

SD/2/26-27

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

Lewis Griffiths

Applicant

and

Unite the Union

Respondent

Date of Decision

11 May 2026

Contents

Decision.....	3
Background.....	3
The relevant statutory provisions	6
The relevant rules of the Union	11
The Applicant’s submissions	22
The jurisdiction of the Certification Officer	25
Conclusions	27

Decision

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

I find that Lewis Griffiths’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. Lewis Griffiths is a member of Unite the Union (“the Union” or “Respondent”). He first submitted an application for a declaration that there has been a breach of the rules of the Respondent on 28 January 2026. Unfortunately, due to a technical error, the application was not captured within the Certification Officer’s systems until the Applicant resubmitted it, on 14 April 2026, whereupon it was processed.
3. In the initial correspondence, the Applicant informed the Certification Office that future correspondence in respect of his application, would be conducted by his wife, Corinna Griffiths, who would act as his authorised representative. For ease of reference, in the remainder of this decision, I refer to “the Applicant” when describing the application, the submissions made and the evidence provided. That is inclusive of correspondence and submissions provided on the Applicant’s behalf by his representative.
4. On the application form to the Certification Office, the complaint was summarised as:

Complaint

Unite the Union breached its rules governing complaints handling, internal decision-making, escalation, and fair representation.

From October 2023 onwards, the union failed to operate a fair, transparent, and procedurally sound complaints process. My complaint was repeatedly passed between senior officials without resolution, while substantive issues raised were not addressed. Decisions were taken without full consideration of relevant evidence, including contemporaneous records that Unite had itself instructed me to maintain.

Senior officers, including the General Secretary's office, were copied into correspondence raising serious procedural concerns, yet no corrective action or oversight occurred. Correspondence was inconsistently handled, with emails removed from reply chains and subject headings altered, preventing a clear and auditable decision-making trail.

Unite failed to ensure that its legal representatives were provided with all relevant information before advice was relied upon, and did not copy or include my authorised representative in key communications, contrary to its own processes. Despite knowing that I was a vulnerable and disabled member, Unite allowed delays and procedural failures to continue unchecked, causing further distress.

In addition, Unite failed to comply with a lawful Subject Access Request within statutory time limits, undermining transparency and record-keeping obligations that form part of proper governance.

The breach culminated in Unite's final decision dated 18 December 2025 to close the complaint without addressing these procedural failures. This demonstrates a sustained failure to follow its own rules governing fair process, escalation, and decision-making.

5. On 30 April 2026, the Certification Office wrote to the Applicant to inform him that a preliminary view had been reached that the application did not fall within the jurisdiction of the Certification Officer (CO).
6. The letter explained to the Applicant that the CO had delegated to me, as the Assistant Certification Officer (ACO), responsibility for determining questions of jurisdiction arising at the stage of initial consideration of applications. In light of the preliminary view that the application did not fall within the CO's jurisdiction, the Applicant was informed that they had two options:
 - 6.1. **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,

 - 6.2. **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.

7. 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.
8. Following this, also on 30 April 2026, the Applicant confirmed their preference for a formal decision regarding the issue of jurisdiction in respect of the first application.
9. On 5 May 2026, the Applicant submitted two written submissions, the first was titled “ACO Submission”, and the second was titled “Rule-linked ACO Jurisdiction Submission”. The submissions were accompanied by 24 supporting documents. While I have not found it necessary to refer to any specific documents, I reviewed all of them in the course of making this jurisdictional sift decision.
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 2. Objects

2.1 The objects of the Union shall be:

2.1.1 To organise, recruit and represent workers, and strengthen workplace organisation, to encourage membership involvement and participation to achieve real union power for its members.

2.1.2 To defend and improve its members' wages and working conditions including the pursuit of equal pay for work of equal value and extend collective bargaining. This being the best and most effective means of distributing wealth, improving the wages and conditions of workers, and giving workers collective power in the workplace. To help our members win in the workplace, using the union's resources to assist in that process, and to support our members in struggle including through strike action.

2.1.3 To defend and improve the social and economic well-being of members and their families, both directly and via commensurate policies in relation to society both domestically and abroad.

