

SD/7/26-27

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

Jane Scilio

Applicant

And

GMB

Respondent

Date of Decision

7 July 2026

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Decision

1. Jane Scilio (“the Applicant”) applied to the Certification Officer (“the CO”) on 6 June 2026, under section 108A of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”), for a declaration that GMB (“the Respondent”) had breached its rules. The application was administered by the Applicant’s daughter, Vicky Ginley.
2. Having considered the application:

I find that the application may be within the jurisdiction of the Certification Officer.

It is therefore accepted for determination by the Certification Officer.

Background

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

GMB breached Rule 6:- Complaints Procedure for Members through repeated procedural failures, conflicts of interest, refusal to escalate, and unreasonable delay.

Rule 6 requires that complaints be handled impartially, escalated where appropriate, and considered fairly by the correct decision-making body. Instead, GMB repeatedly referred my complaint back to the same branch and region that were the subject of the

complaint, creating a clear conflict of interest and preventing any impartial review.

Despite Rule 6 allowing a member to raise a complaint directly with the Regional Secretary where the branch is implicated, the Regional Secretary refused escalation, stating “there is no Stage 2 Complaints Procedure,” contradicting the rulebook and preventing the complaint from being considered by the Regional Committee. This denied my mother the fair process required under Rule 6.

GMB further breached Rule 6 by making legal support conditional on accepting representation from the Sefton Branch, even though the branch was under complaint. This is procedurally improper and placed a disabled member at risk during an active Employment Tribunal case. The union also failed to provide timely legal reassessment, admitting that no review had taken place since January 2025 despite significant new evidence.

Additionally, GMB failed to provide transparency, failed to supply requested evidence (including a witness statement requested on 17th October 2025), and caused unreasonable delay, contrary to Rule 6’s requirements for fairness, timely handling, and the ability to present and question evidence.

These actions collectively demonstrate a sustained breach of Rule 6 from 22nd January 2026 onwards.

5. On 11 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. Subsequently on 11 June 2026, the Applicant replied to the Certification Office confirming their preference for a formal decision regarding the issue of jurisdiction.
10. In support of the application, the Applicant supplied more than 250 pages of documentary evidence, consisting of, for example, the results of a Subject Access Request, various email chains, documents relating to Employment

Tribunal proceedings, and minutes of meetings. 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. Whilst 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.

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(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 6 Complaints procedure for members

1 Subject to other provisions within this clause, any member who wants to complain should ordinarily do so in writing to their branch secretary who will take the matter to the branch who will consider the complaint as soon as reasonably practicable.

If the complaint is one of sexual harassment, the member should raise their complaint under the sexual harassment policy issued under Rule 5A and this rule shall not apply.

Any member may raise a complaint with their Regional Secretary if the complaint concerns the branch secretary or for any reason it would be inappropriate for the matter to be raised with the branch secretary and considered by a branch meeting when it will be considered by the Regional Committee.

If raised with the branch secretary then if either:

- (a) the branch decides it does not have the authority to deal with the matter or provide a remedy; or
- (b) the branch considers the complaint, and the member is not satisfied with the branch's decision and

provides written notice of appeal to the regional committee within one month of the branch meeting.

the Regional Committee will consider the complaint as soon as reasonably practicable.

There shall be no right of appeal against any decision of the Regional Committee.

The Regional Committee may order a complaint to be struck out for scandalous vexatious or unreasonable behaviour by the complainant or for excessive delay in proceeding with the complaint. Before making such an order the complainant will be sent notice giving them an opportunity to show why the order should not be made.

2 At any hearing under this rule the Branch or the Regional Committee will so far as reasonably practicable allow the member a reasonable opportunity

- to hear or be provided with a record of the evidence against presented against them,
- to answer that evidence and to question, or raise questions to be asked of, any witnesses giving evidence against them;
- to present their case in person or in writing, and
- to support their case with written statements or by using witnesses.

The Central Executive Council may issue guidance governing any parts of the procedure to be followed under this rule as they may from time to time determine,

to include when and how any hearing might be held remotely, and when a matter should be referred for consideration under Rule 5.

The Applicant's submissions

16. The application concerns an alleged breach of the rules of the Respondent union in respect of the handling of a member complaint under Rule 6. The Applicant submits that the Respondent failed to follow the complaints procedure for members by refusing escalation, referring the complaint back to the branch and region said to be the subject of the complaint, failing to provide a hearing, failing to allow evidence or witnesses, and failing to progress the complaint fairly or promptly. The Applicant also relies on matters concerning legal support, legal reassessment, transparency, representation, delay, alleged conflicts of interest, and disability-related detriment. The Applicant identifies Rule 6 as the rule allegedly breached and submits that the matter falls within section 108A because it concerns the Respondent union's application of its own complaints procedure and the constitution and proceedings of decision-making bodies.
17. In respect of Rule 6, the Applicant submits that the Respondent breached the rule by failing to handle the complaint through the route required by that rule. The Applicant alleges that the complaint concerned the branch, the branch secretary, regional officers, and the handling of the member's case, and that it was therefore inappropriate for the complaint to be considered by the same branch or region whose conduct was in issue. The Applicant further submits that the Respondent union wrongly refused escalation, stated that there was no further complaints stage, and failed to allow the complaint to be considered by the Regional Committee.
18. In respect of jurisdiction, the Applicant submits that Rule 6 concerns the Respondent's governance and decision-making processes. The Applicant submits that the complaint is not about the quality of representation, but

about the Respondent's alleged failure to apply Rule 6 and to allow the complaint to be considered by the correct body under that rule. The Applicant also alleges that the Respondent union failed to provide the procedural protections set out in Rule 6, including a hearing, the opportunity to rely on evidence, the opportunity to call or question witnesses, and the opportunity to present the complaint fairly.

