D/39-41/26-27

Decision of the Certification Officer on application made under Section 108A of the Trade Union and Labour Relations (Consolidation) Act 1992

Mr Scott Richardson Applicant

and

The Social Workers Union Respondent

Date of Decision 19 October 2026

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Decision

1. Upon application by Mr Scott Richardson under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the 1992 Act"):

   Pursuant to section 256ZA of the 1992 Act, I strike out the claimant's application for reason of excessive delay in proceeding with it.

Background

2. Mr Richardson ("the Applicant") is a member of The Social Workers Union ("the Respondent").

3. By application under section 108A of the Trade Union and Labour Relations (Consolidation) Act 1992, submitted on 13 June 2025, the Applicant made a complaint in relation to the appointment or election of a person to, or the removal of a person from, an office of the Union.

4. The Applicant's application was acknowledged by my office on 5 August 2025.

5. The Respondent was notified of the Applicants' application by my office on 18 November 2025, and the Respondent duly acknowledged their receipt on 19 November 2025.

6. The Applicant confirmed his complaints as set out below:

   Complaint 1

   On or around 2 May 2025 the Union breached Rule 6.8.2.

   The rule was breached in the following manner. Rule 6.8.2 allows the Executive Committee to remove a member if their conduct is considered detrimental to the union. However, the rule requires a formal process outlined in 6.8.5–6.8.8, including a written resolution signed by three members, 14

days' notice, and the opportunity to respond. I was asked to stand down from the Executive Committee due to my candidacy for the BASW Council, despite not being elected. No formal resolution was presented, no written notice was issued, and I was not given the opportunity to respond in a meeting as required. The decision was communicated via email and enforced without following the procedural safeguards. This constitutes a breach of Rule 6.8.2, as the removal process was not lawfully executed.

Complaint 2

On or around 2 May 2025 the Union breached Rule 6.3.

The rule was breached in the following manner. I was instructed to step down from the SWU Executive Committee due to my candidacy for the BASW Council. This directive was issued before the BASW Council election had taken place and prior to any appointment. Rule 6.3 of the SWU Rule Book (2024) states: "No member of the Executive Committee may also be a member of the BASW Council and any member of the Executive Committee who becomes a member of the BASW Council shall, on such appointment, automatically cease to be a member of the Executive Committee." The rule clearly applies only upon appointment, not candidacy. Therefore, the instruction to step down was premature and not supported by the rule's wording or intent.

Additionally, the process by which this instruction was issued failed to comply with procedural safeguards outlined in the Rule Book. No written resolution was presented or signed by three Executive members as required under Rule 6.8.5. I received no formal notice outlining the grounds for removal, nor was I given the opportunity to respond or attend a hearing as required under Rule 4.3.2. No formal vote was held by the Executive Committee prior to the instruction, as required under Rule 6.8.8. The instruction appears to have been issued unilaterally by the General Secretary and/or Honorary Officers without full Executive Committee consultation or approval. This action caused significant distress and raises

serious concerns about transparency, due process, and governance within the union.

Complaint 3

On or around 2 May 2025 the Union breached Rule 9.1 and 6.4.

Rules 9.1 and 6.4 state that the General Secretary is the Chief Executive Officer and decision maker on the Executive's behalf, supported by the Executive Committee. These rules imply that the General Secretary must act within the framework of Executive oversight. However, in my case, the General Secretary unilaterally instructed me to step down from the Executive Committee due to my candidacy for the BASW Council. This decision was not made through a formal Executive Committee vote or meeting, nor was it preceded by consultation or approval from the full Executive. The General Secretary cited authority under Rule 6.4 but bypassed the collective decision-making process required for such actions. This undermines the constitutional role of the Executive Committee and breaches the governance structure outlined in the rules.

The relevant statutory provisions

7. 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.

256ZA Striking out

(1) At any stage of proceedings on an application or complaint made to the Certification Officer, he may—

(a) order the application or complaint, or any response, to be struck out on the grounds that it is scandalous, vexatious, has no reasonable prospect of success or is otherwise misconceived,

(b) order anything in the application or complaint, or in any response, to be amended or struck out on those grounds, or

(c) order the application or complaint, or any response, to be struck out on the grounds that the manner in which the proceedings have been conducted by or on behalf of the applicant or complainant or

(as the case may be) respondent has been scandalous, vexatious, or unreasonable.

