

DECISION OF THE CERTIFICATION OFFICER ON AN APPLICATION
UNDER ARTICLE 90A OF THE TRADE UNION AND LABOUR
RELATIONS (NORTHERN IRELAND) ORDER 1995.

Mr Patrick Lawlor

V

UNISON

Date of Decisions: 23 November 2009

DECISIONS

Upon application by Mr Lawlor (“the applicant”) under Article 90A (1) of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (as amended) (“the 1995 Order”):

Mr Lawlor’s application, consisting of four complaints that UNISON breached its rules arising from disciplinary action taken against him, is dismissed on the grounds that it was made out of time.

REASONS

1. By an application dated 10 November 2008, the applicant, Mr Patrick Lawlor, made four complaints against his Union, UNISON. These related to breaches of the national rules of the Union and the rules of his branch, arising from disciplinary proceedings against him by the Union.

Following correspondence with the applicant, the complaints he wished to pursue were confirmed by him in the following terms:-

Complaint 1

That on or around 1 February 2008, by forwarding a letter to the regional office calling for the applicant's suspension, the Royal Hospitals Branch Committee breached:

Rule I 8.5 of the rules, as only where a disciplinary charge is proven against a member can suspension of the member from all the benefits of membership occur;

Rule C 7.4.1 of the rules, as only the NEC has the power in exceptional circumstances to suspend a member from office for a period of not more than 60 days; and

Branch Rule 5(e), which states that "the quorum for a general meeting shall be 50 per cent of the branch", as the meeting did not meet the required number of stewards to make the quorum and as such was unconstitutional under the branch rule.

Complaint 2

That on or around 1 February 2008 the Royal Hospitals Branch Committee heard and discussed the facts against the applicant at an emergency Branch meeting, in breach of Rule I 7.1 which states that a disciplinary charge brought by the NEC shall first be heard by a Disciplinary Sub Committee of the NEC.

Complaint 3

That on or around 22 April 2008 at a branch meeting, the Royal Hospitals Branch Committee:

In breach of Rule I 7.2, produced a document illustrating the facts of the investigation and complaints against the applicant and both the investigation and complaints were again heard before being heard by the Disciplinary Sub-Committee of the NEC. During the meeting members of the Branch Committee stated that the applicant had brought the Branch into disrepute, in breach of Rule I 5.3, which states that "in any case, the body on whose behalf an investigation is undertaken shall consider the result of such investigation before deciding whether or not a charge should be brought."

and the meeting breached Branch Rule 5.e, as it did not meet the required number of stewards to make it quorum and as such was unconstitutional under branch rule.

Complaint 4

That on or around 22 April 2008 at a branch meeting, the Royal Hospitals Unison Branch Committee passed a motion suspending the applicant from the union in breach of Membership Rule C 7.4.1.

2. The alleged breaches were investigated in correspondence by my office and I decided, upon application by the Union, that there should be a preliminary hearing to determine whether the application had been made in time, in accordance with Article 90A (6) and (7) of the 1995 Order. Prior to the preliminary hearing, the Union made a further application to the effect that if any or all of the applicant's complaints were made in time, I should exercise my discretion to refuse them under Article 90 B (1) of the 1995 Order, on the grounds that the applicant had not taken all reasonable steps to resolve them by the use of any internal complaints procedure of the union.
3. The preliminary hearing took place on 14 October 2009. The Union was represented by Mr J. O'Neill of Thompsons McClure solicitors. Mr K. Nelson, Head of Democratic Services UNISON, Mr C. McCarthy, chairman of the UNISON Royal Victoria Hospital (RVH) branch, and its joint branch secretaries, Mr R. Rafferty and Mrs C. Harte, gave evidence for the Union. Mr Lawlor acted in person. He did not give evidence, but agreed to answer questions from Mr O' Neill. Mr. Forster, joint convenor for UNISON (Education sector) Kirklees, West Yorkshire, gave evidence for Mr Lawlor. A 167 page bundle of documents containing relevant correspondence and papers, including three case law decisions for the Union, was prepared by my office for the hearing. The relevant national rules of the Union, the core branch rules, the UNISON Code of Good Branch Practice, along with the UNISON complaints procedure, and relevant statutory extracts, were included. After the bundle was sent to the parties the Union wrote to the applicant requesting details, including dates, of all complaints made to UNISON in relation to each of the complaints in his application. This letter was copied to my office, with a

note advising that if the applicant did not provide a satisfactory response before the hearing, the Union would ask me to require the applicant to do so at the hearing. Mr Lawlor duly provided the details at the start of the hearing.

