in accordance with the disciplinary procedure set out in Rule I. In such a case the member will forthwith forfeit any right to receive (or to continue to receive) the benefits and privileges of membership.

#### 7.6 Termination

Notwithstanding anything in these Rules the National Executive Council may, by giving six weeks' notice in writing, terminate the membership of any member, if necessary, in order to comply with a decision of the Disputes Committee of the Trades Union Congress.

### **8 The Union's annual membership audit**

8.1 The Union's membership system shall be audited each year by an Assurer.

8.2 The Assurer will be a qualified professional body of either financial auditors or membership scrutineers.

8.3 The Assurer will be appointed by the National Executive Council who thereafter shall continue to hold office until replaced by the National Delegate Conference.

8.4 An Assurer must be re-appointed for the following reporting period unless:

1 A resolution has been passed by the National Delegate

Conference expressly stating that they are not to be re-appointed or appointing someone else instead.

2 The Assurer has given notice that they do not wish to be re-appointed.

3 They no longer meet the qualifications for appointment.

4 They are no longer able to act as an Assurer due to incapacity.

8.5 The Assurer will provide a membership audit certificate for the previous financial year to the National Executive Council for approval and adoption.

## **The Applicant's submissions**

13. The application concerns an alleged breach of the rules of the Respondent Union in respect of the Applicant's membership status, the cessation of membership, the alleged failure to place the Applicant into a different category of membership, and the alleged absence of written notice said to be required before membership could lawfully be treated as terminated. The Applicant relies expressly on Rule M.7.1 and Rule M.7.2, and more generally on a large section of the Rulebook, titled "Rule C - Membership", which includes provisions concerning categories of membership, unemployed membership, payment of subscriptions, cessation of membership, expulsion and termination. The Applicant's case, as presented, is that membership did not lawfully cease and that a regional or branch committee treated it as terminated without proper authority and without proper notice.

### **14. Rule M.7.1**

14.1. In the Applicant's submission, Rule M.7.1 was breached because no written notice of termination issued by or on behalf of the NEC was ever served, that no letter from the General Secretary was delivered to the registered address, and that in the absence of such notice, membership did not lawfully cease.

14.2. The Applicant does not make any distinct submission that Rule M.7.1, on its face, relates to one of the matters listed in section 108A(2). Rather, the Applicant's jurisdictional submission is put at a broader level. The Applicant submits, in general terms, that the matter falls within section 108A(2)(b) and/or section 108A(2)(d), because the Respondent treated membership as ended without informing the member, and because there may have been a decision by a regional or branch body or some decision-making meeting.

**15. Rule M.7.2**

15.1. The Applicant submits that Rule M.7.2 was breached for substantially the same reason. The Applicant says that no notice was posted to them, and that no notice can therefore be deemed to have been served. On that basis, the Applicant submits that membership could not lawfully have been treated as terminated.

15.2. Again, the Applicant does not appear to make any separate submission that Rule M.7.2 itself relates to a matter within section 108A(2). Instead, the Applicant relies on a broader submission that the absence of notice means the matter should be treated as an expulsion, or that it may have involved action by a regional or branch body or some other decision-making meeting. There is no submission that Rule M.7.2 is a rule that explicitly relates to a listed matter.

**16. Rule C**

16.1. The Applicant submits that Rule C was breached because the Respondent wrongly treated their membership as having ceased when they should have remained within a protected category of membership. The Applicant relies on the parts of Rule C dealing with membership for those locked out from employment, unemployed membership for members dismissed or otherwise losing employment, allocation to categories of membership, the obligation to pay subscriptions, and the provisions governing loss of eligibility, and arrears of subscriptions. The Applicant's case is that because they were unemployed and pursuing proceedings, they should not have been treated as liable for full monthly subscriptions, that the factual trigger for automatic cessation was therefore not satisfied, and that any purported termination by a regional or branch body was ultra vires.

16.2. In respect of jurisdiction, the Applicant advances two possible routes.

- i. First, the Applicant suggests that the matter may fall within section 108A(2)(b), on the basis that the cessation of membership was effectively an expulsion without any disciplinary procedure having been followed.
- ii. Second, the Applicant suggests that the matter may fall within section 108A(2)(d), on the basis that a regional or branch body, or some other decision-making body, purported to determine or treat the membership as terminated without having the necessary power under the rules. The Applicant does not, however, identify with precision which particular provision within Rule C is said to engage section 108A(2)(d). Insofar as the application concerns cessation of membership by reason of arrears of subscription, the Applicant's submissions are properly characterised as relying on an alleged breach of Rule 'C.7.2 Arrears of subscription'.