(2) The Certification Officer may order an application or complaint made to him to be struck out for excessive delay in proceeding with it.

(3) An order under this section may be made on the Certification Officer's own initiative and may also be made—

(a) if the order sought is to strike out an application or complaint, or to amend or strike out anything in an application or complaint, on an application by the respondent, or

(b) if the order sought is to strike out any response, or to amend or strike out anything in any response, on an application by the person who made the application or complaint mentioned in subsection (1).

(4) Before making an order under this section, the Certification Officer shall send notice to the party against whom it is proposed that the order should be made giving him an opportunity to show cause why the order should not be made.

The relevant rules of the Respondent union

13. The rules of the Respondent union which are relevant for the purposes of this application are as follows:

4 Termination of Membership

4.1 A Member shall cease to be a Member of the Union if s/he:

4.1.1 Fails to pay fees in accordance with rule 3.5 above;

4.1.2 Gives written notice of resignation addressed to the General Secretary of the Union; or

4.1.3 Ceases for any other reason to be eligible under all Categories of membership.

4.2 The Executive Committee shall have the right to terminate or suspend membership if in the opinion of the Executive Committee, the Member has conducted him/herself in a manner prejudicial or detrimental to the best interests of the Union, or contrary to its Objects.

4.3 Prior to termination or suspension of membership under rule 4.2 above, the following procedure shall apply:

4.3.1 The Member shall be served with at least 14 days' written notice of the conduct or circumstances alleged to be grounds for his/her suspension or expulsion and of the date, time and place of the meeting at which the matter is to be considered.

4.3.2 The Member shall be entitled to attend the meeting, accompanied by a friend, and to make representations in response to the allegation(s). Alternatively, s/he may submit written representations to be taken into account at the meeting. Where the Member is deemed to have acted in a manner prejudicial or detrimental to the best interests of the Union, or contrary to its Objects his/her representations shall be limited to the question of the appropriate action to be taken.

4.3.3 The decision of the Executive Committee, which shall be final, shall be communicated to the Member in writing as soon as practicable after the meeting

6. Management

Executive Committee:

6.1 There shall be an Executive Committee which shall consist of up to Twelve embers, comprising at least one representative from each nation (Northern Ireland, Scotland and Wales) ("the National Representatives"),

two National Representative from England (due to the membership density), up to six others ("the UK Representatives" who may include representatives from the Channel Islands and the Isle of Man) and one Social Work Student / Newly Qualified Social Worker representative. In the event that no representatives are nominated for one or more of the national seats, a corresponding number of additional UK Representatives shall be eligible to be nominated and elected instead.

6.2 The members of the Executive Committee shall be elected in accordance with the procedures set out in the Bye-Laws.

6.3 No member of the Executive Committee may also be a member of the BASW Council and any member of the Executive Committee who becomes a member of the BASW Council shall, on such appointment, automatically cease to be a member of the Executive Committee. *No former members of SWU staff should take up an Executive position until a period of two years have lapsed since leaving SWU employment.*

Powers of the Executive Committee:

6.4 The Union shall be managed by the Executive Committee. For accountability, the SWU General Secretary is the Chief Executive Officer and decision maker on the Executive's behalf and supported by the National Executive.

6.5 The Executive Committee may appoint such sub-c committees as it sees fit in order to further the interests of the Union.

6.6 A sub-committee appointed under rule 6.5 above shall consist of such member or members of the Executive Committee together with such other person(s) as the Executive Committee shall see fit.

6.7 The Executive Committee may invite any person who is not a member of the Executive Committee (whether as a member of a sub-committee or otherwise), to attend and speak at a meeting of the Executive Committee for the purpose of providing the Executive Committee with factual

information, or with technical or professional advice with respect to matters to be taken into account by the Executive Committee in carrying out its functions. A person so invited shall not be entitled to vote on any Executive Committee matter and shall not be a member of the executive.

