

CO/L/1/26-27

The Assistant Certification Officer's Decision under Section 2 of the Trade Union and Labour Relations (Consolidation) Act 1992 concerning the continued listing of an organisation

Decision and reasons in respect of:

Libertas Union

Date of Decision

5 August 2026

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Decision

1. For the reasons set out below, I have concluded that Libertas Union should be removed from the list of trade unions maintained by the Certification Officer.
2. Having considered the material supplied by the organisation following notification of the Certification Officer's provisional view, I am not satisfied that Libertas Union is a trade union within the meaning of section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act").
3. In particular, I am not satisfied on the evidence before me that one of Libertas Union's principal purposes is the regulation of relations between workers and employers.

Background

4. The Certification Officer maintains a list of trade unions pursuant to the provisions of the 1992 Act. Libertas Union ("the organisation") was added to the Certification Officer's list on 11 April 2024.
5. In the course of exploring matters relating to Libertas Union's compliance with its statutory obligations; including the submission of annual returns, the Certification Officer had cause to consider whether the organisation continued to meet the statutory definition of a trade union. Following that consideration, the Certification Officer reached a provisional view that the organisation no longer met that definition.

6. Having reached that provisional view, the Certification Officer was required by section 4(2) of the 1992 Act to give the organisation notice of his intention to remove it from the list and to consider any representations made by the organisation before reaching a final decision.
7. By letter dated 2 July 2026, the Certification Officer informed the organisation of his provisional view and gave notice pursuant to section 4(2) of the 1992 Act. The organisation was invited to provide any representations and evidence upon which it wished to rely.
8. Subsequently, the organisation provided written representations and supporting documents.
9. Following receipt of the organisation's response, the Certification Officer asked me, as Assistant Certification Officer, to consider the material and determine the matter.
10. In reaching this decision I have considered the organisation's representations, the supporting correspondence it provided, and the organisation's rule book.

Relevant statutory provisions

11. The relevant statutory provisions are:

Trade Union and Labour Relations (Consolidation) Act 1992

Chapter I: Introductory

1 Meaning of “trade union”

In this Act a “trade union” means an organisation (whether temporary or permanent)—

(a) which consists wholly or mainly of workers of one or more descriptions and whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers’ associations; or

(b) which consists wholly or mainly of—

(i) constituent or affiliated organisations which fulfil the conditions in paragraph (a) (or themselves consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions), or

(ii) representatives of such constituent or affiliated organisations,

and whose principal purposes include the regulation of relations between workers and employers or between workers and employers’ associations, or the regulation of relations between its constituent or affiliated organisations.

2 The list of trade unions

(1) The Certification Officer shall keep a list of trade unions containing the names of—

(a) the organisations whose names were, immediately before the commencement of this Act, duly entered in the list of trade unions kept by him under section 8 of the Trade Union and Labour Relations Act 1974, and

(b) the names of the organisations entitled to have their names entered in the list in accordance with this Part.

(2) The Certification Officer shall keep copies of the list of trade unions, as for the time being in force, available for public inspection at all reasonable hours free of charge.

(3) A copy of the list shall be included in his annual report.

(4) The fact that the name of an organisation is included in the list of trade unions is evidence (in Scotland, sufficient evidence) that the organisation is a trade union.

(5) On the application of an organisation whose name is included in the list, the Certification Officer shall issue it with a certificate to that effect.

(6) A document purporting to be such a certificate is evidence (in Scotland, sufficient evidence) that the name of the organisation is entered in the list.

4 Removal of name from the list

(1) If it appears to the Certification Officer, on application made to him or otherwise, that an organisation whose name is entered in the list of trade unions is not a trade union, he may remove its name from the list.

(2) He shall not do so without giving the organisation notice of his intention and considering any

representations made to him by the organisation within such period (of not less than 28 days beginning with the date of the notice) as may be specified in the notice.

(3) The Certification Officer shall remove the name of an organisation from the list of trade unions if—

(a) he is requested by the organisation to do so, or

(b) he is satisfied that the organisation has ceased to exist.

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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.

Discussion and conclusions

12. The issue for determination is whether the organisation is a trade union within the meaning of section 1 of the 1992 Act and should therefore remain on the list of trade unions maintained by the Certification Officer.