2.1.4 To have a strong political voice, fighting on behalf of working peoples' interests, and to influence the political agenda locally, regionally, nationally and internationally, so as to promote a socialist vision for

- a more equal society in which wealth is distributed from the rich to the poor, including by means of progressive taxation and other regulatory measures to restrict excessive wealth
- a collective society in which public services are directly provided on the basis of public need and not private greed, and a fair system of welfare and benefits to support those in need
- public ownership of important areas of economic activity and services, including health, education, water, post, rail and local passenger transport.

2.1.5 To further political objectives including by affiliation to the Labour Party.

2.1.6 To promote equality and fairness for all, including actively opposing prejudice and discrimination on grounds of gender, race, ethnic origin, religion, class, marital status, sexual orientation, gender identity, age, disability or caring responsibilities.

2.1.7 To affiliate to the TUC, ICTU, Welsh and Scottish TUCs and other appropriate trade union cooperation/coordination bodies domestically and internationally.

2.1.8 To promote constructive cooperation between trade unions internationally to further the interests of members of the Union and those in other unions in dealing with the direct and indirect impact of globalisation.

2.1.9 To promote education and training; both vocational and industrial and otherwise as conducive to these objects.

2.1.10 To provide such financial and other benefits and legal assistance to members as may be specified in these rules.

2.1.11 To do all such other things as may in the opinion of the Executive Council be incidental or conducive to the attainment of these objects.

2.1.12 To communicate information to members about union activities, campaigns, services and/or benefits, so as to encourage participation and further these objects.

2.1.13 The Union's procurement policy shall be based, wherever possible, on sourcing assets and services from organised labour within the UK or internationally, if unavailable in the UK. The union will maintain a list of union recognised sources of asset and service providers. Periodically, the union will consult with the relevant industrial sectors to ensure the list remains comprehensive and accurate.

2.1.14 The union will conduct its procurement process in line with the Ethical Trading Initiative (ETI) Base

Code. The ETI Base Code is based on internationally recognised standards of the International Labour Organisation, the UN agency responsible for labour standards, which the UK and Ireland has signed up to.

RULE 4. MEMBERSHIP CONTRIBUTIONS AND BENEFITS

4.6.3 A member who requires advice and/or representation on a problem relating to the member's employment which first arose at a time when the member was entitled to benefit and which cannot be resolved through the member's workplace representative should refer the matter to the appropriate Regional Officer. The Union may provide such advice and/or representation as the Executive Council shall consider appropriate, whether by a full time officer or otherwise, and on such terms as the Executive Council shall consider appropriate.

RULE 18. WORKPLACE REPRESENTATION

18 WORKPLACE REPRESENTATION

18.1 At each workplace, the members employed at that workplace, shall elect from amongst themselves, at least every 3 years, 1 or more of the following representatives:

18.1.1 Shop stewards/workplace representatives

18.1.2 Safety representatives

18.1.3 Learning representatives

18.1.4 Equality representatives

18.1.5 Environment representatives

The election shall take place at a meeting held between 1st January and 31st March in each third year, and the elected candidates shall take office for three years. Such workplace representatives as listed above shall be entitled to attend the triennial Regional Industrial Sector Conference.

18.2 The election of workplace representatives shall, where practicable, have a gender and ethnic balance at least reflecting the proportion of Black and Asian ethnic minority and women members which they represent. Election to one representative role shall not preclude election to another such role within the same workplace.

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

18.4 On being elected for the first time in a particular role, each representative should within twelve months attend an appropriate union training course. On re-election, representatives are expected to continue to attend appropriate training courses as provided by the union to ensure they can best represent members.

18.5 The Executive Council may group workplaces together for the purposes of representation where the number of members at each workplace is so small that representation and bargaining for the individual

workplaces is not, in the opinion of the Executive Council, practicable.

18.6 The constituency of a workplace representative shall be the workplace from which they were elected, or such grouping of workplaces as was defined by the Executive Council under clause 5 of this rule.

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

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

18.9 Shop stewards/workplace representatives shall receive the fullest support and protection from the union, which includes the provision of a Shop Stewards Handbook/Health and Safety Handbook/Branch Officers Handbook. Officers should be able and willing to fully support shop stewards/workplace representatives facing victimisation/bullying/disciplinary action. Officers should consistently support all shop stewards/workplace representatives and where

appropriate be able to provide support in legal referrals to the Union's solicitors. Officers should ensure shop stewards/workplace representatives are updated within a reasonable time. An immediate inquiry shall be undertaken by the appropriate regional industrial sector or regional committee into every case of dismissal of a shop steward with a view to preventing victimisation, either open or concealed. If it is deemed necessary, a ballot for industrial action will be convened.

