

SD/5/26-27

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

Antony Brodie

Applicant

and

Unite the Union

Respondent

Date of Decision

3 July 2026

Contents

Decision	3
Background	3
The relevant statutory provisions.....	6
The relevant rules of the Union.....	10
The Applicant’s submissions	13
The jurisdiction of the Certification Officer	16
Conclusions.....	18

Decision

1. Mr Antony Brodie (“the Applicant”) applied to the Certification Officer (“the CO”) on 29 May 2026, under section 108A of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”), for a declaration that Unite the Union (“the Respondent”) had breached its rules.
2. Having considered the application:

I find that the application is not one which the Certification Officer has the jurisdiction to determine.

It cannot therefore be accepted for determination by the Certification Officer and is dismissed.

Background

3. Antony Brodie is a member of the Respondent union.
4. In the initial correspondence to the Certification Office, the Applicant summarised the complaint as:

Unite breached Sections 108A–108C of the Trade Union and Labour Relations (Consolidation) Act 1992 by failing to comply with its own Rule Book and Legal Services Policy, and by administering its internal procedures in an unfair, inconsistent, and arbitrary manner. Unite did not apply Rule 27 or the Legal Services Policy when assessing my request for legal assistance. The merits assessment was not carried out in accordance with the required criteria, no proper evaluation of evidence took place, and the decision was based on inaccurate assumptions and incomplete information. Unite failed to consider relevant

documents, ignored material evidence, and did not provide reasons that complied with its own rules. Unite further breached Section 108A by failing to follow its internal complaints procedure. My Stage 1 and Stage 2 complaints were not investigated, no findings were made, and no explanation was provided addressing the issues raised. The Stage 2 response was generic, factually incorrect, and did not comply with Rule 17 or the Legal Services Policy. Unite refused to escalate the matter or provide a second opinion, despite new evidence and clear procedural errors. Unite's actions were inconsistent with its duty to act fairly, transparently, and in accordance with its rules. The failures caused significant detriment, including loss of legal representation before a five-day Employment Tribunal hearing, financial hardship, and prolonged procedural disadvantage. The union's conduct amounts to maladministration and a breach of its statutory duty to apply its rules properly and consistently.

5. On 5 June 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).
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.
7. Given the preliminary view that the application did not fall within the CO's jurisdiction, the Applicant was told 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. On 5 June 2026, the Applicant wrote to the Certification Office confirming their preference for a formal decision regarding the issue of jurisdiction.
10. The Applicant provided a substantial volume of material in support of the application, including the application form, written submissions, annexes and supporting documents. In total, the annexes provided ran to 126 pages. Some of that material was repetitive and included wider allegations about the Respondent, the Applicant's former employer, and the handling of the matter by the Certification Office. I have considered the material provided solely for the purpose of deciding whether the application falls within the jurisdiction of the CO under section 108A of the 1992 Act.
11. While I have carefully considered all the material provided, it is not necessary, for the purpose of this jurisdictional sift decision, to refer to every document or to set out every allegation made by the Applicant. The question for me is whether the Applicant has identified a rule of the Respondent which, on its proper construction, relates to one of the matters

listed in section 108A(2), and whether the alleged breach engages the rule in that qualifying aspect.

12. For the avoidance of any doubt, I have reached findings only so far as required to determine the question of jurisdiction. Since I have found that the rules relied upon do not bring the application within the jurisdiction of the CO, I have reached no findings on whether any rules were in fact breached.
13. The application has not been accepted for determination by the CO for want of jurisdiction, therefore, there has been no correspondence with the Respondent union in respect of the application.

The relevant statutory provisions

14. 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

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

Rule 2 OBJECTS

Rule 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.

Rule 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.

Rule 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.

Rule 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.

Rule 2.1.10

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

Rule 3 MEMBERSHIP

Rule 3.1

The Executive Council shall define the categories of membership. Where the Union organises or represents persons engaged in an occupation or seeks to do so, any person engaged in that occupation shall be eligible for membership of the Union, subject to these rules.