The jurisdiction of the Certification Officer

19. The CO's jurisdiction under section 108A is limited. It is not a general jurisdiction to decide whether a trade union has acted fairly, reasonably, or in line with good practice. The CO may only determine an application if the complaint concerns an alleged breach or threatened breach of the rules of the union relating to one of the matters listed in section 108A(2).
20. It is not enough for an applicant to identify a rule of a union and allege that it was breached. The rule relied upon must itself relate, on its proper construction, to one of the matters listed in section 108A(2). The alleged breach must also engage the rule in that qualifying aspect.
21. The words "relating to" require a clear and direct relationship between the rule and the listed matter. That relationship must come from the rule itself. It cannot be created only by the factual background to the complaint, or by the consequences of the alleged breach. A complaint about representation, legal support, advice, complaint handling, delay, or unfairness does not fall within the CO's jurisdiction unless the rule relied upon has a clear and direct relationship with one of the matters listed in section 108A(2), and the alleged breach must engage that relating aspect of the rule.
22. The relevant listed matter relied upon in the application before me is section 108A(2)(d), namely the constitution or proceedings of an executive committee or of a decision-making meeting.

23. In considering section 108A(2)(d), two questions arise. Firstly, the body concerned must be an executive committee or decision-making meeting for the purposes of section 108A. Secondly, the rule must relate to the constitution or proceedings of that body.
24. The terms “constitution” and “proceedings” are limited terms. They do not give the CO jurisdiction over every rule which may be described in a broad sense as part of the Respondent union’s internal governance. If they did, the limited jurisdiction conferred by section 108A would become a general jurisdiction over the Respondent’s rulebook. That is not what section 108A provides.
25. However, the terms are not confined only to the composition of a body or the formal conduct of a meeting. In Fradley v TSSA D/28-30/03, the CO explained the scope of 108A(2)(d) as follows:

25. Parliament has thus restricted the jurisdiction of the Certification Officer to those subject matters mentioned in sub-section (2). This does not mean that members have no legal recourse about alleged breaches of other types of rule. They retain the right to complain about them to a County Court or to the High Court, but not to the Certification Officer.

26. In my judgement, section 108A(2)(d) describes two types of rule. These are (i) rules which relate to the constitution of the executive committee or of any decision making body (“relevant committees”), such as rules about the membership or quorum of those committees or other such issues relating to their constitution, and (ii) rules which relate to the proceedings of relevant committees, such as the procedural rules as to the way business must be

conducted. I accept Mr Whitehead's submission that the reference to constitution does not give the Certification Officer jurisdiction over all rules relating to the constitution of the Union. Subsection (2)(d) refers expressly to the constitution of the executive committee or any other decision-making body. To decide otherwise would be to give the Certification Officer jurisdiction over a union's entire rule book, which is manifestly not the intention of Parliament. I also reject the proposition that the word "proceedings" in subsection (2)(d) gives the Certification Officer jurisdiction over any decision made by a relevant committee. A decision may arise during the course of the proceedings of such a committee but rules relating to proceedings are those rules which guide the proceedings to a decision, not the decision itself. [...]

26. Further, in Scobie v TGWU D/6-14/05, the CO explored the matter further:

38. The first question for me to consider is "Do issues about whether or not a meeting of an executive committee of the union was called as it should have been and allowed to discuss the issues that it was competent to discuss, fall within the Certification Officer's jurisdiction?" A shorter way of putting the same point is can the Certification Officer consider whether meetings have been called according to the rule and whether their remit has been properly interpreted according to the rule. Are these issues of "constitution or proceedings"?

39. On a first reading of Fradley v TSSA the examples given would suggest that “constitution” is confined to rules relating to membership or quorum of those bodies, and “proceedings” to the rules as to the way business must be conducted. Such an interpretation is clearly in line with Parliament’s intention to restrict the Certification Officer’s jurisdiction to specific aspects of the Union’s rule book.

40. Without questioning that intention or undermining the principle it embodies, it is my view that “constitution” has a wider meaning than ‘composition’. Indeed, in Fradley the Certification Officer referred to “other such issues relating to constitution”. In my judgment some issues relating to the proper functioning of decision-making bodies are embraced by the term “constitution or proceedings”. One such issue falling within the definition of “constitution” is rules relating to when and how meetings of executive bodies are called.