RULE 26. ISLE OF MAN

The Union shall Register with the relevant Isle of Man authorities in accordance with the laws applying thereto including the Trade Unions Act 1991.

RULE 27. MEMBERSHIP DISCIPLINE

27.1 A member may be charged with:

27.1.1 Acting in a way contrary to the rules or any duty or obligation imposed on a member by or pursuant to these rules whether in his/her capacity as a member, a holder of lay office or a lay representative of the union or otherwise bringing the union into disrepute.

27.1.2 Being a party to any fraud on the Union or any misappropriation or misuse of its funds or property.

27.1.3 Knowingly, recklessly or in bad faith providing the Union with false or misleading information relating to a member or any other aspect of the Union's activities.

27.1.4 Inciting, espousing or practising discrimination, harassment or intolerance amongst members on grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, or sexual orientation.

27.1.5 Bringing about injury to or discredit upon the Union or any member of the Union including the undermining of the Union, branch or workplace organisation and individual workplace representatives or branch officers.

27.1.6 Obtaining membership of the Union by false statement material to their admission into the Union or any evasion in that regard.

27.1.7 Breach of Union policy on harassment, dignity and respect, which will include cyber bullying and harassment.

27.2 Disciplinary Hearings shall be organised and conducted under directions issued by the Executive Council. These directions ensure that the process is fair and conducted in accordance with the principles of natural justice.

27.3 A charge under this rule may be heard by a Branch, Branch Committee (where so determined by the Branch), Regional Committee or the Executive Council. The Executive Council may delegate to a sub-committee of the Executive Council. It would be usual practice that disciplinary charges would be heard at

branch level in the first instance. Disciplinary charges deemed to be of a serious nature may be initiated by the Regional committee or Executive Council.

27.3.1 Serious allegations of breach of Clauses 27.1.1. to 27.1.7 may be referred directly to the General Secretary. The General Secretary will appoint a senior employee of the Union to conduct an investigation which may lead to disciplinary charges being laid on behalf of the Executive Council.

27.3.2 Allegations of serious breaches of clauses 27.1.1 to 27.1.7 which are considered to be vexatious, malicious or defamatory may be considered a breach of Rule and liable to be referred to this disciplinary procedure.

27.4 The Executive Council or the relevant Regional Committee may suspend a member charged under this rule from holding any office or representing the Union in any capacity pending its decision. A member shall be given written notice (or, if the member was informed verbally confirmation in writing) of any such suspension as soon as is reasonably practicable. In cases of a serious nature, as a precautionary measure, a member under investigation prior to disciplinary charges being laid may be suspended from holding office or representing the union in any capacity.

27.4.1 A member under disciplinary investigation or charged with a disciplinary offence, including workplace representatives or branch officers suspended from holding office, may not attend: • Meetings of his/her

own branch; • Meetings of other branches of the Union;
or, • Constitutional committee meetings of the Union
Other than as part of the disciplinary process as set out
in this Rule.

27.4.2 If allegations against a member are proven to be
unfounded they will be restored in good standing. If
appropriate, their credentials will be restored.

27.5 The range of disciplinary sanctions shall include
the following:

27.5.1 censure;

27.5.2 withdrawal of workplace credentials;

27.5.3 removal from office;

27.5.4 barring from holding office and

27.5.5 expulsion.

27.6 The full range of disciplinary sanctions shall be
available to the Executive Council and

Regional Committees; however the range of
disciplinary sanctions for other bodies

shall be limited to the following:

27.6.1 Branch, shall have the power to censure;

27.7 Appeals

27.7.1 A member shall have the right to appeal against
any disciplinary sanctions.

27.7.2 In the case of a sanction imposed by a Branch, or Branch Committee, the appeal shall be to the Regional Committee, whose decision shall be final.

27.7.3 In the case of a sanction imposed by a Regional Committee the appeal shall be to the Executive Council, whose decision shall be final.