Rule 3.2

There shall be other categories of membership as may from time to time be determined by the Executive Council. These categories shall include:

- Retired Members Plus
- Community/Student Member
- Back to Work Member
- Apprentice/Trainee Member

The Executive Council shall determine the qualifications for membership of these categories as well as the level of contribution and entitlement to benefit. Membership of Retired Members Plus and Community/Student Membership shall not accord an entitlement to vote in any ballot or election held by the Union other than:

- I. An election to the office of General Secretary under Rule 15 and 16.

- II. Elections within Retired Members Plus and community/Student Member structures, or:
- III. As otherwise specified in these Rules or any ballot or election in which all members must by statute be accorded an unconditional entitlement to vote.

Rule 3.3

Members of the union who upon retirement wish to remain in membership but not as Retired Members Plus shall be organised as “ordinary” retired members. Such “ordinary” retired members shall not be afforded any entitlement to vote in any ballot or election held by the Union.

Rule 4.6

The Union will provide legal assistance, as follows:

4.6.1 A member who is entitled to benefit who suffers injury or disease arising out of or in connection with his/her employment (or the dependants of such a member who has died) shall be entitled to such legal advice and representation, and on such terms, as the Executive Council may consider appropriate.

4.6.2 A member seeking legal assistance must ensure that a request in the appropriate form is lodged at the appropriate Union office in sufficient time and with sufficient information to enable the request to be considered and appropriate action taken.

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.

4.6.4 The Executive Council may provide such additional legal advice and representation to members and to members' families as it may consider appropriate.

4.6.5 The Executive Council may extend legal assistance to a member who is not otherwise entitled to benefits.

4.6.6 A member who is given advice and/or representation under this rule shall provide all relevant information and co-operate fully with the compilation of evidence for any legal proceedings and shall comply with any other obligations and/or conditions set out in any arrangements for the provision of legal assistance. If a member fails to do so or provides false or misleading information or fails to act upon the advice of those appointed to represent him/her, the Executive Council may at its absolute discretion annul all legal assistance or withdraw any further legal assistance to that member.

Rule 6 LAY OFFICE

6.8 To be eligible to stand for election as an accountable representative of workers members must be committed to the Objects of the Union as defined in Rule 2 including strengthening the workplace organisation and resources of the Union. Members who are engaged in the recruitment of members to a union that is not Unite the Union are excluded from standing as accountable representatives of workers within Unite the Union. In the case of any such restriction imposed on a member, an appeal may be made to the Regional Committee in line with the provisions of Rule 27.

Rule 14 EXECUTIVE COUNCIL

14.9 The Government, management and control of the Union shall be vested in the Executive Council collectively, which may do such things consistent with the rules and objects of the Union as it may consider expedient to promote the interests of the Union or any of its members. In particular and without limiting the general powers conferred on it by these rules the Executive Council shall have the power to:

14.9.12 Expend moneys on any of the purposes authorised by these rules, or on any other purpose which, in their opinion, is expedient in the interests of the Union or its members, including, at its discretion, the provision of legal services to members (and where it additionally and severally sees fit, to members'

families), and the taking and defending of legal action by the Union.

14.9.18 Decide any question relating to the meaning and the interpretation of these rules or any matter not expressly provided for by these rules which decision shall be binding on all members of the Union.

Rule 17 BRANCHES

17.13 All references to “Branch” throughout these rules refer to lay member organisations. All references to Branch secretaries refer to lay officials.

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.

27.1.3 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.

27.2 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.