4. Additional documents, comprising in total an extract from Harvey and two case law decisions, were sent to my office by the Union on the 9th and 12th October. (Each included an apology for its lateness, and a statement that it had been provided to Mr. Lawlor.) The 12 October submission made a formal application for the introduction of these documents at the preliminary hearing, and set out reasons. I admitted them to the proceedings at the start of the hearing following a further, oral, application. Whilst I took account of Mr Lawlor's protest by e-mail on 12 October 2009 about their late submission, I concluded that they were admissible, given that they were matters of case law which I would be addressing in any event, and that he was not compromised by their inclusion.
5. After the hearing the Union provided, at my request, manuscript notes made by an observer, Mr Short, at a hearing into charges against Mr Lawlor held by a UNISON disciplinary panel on 2/3 October 2008.

Findings of Fact

6. Having considered the written and oral evidence and the submissions of the parties, I find the facts relevant to this preliminary hearing to be as follows;

In 2007 Mr Lawlor was convenor of nursing stewards in the UNISON branch at the Royal Victoria Hospital in Belfast. In that year classroom assistants in Northern Ireland were in dispute with the Education and Library Boards over job evaluation and pay. Some classroom assistants were members of UNISON, others of the Northern Ireland Public Service Alliance (NIPSA). Both unions were negotiating with the ELBs on the dispute.

7. In November 2007, after a ballot, UNISON recommended its members to accept an offer made by the ELBs. Thereupon Mr Lawlor sent an e-mail to NIPSA in which he supported the striking NIPSA members, attacked

the deal achieved by UNISON's negotiators, and criticised the Northern Ireland regional leadership of UNISON. The e-mail was sent on Mr Lawlor's own initiative, without consultation with the branch, and signed by him as "Nursing Convenor RVH". NIPSA published it on its website.

8. UNISON members in the education sector protested to the Royal Victoria Hospital branch committee. The branch committee asked the regional office to have the matter investigated under Rule I ("Disciplinary action") of the UNISON rulebook. On 2 December 2007 Mr Kevan Nelson, Head of Democratic Services at UNISON headquarters, wrote to Mr Lawlor advising him that he was the subject of a formal complaint and that the National Executive Council (NEC) had authorised a disciplinary investigation under rule I 5 to determine whether there was a *prima facie* case to answer. He instructed Mr Lawlor to treat the matter as confidential and not to discuss it with branch officer colleagues.
9. Mr Bill Campbell was appointed by the NEC as investigator, and a meeting between him and Mr Lawlor and Mr Lawlor's representative, Mr Forster, was arranged for 5 February 2008 in Belfast.
10. On 31 January 2008, following the emergence in the meantime of a "Defend Pat Lawlor" campaign involving posters, leaflets and a petition, the branch committee called a meeting at which Mr Lawlor's activities were to be discussed. This meeting, which Mr Lawlor attended, was abandoned at the outset - according to the Union because it was inquorate, according to Mr Lawlor because he complained that it was a breach of rule for the branch to discuss matters which were already being investigated under rule I. It was reconvened on the following day, 1 February 2008, but Mr Lawlor did not attend, having not found out about it until it was over. That same day the branch committee sent a letter to regional office asking for a precautionary suspension of Mr Lawlor.
11. Some of the key facts from this point on are disputed between the parties.
12. Mr Lawlor claims that he and/or Mr Forster had conversations with the branch chairman Mr McCarthy and the joint branch secretaries Mr Rafferty and Mrs Harte at various times on 31 January and 1,4 and 5 February 2008 during which they complained about the Branch's actions. The branch officers deny that these conversations - where they accept that they took place at all – contained complaints by Mr Lawlor or Mr Forster.

13. Mr Lawlor claims that at the investigatory meeting on 5 February Mr Campbell introduced the branch's letter of 1 February; that Mr Forster objected that it was inadmissible, and complained that the branch's actions had breached UNISON rules and prejudiced the disciplinary procedure; and that Mr Campbell then said he was noting these complaints. The Union denies this last assertion.
14. Mr Lawlor claims that on 8 February 2008 he sent a letter to Mr Rafferty and Mrs Harte making a formal complaint about the branch's alleged breach of rule. He submitted a copy in evidence. It read:

"I am formally writing this letter of complaint concerning the unconstitutional letter that was sent on behalf of the committee on the 1st Feb 2008, as this was in breach of national and branch rules.

The previous branch meeting held on the 31st Jan 2008 clearly upheld the rules and rightly did not proceed, so I find it incredible that a further meeting was called without my knowledge until after the fact.

I look forward to an explanation and an investigation of how this meeting was allowed to proceed."

Mr Rafferty and Mrs Harte deny having received this letter.