27.7.4 In the case of disciplinary action initiated by the Executive Council the appeal shall be to an Appeals Committee elected from the Policy Conference, whose decision shall be final. Such an Appeals Committee shall be constituted on the basis of at least one delegate from each Region, under a procedure to be agreed by the Executive Council. There shall be an eligibility criterion to serve on the Appeals Committee of at least 5 years continuous membership of the Union.

27.8 An employee may not be charged under this rule in respect of any alleged act or omission in connection with the performance of his/her duties as a full time officer and/or employee of the Union. Complaints against employees shall be investigated under the Members' Complaints Procedure agreed by the Executive Council and if disciplinary action is deemed appropriate this shall be executed under the procedures negotiated with employees' representative bodies for that purpose.

The Applicant's submissions

13. This application concerns an alleged breach of the rules of the Respondent Union in respect of the handling of the Applicant's request for advice, representation and legal support, and the subsequent handling and closure of the Applicant's internal complaint. The Applicant submits that the Respondent failed to review relevant evidence; failed to identify or act upon sensitive issues; failed to involve the Applicant's authorised representative appropriately; failed to provide transparent decision records; failed to respond properly to a Subject Access Request; and, prematurely closed the complaint on 18 December 2025 without addressing procedural concerns.
14. The rules alleged to have been breached are Rule 2, Rule 4.6.3, Rule 18, Rule 26 and Rule 27, including specifically, Rule 27.8. The Applicant submits that the case is not a disagreement with legal advice or decisions about representation, but that it concerns whether the Respondent complied with its own rule book, complaints procedure, internal governance processes and procedural obligations.
15. **Rule 2**
 - 15.1. In respect of Rule 2, the Applicant submits that the Respondent failed to protect the interests, rights and welfare of members. The Applicant alleges that the Respondent was aware of his medical condition as well as a potential personal injury claim and pension-related risks; but failed to act on that information or warn the Applicant about relevant risks and failed to take broader action to protect other members who might be affected by similar issues.
 - 15.2. In respect of jurisdiction, the Applicant submits that Rule 2 forms part of the Respondent's constitutional obligations and provides the context in which representation, complaints handling and officer duties

should have been exercised. The Applicant does not identify a specific statutory gateway under section 108A(2) in relation to Rule 2.

16. Rule 4.6.3

16.1. The Applicant submits that Rule 4.6.3 was breached because the Respondent did not administer the Applicant's request for advice and representation through a clear and structured process. The Applicant alleges that responsibility for the case shifted between officers and that legal referrals were delayed or unclear causing key evidence not to be reviewed before decisions were made and that there was no structured oversight of the representation process.

16.2. In respect of jurisdiction, the Applicant submits that Rule 4.6.3 concerns internal decision-making about representation and that the complaint is about whether those decisions were taken in accordance with the procedures required by the rule book. The Applicant contends that the complaint is about the process by which the Respondent handled the matter, rather than the merits of legal advice or the outcome of the representation decision.

17. Rule 18

17.1. The Applicant submits that Rule 18 was breached because officers did not provide proper support, updates, administration or procedural transparency. The Applicant alleges that correspondence remained unanswered, escalation emails did not result in corrective action, procedural concerns were not addressed before closure of the complaint and accessible decision records were not available during the complaints process.

17.2. In respect of jurisdiction, the Applicant submits that Rule 18 concerns officer duties and internal governance oversight. The Applicant further submits that the alleged failures affected the transparency of

representation decisions and the conduct of the complaints process. The Applicant does not identify a specific statutory gateway under section 108A(2) in relation to Rule 18, beyond the general submission that the matter concerns internal decision-making processes.

18. Rule 26

18.1. In respect of Rule 26, the Applicant submits that the Respondent failed to operate its legal assistance and representation procedures properly. The Applicant alleges that relevant employment documentation was not obtained, full medical evidence was not requested, legal advice was relied upon despite incomplete instructions, risks were not managed, and a refusal of representation was maintained without proper reassessment of additional supporting material.

18.2. In respect of jurisdiction, the Applicant submits that Rule 26 governs legal assistance and representation and that the complaint concerns whether representation decisions were made through proper internal processes based on appropriate consideration of available material. The Applicant does not identify a specific statutory gateway under section 108A(2) in relation to Rule 26.