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

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

16. The application concerns an alleged breach of the rules of the Respondent Union in respect of the Respondent's handling of the Applicant's request for legal assistance; its assessment of the merits of the Applicant's Employment Tribunal claim; its handling of the Applicant's complaints about that assessment; and, later correspondence concerning escalation and review. The Applicant alleges that the Respondent failed to consider relevant evidence, misrepresented solicitor involvement, misrepresented the identity or role of the decision-maker, refused a second opinion, failed to escalate the matter, and did not investigate complaints properly. The Applicant relies on Rules 2.1, 2.3, 3.1, 3.2, 6, 14, 17 and 27. The Applicant submits that these matters are not merely complaints about representation, but complaints about breaches of rules, breaches of the Legal Services Policy, complaint-handling, and decision-making procedures.

17. **Rule 2 Objects: 2.1**

17.1. In respect of Rule 2.1, the Applicant submits that the Respondent breached its objects by failing to represent and protect the Applicant, failing to assist the Applicant in the workplace, failing to support the Applicant's Employment Tribunal claim, and failing to provide legal assistance. The Applicant refers in particular to the Respondent's alleged failure to challenge the employer's conduct, its refusal to support the Applicant's claim, and its alleged failure to act in the Applicant's interests.

17.2. In respect of jurisdiction, the Applicant submits that this is not a complaint about poor representation. The Applicant submits that the Respondent failed to apply its own rules and policies, acted inconsistently with its objects, and failed to follow a fair and transparent process when deciding whether to provide legal assistance.

18. Rule numbered "2.3"

18.1. In his written submissions, the Applicant stated that a rule numbered "2.3" was breached because the Respondent failed to support a member facing injustice. The Applicant submits that the Respondent failed to act despite evidence of disability, employment law issues, procedural unfairness, financial hardship, and employer misconduct.

18.2. In respect of jurisdiction, the Applicant submits that the alleged breach concerns rule-based duties owed to members and not merely dissatisfaction with the outcome of a request for support. The Applicant relies on this alleged rule as part of the wider submission that the Respondent failed to follow binding procedures and failed to act in accordance with its duties.

19. Rule 3 Membership: 3.1

19.1. In respect of Rule 3.1, the Applicant submits that the Respondent breached its duty to provide representation where a case had merit. The Applicant says the Employment Tribunal claim had merit because it involved disability, reasonable adjustments, discrimination, dismissal, workplace injury, financial detriment, and alleged employer misconduct.

19.2. The Applicant further submits that the complaint falls within jurisdiction because it concerns the Respondent's decision-making process, the application of rule-based entitlements, and the failure to follow the Legal Services Policy.

20. Rule 3 Membership: 3.2

20.1. The Applicant submits that Rule 3.2 was breached because the Respondent failed to act promptly, fairly and effectively. The Applicant relies on alleged delay in obtaining or providing a legal assessment, alleged failure to provide clear reasons, alleged refusal to disclose the basis of the assessment, and alleged failure to provide a second opinion.

20.2. In respect of jurisdiction, the Applicant submits that these are matters concerning the Respondent's decision-making procedures and the application of its internal rules and policies.

21. Rule 6 Lay Office

21.1. In respect of Rule 6, the Applicant relies on the rule as part of the wider complaint that the Respondent failed to act in accordance with its rulebook and failed to ensure proper accountability within its structures. The Applicant's submissions do not identify any election to lay office, removal from lay office, eligibility to stand for lay office, recall, credentials issue, or appeal concerning lay office.

21.2. No specific jurisdiction submission is made in respect of Rule 6. The Applicant does not explain how the alleged failure to provide legal assistance, the alleged failure to escalate complaints, or the alleged misrepresentation of the decision-making process engages Rule 6 in any respect.

22. Rule 14 Executive Council

22.1. In respect of Rule 14, the Applicant submits that the Respondent mishandled escalation to senior levels and misrepresented the role of senior decision-makers. The Applicant relies on correspondence said to involve the Director of Legal and Membership Services, the Chair of the Executive Council, and later refusal to take further action. The Applicant submits that this shows misrepresentation of authority, predetermined decision-making, and failure to investigate.

22.2. In respect of jurisdiction, the Applicant submits that the complaint concerns decision-making by or involving senior bodies or office holders within the Respondent. The Applicant submits that the matter therefore concerns decision-making procedures, the conduct of the Respondent's affairs, and the handling of complaints.