15. In April 2008 Mr Lawlor picketed two trade union conferences and handed out leaflets critical of UNISON. His branch responded by holding a meeting on 22 April and issuing on the same day a note to all members which described Mr Lawlor's activities from November 2007 to date and ended with the statement that the branch was "*asking for a vote of no confidence and suspension from any branch activity pending the outcome of the NEC investigation.*"
16. At some point Mr Lawlor's name was removed from the branch's list of stewards, and he ceased to receive invitations to attend branch meetings. Hospital management no longer dealt with him on matters involving UNISON members.
17. On 15 May 2008 Mr Forster wrote to Mrs Harte and Mr Rafferty expressing his disappointment and alarm at the branch resolution of 22

April. It was, he said, unconstitutional, since discipline was a matter for the NEC only; and it had both compromised Mr Lawlor's rights and brought the whole disciplinary process into disrepute. If the branch sought to enforce the resolution he would refer the matter to the NEC. He also warned the branch about references in the resolution to Mr Lawlor's political affiliations, which references he described as dangerous to the branch. He ended with the hope that his words of advice and caution would be taken in the spirit intended.

18. Mr Forster received no reply to this letter, though he said in evidence that Mr Rafferty told him in a conversation around this time that the branch was not going to act on the resolution of 22 April.
19. On 22 May 2008 Mr Rafferty and Mrs Harte wrote to the Regional Secretary of UNISON asking for advice as to the powers of the branch in relation to Mr Lawlor. There was no reply to this letter among the papers supplied to me. In June the NEC decided to pursue the disciplinary complaints against Mr Lawlor.
20. On 12 August 2008 Mr Lawlor, having received a copy of the branch list of stewards from which his name was missing, wrote to Mr Rafferty and Mrs Harte. He said: "*Again I must make a formal complaint as this is in breach of union rule as you have removed me from my position as nursing convenor.*" He added that he would expect a revised copy with his name re-included and would inform all stewards in the branch of "*this oversight*". (This alleged breach of rule is not among those listed in Mr Lawlor's application to me).
21. The NEC disciplinary hearing was held on 2 and 3 October 2008. Mr Forster represented Mr Lawlor. He also provided a written submission. This was largely concerned to show that the charges against Mr Lawlor were discriminatory on grounds of his political beliefs and his nationality. It did, however, also refer to the actions of the branch, including in particular the resolution of 22 April; these, it said, had compromised the impartiality of the disciplinary hearing and contravened UNISON rule I 7.1 and 7.2 and Schedule D (Disciplinary procedures). It said that the charges should be dropped, the hearing abandoned and the matter (i.e. Mr Lawlor's criticisms of the region etc) referred back to the branch to resolve.

22. Mr Forster claims that the disciplinary panel was concerned about the branch's actions, but considered that they were a separate issue and so decided to proceed with the hearing. He claims that during the hearing he complained again about the branch's actions and that the chairman (one of the Union's two vice-presidents), having become increasingly concerned about possible infringement of Mr Lawlor's rights, accepted the complaints, and said that the panel would pursue them with the branch as a separate matter. The Union denies that the chairman or panel members made such statements. There was no evidence that the Union had in fact pursued the complaints.
23. The panel recommended on 8 October 2008 that Mr Lawlor be expelled from the Union. Mr Lawlor appealed. On 13 October 2008 he e-mailed my office to ask for advice on taking a case against the Union and on 10 November sent a completed application which was received in my office on 11 November. On 10 November also he wrote to Mr Nelson "*to formally record two complaints that I wish to pursue as grievances against Unison.*" These were complaints of (i) unfair dismissal from his position as nursing convenor and (ii) political discrimination leading to unjustifiable disciplinary proceedings and expulsion from the Union. Mr Nelson replied on 14 November to say that these would not be dealt with pending the outcome of the appeal. The appeal was rejected on 8 January 2009 and Mr Lawlor's expulsion was confirmed. The Union took no further action on any of his complaints.

The Relevant Statutory Provisions

24. The provisions of the 1995 Order that are relevant to this application are:

Right to apply to Certification Officer

90A –

(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 paragraph (2) may apply to the Certification Officer for a declaration to that effect...

(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)

.....

(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 paragraph (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 paragraph (1) to the rules of a union includes references to the rules of any branch or section of the union.

Declarations and orders

90B –

(1) The Certification Officer may refuse to accept an application under Article 90A unless he is satisfied that the applicant has taken all reasonable steps to resolve the claim by the use of any internal complaints procedure of the union.

The Relevant Union Rules

25. The union rules that are relevant to this application are:

UNISON Rules 2007

Rule C Membership

7.4 SUSPENSION

7.4.1 The National Executive Council shall have the power in exceptional circumstances to suspend a member from office for a period of not more than 60 days (unless such a period is extended by agreement between the parties) if the member faces disciplinary charges under Rule I and the National Executive Council considers it appropriate in the interests of her or his branch or of the Union generally that she/he should be suspended until the charges are determined.