## **The jurisdiction of the Certification Officer**

17. The CO's jurisdiction to determine applications for a declaration that a union has breached its rules is narrow. It is not a general supervisory jurisdiction over union rule books. Section 108A(1) of the 1992 Act provides that a member of a trade union may apply to the CO for a declaration that there has been a breach or threatened breach of the rules of the union relating to:

- (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.

18. To fall within this jurisdiction, the application must identify a rule which, on its proper construction, relates to a listed matter. The allegations contained within the application must also be considered to determine whether, taken at their highest, they engage the rule in its qualifying aspect. This is necessary in order to establish whether the application concerns a breach of a rule relating to one of the listed matters within the meaning of section 108A.
19. On its literal reading, the phrase “relating to” in the context of section 108A qualifies the rule, not the underlying events or their consequences. The question is whether the relationship between the rule and one or more of the listed matters is sufficiently clear and direct for the CO to find that it “relates”.
20. Thus, when addressing jurisdiction, the CO begins by reading the relevant rule objectively to determine whether, on its face, it relates to one of the listed matters.
21. Where the rule’s relationship to a listed matter is not immediately clear on its face, the first question is whether, in its proper operation, the rule has an inherent aspect that connects it with a listed matter. For this limited purpose, the CO may consider the facts and circumstances only insofar as they illuminate the rule’s scope and operation. The facts and circumstances cannot alter the rule’s meaning or create a relationship the rule does not inherently bear.
22. Where no such relating aspect is identified, the application will be outside of the CO’s jurisdiction.

23. Where the CO finds that rule does relate to a listed matter, the CO will consider whether the allegations, taken at their highest, are capable of engaging the rule in that relating respect.
24. This recognises that a rule may contain provisions which, in part, relate to a listed matter, and in part, do not. In such cases, the CO's jurisdiction will depend on whether the alleged breach engages the aspect of the rule which gives it its relationship to the listed matter. Again, the CO may consider the facts and circumstances of the application for the limited purpose of understanding whether the alleged breach, taken at its highest, is capable of engaging the rule in the respect that gives rise to its relationship with a listed matter. The facts and circumstances cannot convert an unrelated aspect of a rule into one which relates to a listed matter.
25. Whether in the straightforward or exceptional case, the relationship between the relevant rule and a listed matter must be sufficiently clear and direct, and must flow from the rule itself. Where the only link with a listed matter arises from the events or consequences of an alleged breach, rather than from the scope or operation of the rule, the rule cannot be said to "relate" to a listed matter, and the application will fall outside of the CO's jurisdiction.
26. I would add one further observation about the operation of these principles in respect of section 108A(2)(b):
  - 26.1. In certain applications, the substance of the allegations may be that action was taken against a member for a disciplinary purpose, notwithstanding that the union did not explicitly invoke its disciplinary procedures, or that it purported to act under some other rule.
  - 26.2. Where the Applicant's case is that the union purported to act under a rule which is not, on its face, concerned with discipline, particular care is required in order to reach a finding that the rule contains an inherent aspect relating to disciplinary proceedings. Union rules frequently

provide for decisions which may disadvantage an individual member. For example, decisions taken in accordance with rules relating to membership eligibility, subscriptions, benefits, representation, or legal assistance may all potentially have adverse consequences for an individual member. It does not follow from that fact alone that those rules contain an inherent aspect that can be correctly characterised as relating to disciplinary proceedings. Where, having regard to the rule's proper operation, and to the alleged facts and circumstances only insofar as they illuminate the scope and operation of the rule relied upon, there is a basis for a possible finding that the rule was used as the means of imposing action that was disciplinary in substance, the CO may find that the rule relates, in that respect, to disciplinary proceedings. A bare assertion that such a rule was applied punitively, or that its consequences were felt to be disciplinary, is not sufficient.

- 26.3. In considering these questions, it is necessary to distinguish between the purpose of the union's action and its consequences. A measure is not disciplinary simply because it disadvantages a member or has a punitive effect from the member's perspective. The question is whether the action was taken for a disciplinary purpose, or whether it imposed a penalty of a kind that was disciplinary in nature, rather than being taken for some administrative, representational, eligibility, or other non-disciplinary purpose. Where the alleged facts and circumstances, taken at their highest, do not support a possible finding of the union's action being taken for a disciplinary purpose, the application will remain outside of the CO's jurisdiction.
- 26.4. Applications of this kind may be framed in more than one way. In some cases, an applicant may submit that the union ought to have proceeded, but did not proceed, under the rules which deal expressly with disciplinary proceedings, and that those rules were therefore

breached by not being followed at all. In other cases, an applicant may rely upon the rule under which the union in fact purported to act. It is, of course, for an applicant to decide how best to formulate their application and which rule or rules they say have been breached. Notwithstanding this, it is important to note that however an applicant chooses to formulate their application, the alleged breach must be capable, when taken at its highest, of engaging the rule allegedly breached in the respect which gives it its relationship to disciplinary proceedings. If the connection between the alleged breach and the qualifying aspect of the rule is absent, the application will remain outside the jurisdiction of the CO.