19. Rule 27

19.1. The Applicant submits that Rule 27 was breached because the Respondent did not investigate or determine the Applicant's complaint properly. Again, the Applicant alleges that supporting evidence was invited but not reassessed, that prior legal advice was treated as determinative, that procedural concerns raised during escalation were not addressed, and that the complaint was closed without a final review.

19.2. In respect of jurisdiction, the Applicant submits that Rule 27 governs complaints and conduct procedures and that the application concerns whether the Respondent followed its internal complaints framework. In particular, the Applicant relies on Rule 27.8 and submits that complaints concerning employees should be investigated under the Members' Complaints Procedure agreed by the Executive Council. The Applicant contends that the failure to operate that procedure transparently and consistently brings the complaint within the CO's jurisdiction as a matter concerning internal decision-making proceedings.

The jurisdiction of the Certification Officer

20. 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.

21. Therefore, 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.
22. 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”.
23. 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.
24. 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.
25. Where no such relating aspect is identified, the application will be outside of the CO’s jurisdiction.
26. 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.
27. 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. Further, 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.

28. 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.

Conclusions

29. 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.

30. **Rule 2**

- 30.1. In respect of Rule 2, I have considered the rule on the basis of the Applicant’s case taken at its highest. The Applicant has identified section 108A(2)(d) as the appropriate jurisdictional gateway, submitting that Rule 2 relates to the constitution or proceedings of an executive committee or decision-making meeting. The basis for this is the Applicant’s submission that Rule 2 forms part of the Respondent’s constitutional framework. The Applicant submits that the Respondent

failed to protect members' interests through proper internal governance.

30.2. In fact, Rule 2 concerns the Respondent's objects and general purposes. On its proper construction, it does not relate to the constitution or proceedings of an executive committee or decision-making meeting, nor does it relate to any other listed matter. The Applicant's allegations concern representation, advice, complaint handling, procedural fairness, data handling and general protection of members' interests. Even if the Applicant's allegations were upheld, that would not have the effect of converting a general objects rule into a rule relating to one of the statutory matters in section 108A(2).

30.3. Accordingly, I find that the complaint in respect of Rule 2 is not within the jurisdiction of the CO.

31. **Rule 4.6.3**

31.1. In respect of Rule 4.6.3, again, the Applicant submits that section 108A(2)(d) is the appropriate jurisdictional gateway, because the rule refers to advice and representation being provided as the Executive Council considers appropriate.

31.2. Rule 4.6.3 concerns the circumstances in which a member may seek advice or representation on an employment-related problem and the discretion to provide such advice or representation on terms considered appropriate. Although the rule refers to the Executive Council, the rule does not regulate the constitution of that body. Nor does it regulate the proceedings of that body in the relevant sense. It does not prescribe meeting procedure, quorum, voting, notice, agenda, or the manner in which business is to be conducted. The reference to what the Executive Council may consider appropriate is

a conferral of discretion in relation to representation, not a rule about the proceedings of a qualifying body.

31.3. The Applicant's allegations, taken at their highest, concern the administration and quality of representation, the evidential basis for legal advice, delay, omission, failure to involve an authorised representative, and alleged failure to identify or protect legal claims. Those are matters concerning representation or service provision. They do not engage Rule 4.6.3 in any respect which relates to the constitution or proceedings of an executive committee or decision-making meeting.

31.4. Accordingly, I find that the complaint in respect of Rule 4.6.3 is not within the jurisdiction of the CO.

32. Rule 18

32.1. Rule 18, in part, concerns the election of workplace representatives and may, in principle, relate to the appointment or election of a person to office. Rule 18 also contains provisions referring to the Executive Council, Regional Industrial Sector Committee and regional committee, which may require consideration under section 108A(2)(d). However, the Applicant does not complain about the election, appointment or removal of a workplace representative, nor about the constitution or proceedings of any relevant committee.

32.2. The Applicant relies principally on Rule 18 as a rule concerning officer duties, support, updates and internal governance. Rule 18.9 concerns support and protection for shop stewards and workplace representatives, including legal referrals and updates within a reasonable time. Taken at its highest, the complaint alleges failures in correspondence, escalation, support, administration and transparency. Those allegations do not engage any part of Rule 18

which relates to the election or appointment of workplace representatives. They also do not concern the constitution or proceedings of a qualifying committee. The complaint is not, for example, that a committee was improperly constituted, that a meeting was procedurally defective, or that a rule governing the conduct of committee business was breached.