Rule I Disciplinary Action

5.1 Where there appear to be reasonable grounds to think that a member might be guilty of a disciplinary offence,

1 the member's Branch Committee or Service Group Executive will investigate whether the charges are justified;

2 the National Executive Council may appoint any of its number, or the General Secretary, to investigate whether the charges are justified.

5.2 It shall be open to the General Secretary to delegate all or part of the investigation to such person or persons as she/he thinks fit.

5.3 In any case, the body on whose behalf an investigation is undertaken shall consider the result of such investigation before deciding whether or not a charge should be brought.

7 The following arrangements shall apply for the hearing of disciplinary charges:

7.1 a disciplinary charge brought by a branch shall first be heard by its Disciplinary Sub-Committee unless the member belongs to the Branch Committee in which Disciplinary action case it shall first be heard by a Disciplinary Sub-Committee of the National Executive Council

7.2 a disciplinary charge brought by a Service Group Executive or the National Executive Council (or the General Secretary acting on its behalf) shall be heard first before a Disciplinary Sub-Committee of the

National Executive Council; provided always that the Disciplinary Sub-Committees referred to at 1.7.1 and 1.7.2 above shall consist of no less than three members.

8 *Where a disciplinary charge is proved against a member, any of the following penalties may be imposed:*

By the National Executive Council

(5) suspension of the member from all or any of the benefits of membership for whatever period seems to it to be appropriate;

CORE BRANCH RULES (Royal Trust branch of UNISON)

5. Branch Structure

e) The quorum for a general meeting shall be 50 per cent of the branch.

UNISON CODE OF GOOD BRANCH PRACTICE

2.5 Complaints

Any member who is dissatisfied with standards of support, service or with the action or lack of action taken by the union is entitled to make a complaint against staff and/or elected representatives. Dealing with complaints can be an opportunity to review our organisation, approach, systems or training.

*Many complaints or potential complaints can be resolved readily and quickly by the member discussing the complaint with their representative or a branch officer. This is where the process should start and, unless there are exceptional circumstances, there should be full discussion at this informal stage with all parties making every effort to reach a resolution. Should this not prove possible members may register a formal complaint by writing to the branch, regional or head office. Please refer to UNISON's complaints procedure.
(unison.org.uk/acrobat/B3013.pdf).*

UNISON COMPLAINTS PROCEDURE – INFORMATION FOR MEMBERS

UNISON is Britain's largest trade union with over 1.3 million public service members, organised into over 1,300 branches within 12 regions and seven service groups. UNISON is a vibrant and progressive organisation working to reflect and

represent members' views at all levels of the union and within the wider community.

UNISON aims to provide high quality support and advice to all of our members at all times. This procedure is intended to ensure that UNISON members are aware that:

- *Anyone wishing to make a complaint knows how to do so.*
- *The union responds to the complaint quickly and in a courteous and efficient way.*
- *Members' complaints are taken seriously and properly dealt with.*
- *The union learns from complaints and where complaints are found to be justified, takes appropriate measures.*

How a complaint can be made

The procedure provides for three levels or stages:

Stage 1 - Informal / problem solving

Many complaints or potential complaints can be resolved readily and quickly by discussing the complaint with your branch or region.

This is where the process should start and unless there are exceptional circumstances there should be full discussions at the informal stages as a first step.

Complaints at stage one may be made either orally or in writing or both.

Stage 2

This stage involves a formal complaint to the region concerning a branch or region. The complainant will receive an acknowledgement within seven working days. Regard will be given to the complexities of the case concerned, but it is the union's intention to complete and respond to the investigation process within two months. The member will be kept advised of the progress of the investigation and any reasons for delay. The regional secretary or designated officer will investigate whether the complaint is justified and will advise the member of the action that will be taken. To aid the investigation, it would be beneficial if the complainant clearly stated what they wished UNISON to do and the outcome being sought.

At the conclusion of the investigation the complainant will also be informed that if they remain dissatisfied with the way that their complaint has been dealt with, they can apply to the Head of Member Liaison for a review of the said decision. Such an application for a review must be made within 28 days of the date of the said letter from the regional secretary or designated officer. This review is known as stage 3.

Stage 3

A request for a review of the regional decision should be made in writing to Head Office (1, Mabledon Place, London, WC1H 9AJ) for the attention of Elizabeth Thompson, Head of Member Liaison.

The complainant will receive an acknowledgement within seven working days. The Member Liaison unit will request a report from the region. Regard will be given to the complexities of the case concerned, but it is the union's intention to complete and respond to the review process within two months. The member will be kept advised of the progress of the investigation and any reasons for delay.