## **Conclusions**

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

### **28. Rule M.7.1**

28.1. Rule M.7.1 is a rule about the service of notices upon members. It does not, on its face, relate to the appointment or removal of a person from office, disciplinary proceedings, balloting, or the constitution or proceedings of an executive committee or decision-making meeting. The Applicant's submissions, taken at their highest, do not identify a sufficiently clear and direct link between this rule and a listed statutory matter. The complaint under this rule therefore appears, in substance, to be a complaint about notice in the context of membership administration and cessation of membership, which would not ordinarily fall within section 108A.

28.2. Accordingly, in respect of Rule M.7.1, the application is not within the jurisdiction of the CO.

29. **Rule M.7.2**

29.1. Rule M.7.2 is a rule about when notice served by post is to be treated as having been served, and what is sufficient proof of service. It does not, on its face, relate to any of the matters listed in section 108A(2). Nor does the Applicant's submission to me identify any inherent aspect of the rule which would bring it within one of those matters. The complaint under this rule therefore appears to concern service of notice in a membership context, rather than a breach of a rule relating to a listed statutory matter.

29.2. Accordingly, in respect of Rule M.7.2, the application is not within the jurisdiction of the CO.

30. **Rule C**

30.1. Rule C comprises a section of the rule book consisting of over 2000 words. It contains a range of provisions addressing different matters and operating in different respects. It is therefore possible to envisage an application alleging a breach of Rule C which engages an aspect of the rule that relates to one or more of the listed matters, and which might accordingly fall within the CO's jurisdiction.

30.2. However, the application before me does not rely upon any such aspect. Even taking the allegations at their highest, the provisions of Rule C relied upon concern eligibility for categories of membership, unemployed membership, subscriptions, arrears, and automatic cessation of membership. Those provisions regulate the administration of membership and the consequences of non-payment or loss of eligibility, and do not engage any aspect of Rule C that relates to any listed matter.

30.3. Notwithstanding this, the Applicant's application falls within the category of applications contemplated in paragraph 26 above. The

Applicant's case, taken at its highest, is that the Respondent's treatment of his membership as having ceased was disciplinary in substance, notwithstanding that the Respondent is said to have acted under membership and subscriptions rules rather than under rules dealing expressly with disciplinary proceedings.

- 30.4. However, the application identifies no factual matter which, taken at its highest, is capable of supporting that characterisation. The material relied upon concerns membership status, eligibility, subscriptions, arrears, and cessation of membership. Those matters may have had adverse consequences for the Applicant, but, as presented within the application, they do not engage a rule, or an aspect of a rule, relating to disciplinary proceedings.
- 30.5. The Applicant also relies upon section 108A(2)(d). As discussed in paragraph 16.2(ii), the Applicant has not identified any specific provision within Rule C which relates to the constitution or proceedings of an executive committee or decision-making meeting. However, insofar as the application concerns cessation of membership by reason of arrears of subscription, the Applicant's submissions are properly characterised as invoking Rule 'C.7.2 Arrears of subscription'.
- 30.6. On its face, Rule C.7.2 is not a rule about the constitution or proceedings of the National Executive Council or any other qualifying body. It is a membership rule which provides that a person owing more than three months' subscriptions shall cease to be a member, unless the National Executive Council decides otherwise. The rule therefore operates automatically unless the National Executive Council intervenes. In the absence of such intervention, no decision is required for cessation to occur. The fact that the National Executive Council may choose to intervene does not mean that Rule C.7.2 becomes a

rule relating to the constitution or proceedings of that body. At most, it confers a substantive power to intervene and prevent an otherwise automatic consequence. Questions or disputes as to whether that power should or should not have been used are disputes about the merits of an action or omission, not about the constitution or proceedings of a qualifying body.

30.7. For the avoidance of doubt, the Applicant has not identified any other specific provision within Rule C which is capable of relating to the constitution or proceedings of an executive committee or decision-making meeting.

30.8. On that basis, in respect of Rule C, the application is not within the jurisdiction of the CO.

**31. Overall conclusion on jurisdiction**

32. Taking the Applicant's case at its highest for the purposes of this jurisdictional sift decision, I have found that none of the rules identified in the application relate to any of the listed matters. Accordingly, the application is not one that the CO has power to determine under section 108A and it is not accepted for determination.



**MICHAEL KIDD**  
**The Assistant Certification Officer**

**17 April 2026**