6.8 Removal of members of the Executive Committee:

6.8.1 A member of the Executive Committee shall cease to hold office:

(a) if he/she is adjudged bankrupt or a receiving order is made against him/her, or he/she makes any arrangement or composition with his/her creditors; 4

(b) if he/she ceases to be a Member of the Union;

(c) if he/she gives no less than one month's written notice of his/her resignation from such office, on the expiration of such notice;

(d) if he/she is absent from the whole of three successive Executive Committee meetings and the Executive Committee resolves to remove him or her from office for that reason. This covers online or face to face meetings.

6.8.2 Any member of the Executive Committee who acts in a manner considered by the Executive Committee to be detrimental or contrary to the interests of the Union may be removed by the Executive Committee.

6.8.3 Before any decision is taken to remove an Executive Committee member under rule 6.8.2 above, the procedure set out in rules 6.8.5 to 6.8.8 below shall be followed.

6.8.4 If the Executive Committee member who is removed is also the Chair or Honorary Treasurer of the Union, he/she shall thereupon cease to hold such position.

6.8.5 A resolution proposing the removal of an Executive Committee member shall be valid if:

(a) It is in writing;

(b) It is signed by at least three other Executive Committee members; and

(c) It contains the grounds on which it is alleged that the Executive Committee member has acted in a manner detrimental or contrary to the interests of the Union.

6.8.6 The resolution shall be sent to the General Secretary who shall refer it to the next meeting of the Executive Committee unless such meeting is due to be held within 21 days from receipt of the resolution, in which case it shall be referred to the following meeting.

6.8.7 At least 14 days' written notice of the date, time and place of the meeting shall be served on the member of the Executive Committee whose removal is proposed, who shall at the same time be supplied with a copy of the resolution. The member shall be entitled to be accompanied at the meeting by a friend.

6.8.8 The decision of the Executive Committee shall be final and shall be communicated in writing to the member of the Executive Committee as soon as practicable after the meeting.

9. General Secretary

9.1 There shall be a General Secretary of the Union who shall act as Chief Executive Officer to the Executive Committee. The SWU General Secretary is the Chief Executive Officer and decision maker on the Executive's behalf.

Reasons

14. The following is a summary of the correspondence between my office and both parties following receipt of the application. The correspondence was conducted by email. Following Mr Richardson's request of 30 January 2026 for a reasonable adjustment, which I noted, my office's took action to

accommodate this request, including giving an extended time for Mr Richardson to reply to correspondence. The following email communications occur:

27/8/2025 The office sent to Mr Richardson an initial letter regarding his application as well as further concerns he had raised about the Union on 15 August 2025.

18/9/2025 Mr Richardson responded to the points in the letter.

18/11/2025 Mr Richardson's complaint was copied to the Union for comment.

27/11/2025 The Union's response was received.

28/11/2025 Mr Richardson emailed to request that a personal email be used to contact to him, rather than a work email that he had originally provided.

22/12/2025 The Union's response was copied to Mr Richardson and he was asked to confirm how he wished to proceed with his application.

7/1/2026 Following Mr Richardson's confirmation that he wished to proceed to formal determination of his application, the office sought both parties' availability for a case management meeting (CMM) and hearing in the window 16 February to the end of April 2026. The parties' confirmation of their availability was requested by 21 January 2026.

12/1/2026 Mr Richardson asked for a reasonable adjustment and to know the time required for meetings.

13/1/2026 My office replied stating "should you require any reasonable adjustments for your forthcoming hearings, please respond to us setting out what your requirements are. Once I have received this and it has been considered by the Certification Officer, I will write to you again with details

on the procedural steps leading up to the hearing and the approximate duration of your case management meeting and final hearing."

18/1/2026 The Union provided their availability as requested.

30/1/2026 Mr Richardson emailed detailing his reasonable adjustment request.

3/2/2026 My office replied to Mr Richardson regarding his reasonable adjustment request, stating that his requests could be accommodated within the usual process. My office's email also, again, asked Mr Richardson to provide his availability; and, to meet his request of 12 January 202, attached a Word document indicating the stages in the process and timeline with dates to be confirmed.

16/3/2026 Having not heard from Mr Rihcardson about his availability, my office asked him if he wished to proceed with his complaint or withdraw it.