41. Similarly “proceedings” or ‘procedural rules’ in my view include issues about the remit, vires, or, in the Union’s terms, ‘competent business’, of executive bodies. To decide whether or not a constituent body within the Union had the power under rule to reach a decision or discuss a particular matter appears to me to be an issue falling within the definition of rules relating to the ‘constitution or proceedings’ of that body.

27. I therefore approach section 108A(2)(d) on the same basis. A rule may relate to the constitution of a relevant body where it concerns the proper functioning of that body, including when and how that body is required to meet or act. A rule may relate to the proceedings of a relevant body where it concerns the procedure by which that body conducts its business, or the business which that body is competent or required to consider.
28. The proceedings limb may therefore include rules about the remit, authority, or competent business of a relevant body. It may also include rules about hearings, evidence, participation, voting, adjournments, appeals, or other procedural steps. It does not, however, give the CO jurisdiction to decide whether the substance or merits of a decision were correct.
29. A rule may contain both jurisdictional and non-jurisdictional aspects. Where that is so, it is necessary to identify the aspect of the rule which may relate to a listed matter and then ask whether the Applicant's allegations, taken at their highest, engage the rule in that respect. The CO cannot assume jurisdiction over the whole factual dispute merely because one part of a rule may fall within section 108A. Equally, a complaint should not be rejected on the grounds that much of the background is outside jurisdiction, if an alleged breach may engage a qualifying aspect of the rule.
30. At this stage, I am not deciding whether the complaint is well founded. I am considering whether the application can be excluded as outside jurisdiction at the preliminary stage. The question is whether, taking the Applicant's case at its highest, the rule relied upon may relate to a listed matter and whether the alleged breach may engage the rule in that qualifying aspect.

Conclusions

31. In respect of Rule 6, I find that the rule is primarily concerned with the Respondent union's complaints procedure for its members. Complaints handling, as such, is not one of the matters listed in section 108A(2). The

CO does not have a general jurisdiction to determine whether the Respondent handled a member complaint fairly, promptly, impartially, or in a way which the member considers satisfactory.

32. As identified by the Applicant, the strongest arguable statutory gateway is section 108A(2)(d), namely the constitution or proceedings of an executive committee or decision-making meeting. I do not find, at this preliminary stage, that Rule 6 is definitively outside of that statutory gateway. Rule 6 identifies the bodies which may consider complaints under that procedure, including a branch, a branch meeting and the Regional Committee.
33. Reliance on the constitution limb is, in my view, limited, and I would put the point no higher than this: Rule 6 may arguably concern the authority or remit of the relevant body to consider a complaint under that rule, because it allocates certain complaints to a branch, a branch meeting or the Regional Committee. Where the rule provides that a complaint raised with the Regional Secretary **will** be considered by the Regional Committee, that may arguably amount to a rule about the business reserved to that body, or the circumstances in which that body is to deal with that business.
34. A clearer possible route through the jurisdictional gateway is the proceedings limb. Rule 6 prescribes procedural requirements for any hearing held by the Branch or Regional Committee under the rule. It does not appear to require a hearing in every case. However, where a hearing is held by the Branch or Regional Committee, the rule sets out what that hearing must include, so far as reasonably practicable. Those requirements include the opportunity to hear or be provided with evidence, to answer evidence, to question or raise questions for witnesses, to present a case, and to support a case with written statements or witnesses. Those provisions may arguably relate to the proceedings of the relevant body, because they regulate how certain business is to be conducted by that body.

35. Taken at its highest, the Applicant's case includes an allegation that, because the complaint concerned the branch or because it was inappropriate for the branch to consider it, Rule 6 required the complaint to be considered by the Regional Committee. The Applicant also alleges that the Respondent refused that route, stated that there was no further complaints stage, and failed to provide the hearing procedure set out in Rule 6.
36. On the material provided, I cannot conclude at this preliminary stage that those allegations are incapable of engaging the possible jurisdictional aspects of Rule 6.
37. For the avoidance of doubt, this conclusion does not mean that rules relating to complaints handling in general fall within the CO's jurisdiction. Nor does it bring within jurisdiction the Applicant's wider concerns about representation, legal support, legal reassessment, conflict of interest, delay, transparency, disability-related detriment, or the handling of the underlying employment dispute. The possible jurisdictional basis is confined to whether Rule 6 required consideration by a qualifying body and/or whether the procedural requirements for any hearing under Rule 6 were engaged.

Overall conclusion

38. In conclusion, I make no finding that Rule 6 was breached.
39. I also make no final finding at this stage that the branch, a branch meeting or the Regional Committee qualifies as an executive committee or decision-making meeting for the purposes of section 108A(2)(d).
40. My finding is that I cannot conclude, at this preliminary stage, that Rule 6 is definitively outside of the CO's jurisdiction, or that the narrow aspect of the complaint which may engage section 108A(2)(d) is incapable of doing so on the alleged facts.

41. Accordingly, the application **may** be within the jurisdiction of the CO and is accepted for determination.

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

MICHAEL KIDD
The Assistant Certification Officer

7 July 2026