23. Rule 17 Branches

23.1. In respect of Rule 17, the Applicant submits that the Respondent failed to comply with its internal complaint handling obligations. The Applicant says that the Stage 1 and Stage 2 complaints were not properly investigated, that no findings were made, that the response was generic and factually incorrect, and that the Respondent refused to escalate the matter.

23.2. In respect of jurisdiction, the Applicant submits that the alleged failure to investigate and escalate complaints is a rule-based matter. The Applicant submits that the Respondent's complaint handling failures

fall within the Certification Officer's jurisdiction because they concern rules and procedures rather than the merits of representation alone.

24. Rule 27 Membership Discipline

24.1. In respect of Rule 27, the Applicant submits that the Respondent failed to follow its complaint procedure. The Applicant says the Respondent did not investigate the formal complaint, did not escalate the matter, did not provide a second opinion, did not consider new evidence, and did not respond properly to allegations about solicitor involvement and decision-making authority.

24.2. The Applicant further submits that Rule 27 brings the matter within jurisdiction because it concerns the Respondent's internal complaint process. The Applicant does not submit that the Applicant was charged with a disciplinary offence, was suspended, was subject to disciplinary proceedings, or was given a disciplinary sanction.

The jurisdiction of the Certification Officer

25. The CO's jurisdiction to determine an application alleging breach of a trade union's rules is limited. The CO does not have a general power to decide whether a trade union has acted fairly, reasonably, or in accordance with any commonly accepted principles of good governance. Nor does the CO have a general power to supervise the way in which a trade union provides representation, legal services, member support, or handles complaints from its members.

26. Section 108A of the 1992 Act applies only where a member of a trade union alleges that there has been a breach, or threatened breach, of a rule of the union relating to one of the matters listed in section 108A(2). Those matters are: the appointment or election of a person to, or the removal of a person

from, any office; disciplinary proceedings by the union, including expulsion; the balloting of members on any issue other than industrial action; the constitution or proceedings of an executive committee or of a decision-making meeting; and any other matter specified in an order made by the Secretary of State.

27. It is not enough that an applicant identifies a rule and alleges that the union acted unfairly or failed to follow a fair process. The rule relied upon must itself relate, in a clear and direct way, to one of the matters listed in section 108A(2). That relationship must arise from the proper construction and operation of the rule. It cannot be created only by the facts of the complaint, the seriousness of the alleged detriment, or the consequences of the alleged breach.
28. Where a rule does relate to one of the listed matters, it is still necessary to consider whether the alleged breach engages the rule in that qualifying aspect. Some rules may contain more than one aspect. A rule may therefore relate to a listed matter in part, but not in every aspect. In such a case, the application will only fall within jurisdiction if the alleged breach concerns the aspect of the rule which gives it its required relationship to a matter listed in section 108A(2).
29. Section 108A(2)(d) is concerned with rules relating to the constitution or proceedings of an executive committee or of a decision-making meeting. It does not give the CO jurisdiction over decision-making by a union in general. Nor does it give the CO jurisdiction over the conduct of a union's affairs in general.
30. In respect of constitution, the question is whether the rule concerns the composition, structure, or proper formation of a qualifying body, or matters closely linked to whether that body can validly meet and act. In respect of proceedings, the question is whether the rule concerns the procedure by which the qualifying body conducts its business. This may include rules

about meetings, notice, quorum, voting, minutes, standing orders, or the allocation of business to a qualifying body.