*Member Liaison Unit
memberliaison@unison.co.uk
Tel. 020 7551 1426
Fax. 020 7551 1196
Text phone 0800 0967 968*

*In the case of complaints by UNISON staff of harassment by a UNISON member, these are investigated and conducted in accordance with the procedure set out in appendix 2 of the UNISON rule book.
(unison.org.uk/acrobat/15817.pdf)*

Summary of Submissions

The Union's submission

26. For the Union, Mr O'Neill said that it was clear that Mr Lawlor's application to me had been made outside the six-month primary limitation period laid down in Article 90A(6)(a) of the 1995 Order. It related to rule breaches alleged to have occurred on 1 February 2008 (Complaints 1 &2) and 22 April 2008 (Complaints 3&4), but was not received in my office

until 11 November 2008. The question therefore became whether it fell within the extended period provided for in Article 90A(6)(b), which operates if the applicant invokes, within the primary limitation period, any internal complaints procedure of the union to resolve the matter. In Mr O'Neill's submission it did not, as Mr Lawlor had not invoked the Union's complaints procedure at any time, and even if he had (which was denied), he had still not made his application within the extended time limit of six months from the date when he would have known that the procedure was concluded.

27. On the question whether the procedure had been invoked, Mr O'Neill first confirmed that UNISON did have a formal complaints procedure, which had been in existence for at least 10 years. It was outlined in the Code of Good Branch Practice, at section 2.5 (Complaints), which gave a link to the Union's website, where the full text was published. It was available on request at branches and was included in the induction materials provided to all new stewards. The procedure was a three stage one under which complaints were to be raised first at branch level, then, if required, at regional level and finally, if the complainant was still dissatisfied, at national level. The Union's aim, as stated in the procedure, is that stage 2 (region) or stage 3 (national) should be completed within two months. It was a reasonable inference that it would expect stage 1(branch) to be completed in a similar or indeed shorter period.
28. As a steward Mr Lawlor would have known of this procedure, Mr O'Neill said, but he never invoked it. His alleged conversations with branch officers, if they occurred, were not complaints; and when he got no reaction he did not go back to the branch officers or forward to regional level, as he would have done if he had been following the procedure. He never asked the officers how to go about making a complaint. The alleged complaint to Mr Campbell at the investigatory meeting of 5 February was not an invocation of the procedure, since Mr Campbell was not an officer of the branch or the region. Mr Lawlor's letter of 8 February 2008 to the joint branch secretaries was not received by them and, in Mr O'Neill's view, it was doubtful whether it had been sent, or even existed, at that date. Mr Lawlor did not follow up when he received no reply to it.

29. As regards Mr Forster's letter of 15 May 2008 to the joint branch secretaries and his submissions to the NEC disciplinary panel on 2/3 October 2008, neither of these could be reasonably regarded as an invocation of the procedure. The letter, which was two pages long, never used the word "complaint". It was, in its own words, a letter of "advice and caution", and its purpose was to dissuade the branch from implementing its resolution of 22 April to suspend Mr Lawlor from branch activities. The joint secretaries did not read it as a complaint or as needing reply. Mr O'Neill said that the decision of the Great Britain Certification Officer in *Foster v Musicians Union* (D/13-17/03) and that of the Employment Appeal Tribunal in *UNISON v Bakhsh* (UKEAT/0375/08/RN) were relevant here, since they showed that letters of protest to a union, or letters making points to decision makers about the validity of their actions, could not be regarded as invocations of a complaints procedure.
30. Mr Forster's written and oral submissions to the NEC disciplinary panel could not be so regarded either. They were not made to officers of the branch or region, as required by the procedure. The panel was hearing a disciplinary complaint against Mr Lawlor and his claim that he believed it was at the same time dealing with complaints *by* him, was incredible. The Union denied that the panel had accepted Mr Lawlor's complaints and undertaken to follow them up with the branch, though this was not necessary for its argument.
31. Mr O'Neill addressed the question whether Mr Lawlor, even if it were allowed that he had invoked the procedure, had made his application to me within the extended time limit. He referred to the Great Britain Certification Officer's decision in *Brady v ASLEF* (D/24-26/06), where it was found (para. 33) that:

" ..an internal complaints procedure is concluded when, for whatever reason, it is terminated. This may be as a result of withdrawal by the member or the refusal of the Union to accept it or to process it further...When a claimant is aware, or should reasonably have been aware, that an appeal has not been accepted, or has been brought to an end, the limitation period begins to run."

