

SD/9/26-27

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

Makeda Lorne

Applicant

and

University and College Union

Respondent

Date of Decision

20 July 2026

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Decision

1. Makeda Lorne (“the Applicant”) applied to the Certification Officer (“the CO”) on 19 January 2026, under section 108A of the Trade Union and Labour Relations (Consolidation) Act 1992 (“the 1992 Act”), for a declaration that University and College Union (“the Respondent union”) 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. The Applicant is a member of the Respondent union.
4. In the initial correspondence to the Certification Office, the Applicant summarised the complaint as:

I submitted a formal complaint under the UCU Membership Complaints Procedure on 30 September 2025. Clause 4.7 of the procedure states that a formal response can normally be expected within thirty working days. Clause 4.8 provides that where this is not possible, the member must be informed of the reason for the delay and the date by which a response can be expected. As of 19 January 2026, 111 days have elapsed since submission of my complaint. No formal response has been issued. No revised timetable has been provided. I have not been informed

of any reason for delay, nor given a date by which an outcome can be expected. I have made repeated attempts to obtain procedural clarity directly from UCU, including escalation to senior officers. Despite this, UCU has failed to comply with the requirements set out in clauses 4.7 and 4.8. I believe this constitutes an ongoing breach of the UCU Membership Complaints Procedure, resulting in unreasonable delay, lack of transparency, and maladministration in the handling of my complaint

5. On 23 April 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 13 May 2026, the Applicant wrote to the Certification Office confirming that they wished to receive a formal decision on jurisdiction. The Applicant explained that the response had been delayed by the demands of other legal proceedings and asked that the application should not be treated as withdrawn. Having considered the Applicant's explanation and circumstances, I agreed to the late request in this case.
10. Taking account of the Applicant's circumstances, the Applicant was then given several further opportunities to provide any additional material, including after the time initially allowed had passed. Eventually, the Applicant was informed that, if no further material was received, the application would be decided on the material available. The final deadline expired on 14 July 2026 and no further submissions were received. I am satisfied that the Applicant has had a fair opportunity to provide any evidence and submissions which the Applicant wished me to consider. I have therefore reached this decision on the material available.
11. 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

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

The Trade Union and Labour Relations
(Consolidation) 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

13. The Applicant relies upon the following provisions contained in the Respondent union's Membership Complaints Procedure, as rules of the Union:

Membership Complaints Procedure

4. Formal Complaints Procedure

4.7 You can normally expect a formal response to your complaint within thirty working days.

4.8 If your complaint is particularly complex, or the relevant members of staff are not available, this may take longer. You will be informed of the reason for any delay and of the date by which you can expect a response.

The Applicant's submissions

14. The application concerns an alleged breach of the rules of the Respondent union in respect of its handling of a formal membership complaint submitted by the Applicant on 30 September 2025. The Applicant alleges that the Respondent union failed to issue a formal response within the period set out in clause 4.7 of the Membership Complaints Procedure. The Applicant further alleges that, contrary to clause 4.8, the Respondent union failed to give a date by which the Applicant could expect a response. The Applicant relies on the fact that the procedure involves an investigation, a report and

recommendations, followed by a decision of the General Secretary. The Applicant submits that the provisions govern a formal decision-making process and therefore relate to the proceedings of a decision-making meeting for the purposes of section 108A(2)(d) of the 1992 Act.

15. In respect of clause 4.7, the Applicant submits that the formal complaint remained unresolved for substantially longer than the normal period of 30 working days stated in the rule. The Applicant alleges that, although the Respondent union acknowledged the complaint and later confirmed that it had appointed an investigating officer, no formal response had been issued by the date of the application to the Certification Officer.
16. In respect of jurisdiction, the Applicant submits that clause 4.7 forms part of a published and structured procedure involving investigation, recommendations and a decision by the General Secretary. The Applicant submits that clause 4.7 governs the conduct of that decision-making process and therefore relates to the proceedings of a decision-making meeting within section 108A(2)(d).
17. The Applicant further submits that clause 4.8 required the Respondent union, where it could not meet the normal timescale, to state the reason for the delay and give a date by which the Applicant could expect a response. The Applicant states that the Respondent union referred to capacity issues but that it did not give a revised date, despite requests for a clear and realistic timetable.
18. The Applicant submits that clause 4.8 imposes a procedural requirement within the formal complaints process. In respect of jurisdiction, the Applicant submits that this requirement governs the steps leading to the General Secretary's decision and therefore concerns the proceedings of a decision-making process falling within section 108A(2)(d).