31. Section 108A(2)(d) does not extend to every decision made by officers, employees, committees, or office holders of a union. Nor does it allow the CO to decide whether the outcome of a decision was fair, reasonable, or correct. A complaint about the substance or merits of a decision is not brought within section 108A(2)(d) merely because the decision was made by, reported to, or mentioned in correspondence with a senior officer or a member of a qualifying body.
32. The same distinction applies to complaint handling and internal administration. Section 108A does not contain a general jurisdiction over complaints procedures, internal correspondence, legal services decisions, representation decisions, or failures to escalate a matter. Such matters may fall within jurisdiction only if the rule relied upon relates to one of the listed matters and the alleged breach engages that rule in its qualifying respect.
33. Where section 108A(2)(b) is relevant, it is necessary to distinguish disciplinary proceedings from other decisions which may disadvantage a member. A decision may have serious adverse consequences for a member without being disciplinary in nature. The question is whether the rule concerns disciplinary proceedings, and whether the alleged breach engages that disciplinary aspect of the rule.
34. In deciding whether an application is within jurisdiction, the CO must therefore consider the rule relied upon on its own terms. If the rule relates to one of the listed matters, the CO must then consider whether the alleged breach, taken at its highest, engages the rule in that qualifying aspect.

Conclusions

35. I must decide whether this application falls within the jurisdiction conferred by section 108A of the 1992 Act. I have considered each of the rules relied upon, and set out my conclusions, as follows:

36. **Rule 2.1**

36.1. In respect of Rule 2.1, I have considered the rule first on its own terms. Rule 2.1 sets out the objects of the Respondent. It includes broad objects concerning organising, representing workers, improving members' working conditions, promoting equality, providing benefits and legal assistance as may be specified in the rules, and doing things incidental or conducive to those objects.

36.2. The Applicant submits that Rule 2.1 falls within section 108A(2)(d), on the basis that the complaint concerns decision-making and the conduct of the Respondent's affairs. I do not accept that this correctly states the statutory gateway. Section 108A(2)(d) does not confer jurisdiction over decision-making by the Respondent in general, nor over the conduct of the Respondent's affairs in general. It is confined to rules relating to the constitution or proceedings of an executive committee or of a decision-making meeting. Rule 2.1 does not, on its proper construction, relate in a clear and direct way to either of those matters. It is a broad objects provision. It does not prescribe the constitution of any qualifying body, the procedure by which any qualifying body must conduct business, or the process by which legal assistance decisions must be made.

36.3. For completeness, Rule 2.1 also does not relate to any other listed matter. The fact that the Applicant alleges unfairness, lack of transparency, and detriment does not alter the scope of the rule. Nor does the fact that the alleged events may have involved decisions by

officers or staff convert Rule 2.1 into a rule relating to the proceedings of a qualifying body.

36.4. Accordingly, I find that the complaint in respect of Rule 2.1 is not within the jurisdiction of the CO.

37. Rule 2.3

37.1. In respect of Rule 2.3, the material provided does not identify any rule numbered 2.3 in the Respondent's rulebook. The Applicant relies on Rule 2.3 as a duty to support a member facing injustice, but no such rule has been identified.

37.2. I have reviewed the Respondent's rulebook in full to determine whether this may be a numbering error, and whether another rule imposes the duty on which the Applicant relies. I have not identified any rule which imposes such a duty, in the terms relied upon by the Applicant, to support a member facing injustice and which relates in a clear and direct way to any of the matters listed in section 108A(2). A complaint under section 108A must identify a rule of the Respondent which is alleged to have been breached and which relates to one of those matters.

37.3. Accordingly, I find that the complaint in respect of Rule 2.3 is not within the jurisdiction of the CO.

38. Rule 3.1

38.1. In respect of Rule 3.1, the rule concerns categories of membership and eligibility for membership where the Respondent organises or represents persons engaged in an occupation. It does not impose a duty to provide legal assistance or representation in a member's Employment Tribunal claim.

38.2. The Applicant's complaint, in respect of Rule 3.1, concerns the alleged failure to provide representation or legal support where the Applicant says the case had merit. That allegation does not engage Rule 3.1 in any qualifying aspect. Even if the Respondent made a decision about legal assistance, the rule relied upon does not itself regulate that decision or the proceedings of a qualifying body.