23/3/2026 Mr Richardson replied confirming he wished to proceed with his complaint stating, "date wise I am pretty flexible. Am I able to bring someone to support me throughout the hearing?"

24/3/2026 Given the time that had elapsed, making a hearing within the original dates impossible, my office sought the parties' availability between Monday 4 May 2026 and Friday 19 June 2026. A reply was requested by 31 March 2026.

24/3/2026 My office replied to Mr Richardson that he could have someone to support him during the hearing with exact details to be discussed at the Case Management Meeting.

27/3/2026 My office emailed the parties providing 2, 23 and 24 June as dates that suitable for the Certification Officer to list the CMM and hearing and requesting the parties' confirmation by Thursday 2 April as to availability.

1/4/2026 The Union indicated that they had availability on those dates but also stating, “Not sure how it works and how you involve our witnesses and legal input; so, would need to check all this with them once confirmed.”

1/4/2026 Mr Richardson stated that he was unable to make those dates as he would be away.

9/4/2026 Mr office sought the parties’ availability between Monday 29 June and Friday 31 July. The email also clarified that we were seeking the availability of all people who would be attending for that party (including legal representatives and any witnesses). The parties’ reply was requested by 16 April 2026.

15/4/2026 The Union provided their availability, providing 9 dates throughout July.

16/4/2026 The office contacted Mr Richardson to ask which of the Union’s dates were suitable for him.

24/4/2026 Having not heard from Mr Richardson, the office asked again for his availability.

25/4/2026 Mr Richardson replied stating, 6 and 7 July “should be fine” and also asked how long he should allocate for these “meetings” {Note that this was the last date on which any email correspondence has been received from Mr Richardson to date}.

29/4/2026 The office asked Mr Richardson if he was available on any of the other dates provided by the Union.

29/4/2026 In response to Mr Richardson’s question of 25 April, my office provided both parties with the approximate expected duration of the CMM and hearing.

18/5/2026 My office emailed both parties stating that it appeared that the only common date for listing 7 July 2026 and asking them to hold this date pending the case manager's consultation with the CO.

28/5/2026 My office emailed both parties stating that the CO's preference was for the CMM and hearing to be held as close together as possible. The email therefore requested the parties availability for both the CMM and the hearing between 3 August 2026 and Friday 30 October 2026. The parties replies were requested by Friday 5 June 2026.

3/6/2026 The Union provided their availability.

15/6/2026 Having not heard from Mr Richardson, the office forwarded its email of 28 May to him, requesting that he replied by 29 June with his availability or, alternatively, to confirm, by the same deadline, if he was withdrawing his complaint.

Considerations and Conclusion

15. As is indicated by the chronological timeline, set out above, my office attempted to proceed with Mr Richardson's complaint which he had confirmed that he wished to pursue.

16. A hearing was primarily sought to be listed within the hearing window of February-April 2026. However, due to the Applicant's slow response in providing his available the prospective hearing was then moved to the later hearing window of May-July 2026.

17. I have noted my office's accommodation of Mr Richardson's various requests, including a request for a reasonable adjustment.

18. In the circumstances and given the time and resource expended in attempting to proceed with Mr Richardson's application, I consider that it is appropriate to use my power of strike out on this occasion.

Strike out

19. Section 256ZA of the 1992 Act requires me to send notice to the party against whom the strike out order shall be made giving them an opportunity to show cause why the order should not be made.

20. My office wrote to Mr Richardson on 7 August 2026. That letter stated that I had noted the timeline in proceeding with the complaint which was set in the letter for Mr Richardson's benefit. The letter continued that, consequently, I had taken a preliminary view that the application should be struck out for reason of excessive delay in proceeding with it. The letter stated I was therefore minded to exercise my powers under section 256ZA of the Trade Union and Labour Relations (Consolidation) Act 1992, to strike out Mr Richadson's application.

21. The letter invited Mr Richardson to provide written representations before I took a decision about whether to strike out his complaint or, alternatively, whether the complaint should proceed to a hearing to determine the alleged rule breaches by the Union. Those written representations were requested by 4 September 2026. No reply was received from Mr Richadson by that date, nor has any further correspondence been received from him to date.

STEPHEN HARDY

The Certification Officer