The jurisdiction of the Certification Officer

19. The Certification Officer's jurisdiction under section 108A is limited to applications alleging a breach or threatened breach of the rules of a trade union. It does not give the CO a general power to determine whether a union has complied with every policy, procedure, code or guidance document which it has adopted or published.
20. There are therefore two distinct requirements which must be met before an alleged breach can fall within section 108A. Firstly, the provision allegedly breached must be a rule of the union. Secondly, the relied upon rule must relate to one or more of the matters listed in section 108A(2).
21. An applicant who relies on a provision outside of the union's rulebook must identify a sufficient basis for the Certification Officer to reach a finding that the provision can rightly be considered to be a rule of the union. It is not enough to describe a policy or procedure as part of the union's governance arrangements, or to state that it contains mandatory procedural steps. Those matters may be relevant, but they do not determine the status of the provision.
22. At the jurisdictional sift stage, I consider the application and the material which the Applicant has provided, taking the Applicant's case at its highest. It is not my role to investigate a union's wider governance arrangements in order to identify a basis which the Applicant has not pleaded, upon which a policy or procedure might form part of the rules.
23. If the provision relied upon is not a rule of the union, the CO has no jurisdiction under section 108A to determine whether it was breached irrespective of whether it relates to one of the statutory listed matters in section 108A(2). If it is a rule of the union, it is then necessary to consider

whether, on its proper construction, it does relate to one of the statutory listed matters. The fact that a rule governs an internal process or leads to a decision does not, without more, bring it within those listed matters.

Conclusions

24. I must decide whether this application falls within the jurisdiction conferred by section 108A of the 1992 Act. The Applicant relies on two clauses contained in the Respondent union's Membership Complaints Procedure and submits that they are rules of the Respondent union. I must first decide whether either clause is a rule of the Respondent union for the purposes of section 108A. If it is, I must then consider whether it relates to a matter listed in section 108A(2). I will assess those questions in relation to each clause:

25. **Clause 4.7**

25.1. The Applicant submits that the Membership Complaints Procedure forms part of the Respondent union's published rules and governance arrangements. However, the procedure describes itself as an internal procedure for current members who are dissatisfied with the standard of service provided by the Respondent union. Nothing in the wording relied upon states that the procedure forms part of the rules of the Respondent union. The Applicant has not identified any provision of the Respondent union's rules which incorporates the procedure into those rules or otherwise gives clauses 4.7 and 4.8 the status of union rules.

25.2. The fact that the Respondent union has adopted and published a procedure does not, without more, establish that the procedure forms part of its rules. On the material provided, I find that the Applicant has not identified a rule of the Respondent union capable of engaging the Certification Officer's jurisdiction under section 108A.

25.3. In any event, even if clause 4.7 were a rule of the Respondent union, it would not relate to a matter listed in section 108A(2). Notably, the Applicant has identified section 108A(2)(d) as the appropriate statutory gateway. Clause 4.7 states when a member can normally expect a formal response to a complaint. It does not concern the constitution or proceedings of an executive committee or decision-making meeting.

25.4. The Applicant submits that the complaints procedure leads to a decision by the General Secretary. However, the General Secretary is an individual office-holder and not an executive committee or decision-making meeting. Clause 4.7 concerns the expected time for a response within an internal complaints process. It does not govern the composition or proceedings of a qualifying body.

25.5. Accordingly, I find that the complaint in respect of clause 4.7 is not within the jurisdiction of the CO.

26. Clause 4.8

26.1. Clause 4.8 provides for information to be given to a member where a complaint may take longer than expected.

26.2. For the reasons given in respect of clause 4.7, the material provided does not establish that the Membership Complaints Procedure forms part of the rules of the Respondent union. I therefore find that the Applicant has not identified a rule capable of engaging the Certification Officer's jurisdiction under section 108A.

26.3. As with my finding in respect of clause 4.7, in any event, even if clause 4.8 were a rule of the Respondent union, it would not relate to the constitution or proceedings of an executive committee or decision-making meeting. It concerns the information to be given to a member about a delay in handling a complaint. It does not assign business to a

qualifying body or govern the way in which such a body conducts its proceedings.

26.4. The Applicant submits that clause 4.8 governs a step in a process which ends with a decision by the General Secretary. That link does not bring the clause within section 108A(2)(d). A decision by an individual office-holder is not a decision taken by an executive committee or decision-making meeting for the purposes of section 108A(10) or (11).

26.5. Accordingly, I find that the complaint in respect of clause 4.8 is not within the jurisdiction of the CO.

Overall conclusion

27. I find that none of the allegations contained within the application, taken at their highest, identify an alleged breach of a rule which relates to a matter listed in section 108A(2). The application concerns, in substance, a grievance around the Respondent union's handling of a membership complaint. In conclusion, those matters do not fall within the CO's limited jurisdiction under section 108A.

28. 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.



MICHAEL KIDD
The Assistant Certification Officer

20 July 2026