13. In reaching his provisional view, the Certification Officer drew the organisation's attention to the decision of the Employment Appeal Tribunal in *Akinosun (on behalf of General & Health Workers Union) v Certification Officer* (2013) UKEAT/0180/13, [2013] IRLR 937 ("Akinosun") and invited the organisation to provide representations and evidence in response.
14. In *Akinosun*, the Employment Appeal Tribunal made clear that the question is not answered merely by reference to an organisation's stated aims or aspirations. Similarly, the editors of *Harvey on Industrial Relations and Employment Law* (Division M, Chapter 2, paragraph 82) observe that a statement in a rule book that an organisation has the requisite purpose is not, of itself, sufficient. Whether that purpose exists is ultimately a question of fact and reality.
15. It is therefore necessary to consider all of the available evidence in order to determine whether, in reality, one of the organisation's principal purposes is the regulation of relations between workers and employers.
16. In undertaking that assessment, I have borne in mind that the statutory test is concerned with an organisation's purposes, namely the aims or objectives which it exists to pursue, rather than simply its activities. Determining an organisation's purposes is a question of fact. The assessment is not directed simply at what the organisation says about itself, nor simply at what it has done on particular occasions, but at what the available evidence demonstrates about the purposes which it exists to pursue. Both the organisation's stated objects and evidence of its activities may assist in answering that question. Neither, however, is necessarily conclusive. The question for me to determine is whether, having regard to all of the available evidence, I am satisfied that the regulation of relations between workers and employers is one of the organisation's principal purposes.

17. I have therefore considered not only whether the evidence demonstrates engagement by the organisation with an employer, but also what that evidence demonstrates about the purposes which the organisation exists to pursue.

18. Libertas Union's rule book

18.1. Libertas Union's rule book contains an express object stating that the Union exists to regulate the relationship between its members and their employers and to protect members' interests in the workplace. On its face, that object may be capable of supporting the view that one of the organisation's principal purposes is the regulation of relations between workers and employers.

18.2. I also note that the same object of the union is framed primarily in terms of regulating the relationship between an individual member and his or her employer and protecting that individual member's interests. In particular, the object refers to regulating "the relationship between the member(s) and his employer", protecting "the legitimate interests of the member(s) at his/her place of work", and emphasises the legal doctrine of "privity of contract" between a member and his or her employer. The object is therefore expressed in predominantly individual rather than collective terms. I find that this tends to suggest a focus on individual employment relationships rather than on the broader regulation of relations between workers and employers.

19. Libertas Union's activities

19.1. In response to the Certification Officer's letter of 2 July 2026, the organisation provided written representations and supporting evidence.

19.2. The principal evidence relied upon by the organisation consists of correspondence with an employer concerning consultation

arrangements affecting two members. In that correspondence, the organisation's representative states that he was instructed by those members to request, on their behalf, that the consultation meetings be rearranged so as to take place together.

- 19.3. I accept that this correspondence demonstrates some engagement by the organisation with an employer. It also demonstrates that the request was made on behalf of those identified individuals.
- 19.4. I have carefully considered whether the correspondence demonstrates that one of the organisation's principal purposes is the regulation of relations between workers and employers. In my judgment, it does not do so.
- 19.5. The correspondence is consistent with the individualised focus of the union's first object, as discussed above in paragraph 18.2. It demonstrates the organisation making representations on behalf of identified members who each individually instructed it to do so. In my judgment, the correspondence therefore provides no assistance in determining whether one of the organisation's principal purposes is the broader regulation of relations between workers and employers.
- 19.6. Whilst the request made in the correspondence may be said to have a collective aspect, I do not consider that it follows that the regulation of relations between workers and employers is thereby shown to be one of the organisation's principal purposes. The correspondence provides evidence of a particular activity undertaken by the organisation. It is equally consistent with the organisation providing representation to individual members who requested that representation. In those circumstances, I do not consider that the correspondence provides a sufficient basis for concluding that the regulation of relations between workers and employers is one of the organisation's principal purposes.

- 19.7. Applying the approach adopted by the Employment Appeal Tribunal in *Akinosun*, and having regard to all of the material before me, I am not satisfied that the evidence establishes, as a matter of reality and fact, that the regulation of relations between workers and employers is one of the organisation's principal purposes. The available evidence is capable of demonstrating that the organisation has, on at least one occasion, acted on behalf of individual members in their dealings with an employer. However, for the reasons set out above, I do not consider that the material before me provides a sufficient basis for concluding that the regulation of relations between workers and employers is one of the organisation's principal purposes.

Overall Conclusion

20. In accordance with section 4(2) of the 1992 Act, the organisation was notified of the Certification Officer's provisional view that it should be removed from the list of trade unions and was given an opportunity to make representations and provide evidence in response. I have considered the material subsequently supplied.
21. The question I have determined is whether that material demonstrates that the organisation is a trade union within the meaning of section 1 of the 1992 Act. In reaching this decision I have considered all of the evidence and representations submitted by the organisation in response to the notice given under section 4(2) of the 1992 Act.
22. In conclusion, having considered all of the evidence before me, I am satisfied that the organisation is not a trade union within the meaning of section 1 of the 1992 Act.

23. It follows that the organisation should not remain on the list of trade unions maintained by the Certification Officer. I therefore direct, pursuant to section 4 of the 1992 Act, that the name of the organisation be removed from the list of trade unions with effect from the date of this decision.

A handwritten signature in black ink, appearing to read 'M. Kidd'.

MICHAEL KIDD
The Assistant Certification Officer

5 August 2026