32.3. The matters complained of are, in substance, matters of representation, officer support, administrative handling and complaint handling. Those matters are outside the CO's jurisdiction unless they engage a rule that clearly and directly relates to one of the statutory listed matters. On the material provided, they do not do so.

32.4. Accordingly, I find that the complaint in respect of Rule 18 is not within the jurisdiction of the CO.

33. Rule 26

33.1. The Applicant characterises Rule 26 as concerning legal assistance and representation. However, the rule itself is headed "Isle of Man" and states that the Respondent shall register with the relevant Isle of Man authorities in accordance with the laws applying there, including the Trade Unions Act 1991.

33.2. On its proper construction, Rule 26 does not relate to legal assistance or representation. Nor does it relate to any of the listed matters in section 108A(2). It does not concern appointment, election or removal from office, disciplinary proceedings, balloting of members, or the constitution or proceedings of an executive committee or decision-making meeting. The Applicant's allegations about legal advice, limitation, evidential review and representation cannot create a jurisdictional connection which does not arise from the rule itself.

33.3. The alleged breach therefore does not engage Rule 26 in any qualifying respect. Even taking the Applicant's case at its highest, the complaint concerns representation and legal support, whereas Rule 26 concerns registration in the Isle of Man.

33.4. Accordingly, I find that the complaint in respect of Rule 26 is not within the jurisdiction of the CO.

34. Rule 27

34.1. Rule 27.1 to Rule 27.7 relate to disciplinary proceedings against members. Those provisions may, in principle, relate to disciplinary proceedings by the Respondent. However, the Applicant's complaint is not that the Applicant was charged, investigated, suspended, sanctioned, expelled, or otherwise subjected to disciplinary proceedings under Rule 27. Nor is there material capable of supporting a possible finding that the Respondent's handling of the Applicant's representation or complaint was intended as disciplinary action against the Applicant. The detriments alleged by the Applicant, including delay, refusal or failure of representation, failure to review evidence and closure of a complaint, do not demonstrate disciplinary purpose.

34.2. The Applicant relies in particular on Rule 27.8. That provision states that an employee may not be charged under Rule 27 in respect of an alleged act or omission in connection with the performance of duties as a full-time officer or employee, and that complaints against employees shall be investigated under the Members' Complaints Procedure agreed by the Executive Council. The Applicant's case, taken at its highest, is that complaints about employees or officers were not properly investigated under that procedure. That allegation concerns complaint handling. It does not concern disciplinary proceedings against the Applicant or any other member. Nor does it

engage the member-discipline provisions of Rule 27 in their qualifying aspect.

34.3. I have also considered whether the reference in Rule 27.8 to a procedure agreed by the Executive Council brings the complaint within section 108A(2)(d). I find that it does not. The complaint is not about the constitution of the Executive Council, nor about the proceedings of a meeting of the Executive Council or any other qualifying decision-making meeting. The fact that the Members' Complaints Procedure is said to have been agreed by the Executive Council does not make every complaint about the operation of that procedure a complaint about the constitution or proceedings of the Executive Council. The Applicant's allegations concern the preliminary and administrative handling of the complaint, the adequacy of investigation, the evidence considered and the reasons given for closure. Those matters do not engage section 108A(2)(d).

34.4. Accordingly, I find that the complaint in respect of Rule 27 is not within the jurisdiction of the CO.

35. Overall conclusion

35.1. In conclusion, I find that none of the complaints, taken at their highest, concern an alleged breach of a rule relating to a matter within section 108A(2) of the 1992 Act. The application concerns representation, legal assistance, complaint handling, administrative transparency, data handling and general fairness. Those matters are not within the CO's jurisdiction unless they engage a rule that relates clearly and directly to one of the listed matters. On the material provided, they do not.

35.2. Consequently, I find that the application is not one which the CO has jurisdiction to determine. It cannot therefore be accepted for determination and is dismissed.

A handwritten signature in black ink that reads "Michael Kidd". The letters are cursive and somewhat stylized.

MICHAEL KIDD
The Assistant Certification Officer

11 May 2026