38.3. Accordingly, I find that the complaint in respect of Rule 3.1 is not within the jurisdiction of the CO.

39. **Rule 3.2**

39.1. In respect of Rule 3.2, the rule concerns other categories of membership, the Executive Council's power to determine qualifications for those categories, contribution levels, benefit entitlement, and certain voting rights attached to those membership categories. On its face, aspects of Rule 3.2 may relate to voting rights in ballots or elections, but only in that limited respect.

39.2. The strongest possible statutory gateway is section 108A(2)(c), insofar as the rule refers to entitlement to vote in ballots, and section 108A(2)(a), insofar as the rule refers to elections. However, the Applicant's complaint does not concern a ballot, an election, or voting entitlement.

39.3. The alleged breach does not engage any aspect of Rule 3.2 which could, in principle, relate to a listed statutory matter. The complaint is not that the Applicant was wrongly denied a vote or improperly included or excluded from an election or ballot. It is a complaint about support, legal services, and complaint handling.

39.4. Accordingly, I find that the complaint in respect of Rule 3.2 is not within the jurisdiction of the CO.

40. **Rule 6**

40.1. In respect of Rule 6, the rule concerns lay office. It includes provisions about eligibility for election to the Executive Council or other bodies, accountable representatives of workers, the term of lay office, recall, records of committee credentials, and eligibility to stand for election.

40.2. The strongest possible statutory gateway is section 108A(2)(a), because parts of Rule 6 relate to election to office and eligibility to hold office. Some parts may also relate to the constitution of bodies within section 108A(2)(d). However, the Applicant's complaint does not concern an election to office, removal from office, eligibility to stand, recall, credentials, or the constitution or proceedings of a qualifying body.

40.3. The alleged breach concerns legal support, failure to challenge employer conduct, complaint handling, and alleged misrepresentation in correspondence. Those allegations do not engage Rule 6 in the respect which could bring it within section 108A. The required nexus between the alleged events and any listed matter is absent.

40.4. Accordingly, I find that the complaint in respect of Rule 6 is not within the jurisdiction of the CO.

41. **Rule 14**

41.1. In respect of Rule 14, the rule concerns the Executive Council. It includes provisions about its election, composition, meetings, chairing arrangements, powers, delegation, standing orders, interpretation of the rules, and general control of the Respondent. On its face, parts of Rule 14 relate to matters within section 108A(2)(d), because they concern the constitution or proceedings of the Executive Council.

41.2. The necessary next question is whether the Applicant's allegations, taken at their highest, engage Rule 14 in that qualifying respect. The Applicant's complaint does not allege that an Executive Council meeting was improperly convened, that its composition was wrong, that its quorum was defective, that its standing orders were breached, that minutes were wrongly dealt with, or that the Executive Council conducted business by an improper procedure.

41.3. The Applicant's complaint is that senior correspondence misrepresented authority, that the Chair of the Executive Council was consulted, and that further action was refused. Those allegations concern the substance of complaint handling and legal services decisions. They do not concern the constitution or proceedings of the Executive Council as a qualifying body. The mere involvement or mention of the Chair of the Executive Council does not make the matter one about the constitution or proceedings of that body.

41.4. Accordingly, I find that the complaint in respect of Rule 14 is not within the jurisdiction of the CO.

42. **Rule 17**

42.1. In respect of Rule 17, the rule concerns branches. It includes provisions about branch structure, branch funds, branch meetings, branch officers, branch standing orders, branch records, and support for branch officers. Some parts of the rule may, in principle, relate to the proceedings of branch meetings or the election of branch officers.

42.2. The strongest possible statutory gateway is section 108A(2)(d), in relation to branch meetings as decision-making meetings, and section 108A(2)(a), in relation to branch officer elections. However, the Applicant's complaint does not concern a branch meeting, branch election, branch funds, branch records, branch standing orders, or the

support and protection of a branch officer. The Applicant relies on Rule 17 in substance as a complaint handling rule, but Rule 17 is not, on its terms, a general complaints procedure for members challenging legal assistance decisions.