32. Mr O'Neill argued that it would have been clear to Mr Lawlor within a few days or weeks that the Union was not processing any of the breach of rule complaints he believed he had made in January or February 2008. He should certainly have known this by 22 April 2008 at the latest, for on that date the Branch again called for his suspension - that is, it repeated the action he had complained about in February. It should have been clear to him then that any procedure he might have invoked was concluded and that time for an application to the Certification Officer had begun to run down. On this basis, that part of his application which related to alleged breaches of rule occurring on 1 February 2008 (Complaints 1 and 2) was out of time, since it should have been made by 22 October, but was only made on 11 November.
33. As regards the alleged rule breaches of 22 April 2008 (Complaints 3 and 4 in Mr Lawlor's application), Mr O'Neill repeated that Mr Forster's letter of 15 May 2008 and his submissions of 2/3 October 2008 could not be regarded as invoking the procedure (though they would be in time if they were). Nor in his view could Mr Lawlor's letter of 10 November to Mr Nelson; but even if it were so regarded, it would be out of time, since it would not have invoked the procedure within the primary limitation period of 6 months from the date of the alleged breach.
34. Mr O'Neill's final submission was that, if despite these arguments I were to decide that any part of Mr Lawlor's application was in time, I should nevertheless reject it under Article 90B(1) of the 1995 Order which allows the Certification Officer to "*refuse to accept an application unless he is satisfied that the applicant has taken all reasonable steps to resolve the claim by the use of any internal complaints procedure of the union.*" Mr Lawlor did not pursue any of his alleged complaints to stage 2 of the complaints procedure, or ask for feedback on them at any time. He even missed out the simplest, most basic step of finding out what the complaints procedure was. It was hardly conceivable that he should have failed to realise that an organisation the size of UNISON would have a member's complaints procedure. He had manifestly failed to take all reasonable steps and I should exercise the discretion given by Article 90B(1).

Mr Lawlor's submission

35. Mr Lawlor submitted that his application was in time in its entirety. He argued that it benefited from the extended time-limit because he had made complaints to the Union within the initial 6-month limitation period, as laid down by Article 90A(6)(b) of the 1995 Order. These complaints were made within the disciplinary procedure that was under way against him at the time and he made his application to me shortly after it became clear that that procedure was concluded. That was on 8 October 2008, when the disciplinary panel took its decision to expel him: his application on 11 November 2008 was therefore in time under Article 90A(6) and (7).
36. Mr Lawlor said that before and during the branch meeting on 31 January 2008, he had complained to the chairman and Mr Rafferty, the joint secretary, that the meeting could not discuss his activities, since the NEC was already investigating them with a view to disciplinary proceedings. He claimed that he showed them the letter from Mr Nelson which informed him of the investigation and instructed him not to discuss the matter with branch colleagues, and that the chairman said that the letter “changed everything”. The meeting was abandoned because the officers then recognised that it would be a breach of rule to continue, not because it was inquorate, as the Union claimed (though Mr Lawlor agreed that it was in fact inquorate).
37. After the reconvened branch meeting on 1 February, which discussed his activities in his absence, Mr Lawlor said he spoke to Mr Rafferty on the telephone and made a complaint to him that the meeting was in breach of rule.
38. Mr Lawlor said further that on 4 February he had a telephone conversation with the other joint secretary, Mrs Harte, during which he complained to her about the meeting of 1 February and the resolution seeking his suspension which the branch had sent to the region after it. Mrs Harte was on leave but had happened to ring the branch office while he was there; at his request the phone was passed to him, and the conversation ensued.
39. On the morning of 5 February Mr Lawlor said that he and Mr Forster met Mr Rafferty on matters related to the NEC investigatory meeting to be held later that day, and in the course of discussion told him that the

meeting on 1 February had breached Union rules. He said that Mr Forster then indicated that this breach was now a part of the disciplinary process and that he would be making a complaint about it at the investigatory meeting. At that meeting Mr Forster did complain forcibly, telling the NEC investigator Mr Campbell that the branch had abrogated Mr Lawlor's rights by passing a resolution against him without giving him a chance to defend himself, and by discussing a matter which was reserved for the NEC under the rules: and that the whole disciplinary procedure was now compromised by the branch's actions. According to Mr Lawlor and Mr Forster, Mr Campbell accepted, or noted, these complaints.

40. Mr Lawlor said that his letter dated 8 February to the joint secretaries (para.14 above) had been sent to them on that day via the hospital's internal mail. In response to a question from Mr O'Neill, he said he had sent it that way rather than by e-mail because he wanted it to be on the record as a formal complaint about the branch's actions of 1 February. He knew no reason why it would not have been delivered. He received no reply.
41. Mr Forster's letter of 15 May 2008 to the joint secretaries was about the branch's breach of rule at its meeting of 22 April 2008. Although it did not use the word, in Mr Lawlor's submission it was nevertheless clearly a complaint. It told the branch that it had breached union rules and passed an unconstitutional resolution. It was also intended to give the branch an opportunity to right a wrong, since Mr Forster's focus at this time was to try to save Mr Lawlor's membership of the Union in face of a co-ordinated effort to have him expelled. Mr Forster's written and oral submissions to the NEC disciplinary panel of 2/3 October 2008 were also to be regarded as complaints, made in this instance to the highest level of the Union. The chairman of the panel expressed grave concern at the impact of the branch's actions on Mr Lawlor's rights and accepted the complaints, indicating that the panel would follow them up. The panel went on to hear the charges against him, however, and decided to expel him.
42. Mr Lawlor said that his final complaints to the Union were in his letter of 10 November 2008 to Mr Nelson. The branch was taking action against him even though he had appealed the expulsion decision, and it was clear to him that he would not get a fair hearing at appeal, so he decided to

make these further complaints. The Union replied that it would not deal with the complaints until the outcome of the appeal was known, implying that it would deal with them then. It never did, however; he had heard nothing more about them from the Union.