42.3. Accordingly, I find that the complaint in respect of Rule 17 is not within the jurisdiction of the CO.

43. **Rule 27**

43.1. In respect of Rule 27, the rule is headed “Membership Discipline”. It provides for charges against members, disciplinary hearings, bodies which may hear charges, suspension pending decision, sanctions, appeals against disciplinary sanctions, and complaints against employees being investigated under a separate Members’ Complaints Procedure.

43.2. Rule 27 plainly relates, in its principal parts, to disciplinary proceedings within section 108A(2)(b). The strongest possible statutory gateway is therefore section 108A(2)(b). However, the Applicant does not allege that the Applicant was charged with a disciplinary offence, suspended, made subject to disciplinary proceedings, sanctioned, or denied a disciplinary appeal. The Applicant relies on Rule 27 as though it were a general complaint handling route.

43.3. Taking the Applicant’s case at its highest, the alleged breach does not engage Rule 27 in the respect which gives it any relationship to disciplinary proceedings. The complaint concerns the Respondent’s failure to investigate or escalate the Applicant’s complaints about legal assistance and representation. Those matters may have caused the Applicant detriment, but detriment is not the same as disciplinary action. There is no material capable of supporting a possible finding

that the Respondent's actions were taken for a disciplinary purpose or imposed a disciplinary penalty on the Applicant.

43.4. Rule 27.8 refers to complaints against employees being investigated under a Members' Complaints Procedure agreed by the Executive Council. That reference does not bring the Applicant's complaint within jurisdiction. The statutory list does not include a general jurisdiction over complaint handling. Nor has the Applicant identified a breach of Rule 27 which concerns the constitution or proceedings of a qualifying body.

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

Overall conclusion

44. I find that none of the allegations, taken at their highest, identify an alleged breach of a rule which relates to a matter listed in section 108A(2), or engages any such rule in its qualifying respect. The application concerns, in substance, the Respondent's handling of legal assistance, representation, complaint escalation and correspondence about those matters. Those matters do not fall within the CO's limited jurisdiction under section 108A.

45. 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.

Time limits

46. I have also considered whether it is necessary for me to reach findings on the statutory time limits. On the material provided, the Applicant identified 4 December 2023 as the date of the alleged breach. The Applicant also referred to an internal complaints process, including a Stage 2 complaint made on 4 May 2024 and a Stage 2 response issued on 21 May 2024. The

application was made to the CO on 29 May 2026. On those dates, there would plainly be a significant issue as to whether any application based on the breach identified as having occurred on 4 December 2023 was made within the time limits set by section 108A of the 1992 Act.

47. The application also refers to later events in the Respondent's handling of the matter. I have not reached detailed findings on whether any of those later events gave rise to a separate alleged breach, or on the date from which time would run in respect of each such allegation. In general terms, later correspondence, refusals to revisit a matter, or continuing consequences of an earlier decision do not necessarily amount to fresh breaches of rule for the purpose of the statutory time limits. However, in light of my conclusions above, it is not necessary for me to decide those issues. I have found that none of the complaints made in respect of the rules relied upon are within the jurisdiction of the CO. The application cannot therefore be accepted for determination in any event.

Observation

48. I make the following observation:

48.1. Some of the material submitted in support of the application appeared to contain drafting notes, including passages which were not directed to the CO and which appeared to be instructions to; or output from, a drafting tool, such as an AI large language model.

48.2. While I make no criticism of any Applicant for seeking assistance in preparing submissions, including by using technology or other drafting support. However, it is important to note that, an applicant remains responsible for the material submitted in support of their application which includes their responsibility to ensure that the material is accurate and relevant to the matter which the CO must decide.

48.3. For the avoidance of doubt, my observation has had no bearing on this decision and is made for the benefit of applicants and respondents bringing and/or responding to any applications.

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

MICHAEL KIDD
The Assistant Certification Officer

3 July 2026