43. Mr Lawlor said that at the time he was making his complaints he was not aware that there was a formal complaints procedure. He had not received a copy of it during his induction training as a steward and had never seen it until it was produced in the context of this case. At no time had any branch or regional or national official told him that the procedure existed. He said that most members would not be aware that there was a special procedure, or know what it was. When a member had a complaint it was the responsibility of the branch officers to advise him how to take it forward. His branch had failed in this duty.
44. Likewise, when he complained to the NEC investigator and the NEC disciplinary panel about the branch's breaches of rules, they did not tell him they could not deal with his complaints or redirect him to a different procedure. Instead they noted and accepted his complaints. He had reasonably continued in his belief that his complaints were being dealt with as part of the disciplinary procedure. They were intertwined with and integral to that procedure, since they showed that it had been compromised and could not go on.
45. Mr Lawlor said that the complaints procedure that he had invoked was that which began on 5 February with his complaints to the NEC investigator within the disciplinary procedure under rule I. In his view the disciplinary procedure was the primary complaints procedure of UNISON and took precedence over any other. Under Article 90A(6)(a) of the 1995 Act the use of *any* internal complaints procedure of the union triggered the extension of the time-limit for application to the Certification Officer, and the use of the disciplinary procedure complied with that.
46. As regards the date on which the procedure was concluded, Mr Lawlor submitted that this was 8 October 2008, the day on which the disciplinary panel made the decision to expel him. Under Article 90A(6)(b) he had six months from that day to apply to the Certification Officer: his application of 11 November 2008 was therefore well in time.

47. To the Union's argument that the application should be rejected under Article 90B(1), Mr Lawlor responded that he had taken all reasonable steps under the complaints procedure that he was following, i.e. within the disciplinary procedure. He made complaints on a number of occasions between 5 February 2008 and 8 January 2009, when his appeal was dismissed. The Union consistently ignored his complaints.

Conclusions

48. This application concerns breaches of union rule that are alleged to have taken place on 1 February 2008 (Complaints 1&2) and 22 April 2008 (Complaints 3&4). To come within the primary limitation period of six months laid down in Article 90A(6)(a) of the 1995 Order, the application would have had to be made by 1 August 2008 in respect of Complaints 1&2 and by 22 October 2008 in respect of Complaints 3&4. It was made on 11 November 2008 and was outside the primary limitation period.
49. The primary limitation period may, however, be extended if, within it, any internal complaints procedure of the union is invoked to resolve the claim. If that is done, then the application must be made within six months of either the conclusion of the internal procedure or the anniversary of its invocation, whichever is earlier (Article 90A(6)(b) and (7)).
50. I have to determine whether Mr Lawlor's application is in time by virtue of having been made within the extended limitation period. In order to do so, I must first consider whether any of the various occasions on which he claims to have made a complaint counts as the invocation of an internal complaints procedure in accordance with Article 90A(6)and (7). It is not disputed that at all relevant times the Union had such a procedure.
51. I exclude from consideration the complaint Mr Lawlor claims to have made at the meeting of 31 January. If any complaint was made on that day, it cannot have been a complaint about the actions to which Mr Lawlor's application refers, since these had not then occurred. Moreover, Mr Lawlor submitted that the meeting was abandoned at the outset when he pointed out that it would be in breach of rule if it continued. On that

basis, his intervention would have been a warning against a potential breach, rather than a complaint against an actual one.

52. As regards the breaches alleged to have occurred on 1 February 2008, Mr Lawlor claims that he or Mr Forster complained orally to the branch officers shortly afterwards: on 1 February to the chairman, Mr McCarthy, on 1,4 and 5 February to the joint secretary, Mr Rafferty, and on 4 February to Mrs Harte, the other joint secretary. In their evidence, Mr McCarthy and Mrs Harte said that they did not recall any conversations with Mr Lawlor on those dates and denied that at any time he had made a complaint to them. Mr Rafferty did recall meeting Mr Lawlor and Mr Forster on 5 February, but denied that any complaint had been made to him during that meeting or at any other time.
53. In my judgment, on the balance of probabilities, it is likely that these conversations did take place and that in them Mr Lawlor and Mr Forster did tell the branch officers that they believed the meeting of 1 February had breached the Union's rules. At the hearing Mr Lawlor and Mr Forster were able to provide what seemed to me convincing details of the circumstances in which the conversations occurred, and of their general tenor. The question remains whether the conversations are to be regarded as invocations of an internal complaints procedure in the sense of Article 90A(6)(b).
54. The Union's complaints procedure provides for an "informal/problem solving" first stage aimed at resolving the complaint quickly by discussion with the branch. A complaint at this stage may be made orally or in writing or both. It might be argued therefore that what Mr Lawlor and Mr Forster said to the branch officers at on 1, 4 and 5 February invoked the procedure.
55. Both Mr Lawlor and Mr Forster said that they were not aware of the Union's complaints procedure. This seems somewhat odd, given that both were office bearers of some (in Mr Forster's case considerable) experience. It also raises the question whether it is possible to invoke a procedure of the existence of which one is unaware. Be that as it may, to be regarded as having invoked a complaints procedure, a trade union member would, in my judgment, have to fulfil the minimum condition of telling a responsible officer, clearly and in terms, that he is making a

complaint. In what terms precisely Mr Lawlor and Mr Forster raised the breach of rule issues with the branch officers cannot be determined by me. But I am not persuaded on the evidence given that they told the branch officers clearly and explicitly that they were making complaints about the meeting of 1 February. Mr Forster said in evidence that on 5 February he had “expressed concern” to Mr Rafferty about the branch’s actions at the 1 February meeting and told him that he would complain about them to Mr Campbell at the investigatory meeting later that day and they would then become part of the disciplinary procedure. Mr Lawlor submitted at the hearing that the procedure which he invoked was the “one that began on 5 February”, meaning that when he complained to Mr Campbell, he was thereby incorporating his complaints into the disciplinary procedure and expecting them to be dealt with by that route.

56. It seems clear that Mr Lawlor and Mr Forster were focused on making the complaints through the disciplinary procedure, with the aim of having that procedure abandoned on the grounds that it had been fatally compromised by the alleged rule breaches. They apparently did not know that there was another way. It therefore seems most improbable that they could have made clear to the branch officers in the conversations of 1, 4 and 5 February that they were registering complaints which they expected the branch to take on board and resolve. The officers could reasonably have concluded that Mr Lawlor’s intention as regards the alleged rule breaches was rather to use them within the disciplinary procedure as an argument for having the charges against him dropped. I conclude that none of those conversations constituted the invocation of an internal complaints procedure. They therefore did not trigger an extension of the primary limitation period.
57. I do not accept Mr Lawlor’s contention that the branch officers failed in a duty to inform him about the complaints procedure. Mr Lawlor sought to pursue the breach of rule issue within the disciplinary proceedings, because, as Mr Forster said in evidence, the greater threat to him lay in the disciplinary charges, which might end in expulsion, and the alleged breaches offered the chance of neutralising that threat. It seems to ask too much of the branch officers that when Mr Lawlor and Mr Forster themselves were regarding the alleged rule breaches as a means to an end within the disciplinary proceedings, they (the officers) should have seen

them as an end in themselves, a separate issue, and proceeded to advise Mr Lawlor accordingly.

58. The next occasion on which a complaint about the branch's actions on 1 February is claimed to have been made is the disciplinary procedure investigatory meeting on 5 February. Mr Forster gave evidence that he complained to Mr Campbell and that this was the invocation of a procedure. Mr Campbell is said to have "noted" or "accepted" the complaint.
59. I observe first that Mr Campbell's acceptance or otherwise of the complaint is not significant for the purposes of Article 90A. If "*any complaints procedure of the union is invoked to resolve the claim*", a union's acceptance or refusal of it is immaterial. The question to be answered remains whether it was in fact invoked or not.
60. Mr Campbell was appointed to investigate on behalf of the NEC, of which he was not a member, allegations that Mr Lawlor had committed certain disciplinary offences, and to report on whether there was a case to answer. At the 5 February meeting he was carrying out the first stage of the Union's disciplinary procedure, which was focused on complaints made against Mr Lawlor. It was not part of his remit to receive complaints made by Mr Lawlor, which came under a different procedure of the Union. The only recipients of members' complaints under that procedure are the branch, the region or head office. Mr Lawlor attempted to pursue his complaints through the disciplinary procedure for the reasons already outlined. In doing so, however, he entered on a path for which there is no sanction in the Union's rules. He did not follow "*some recognisable formal procedure*", which the Employment Appeal Tribunal found (in *UNISON v Bakhsh (2009) IRLR 418*) to be essential if a claim to have invoked a procedure under Article 90A(6)(b) is to be upheld. Consequently I do not consider that by raising his complaints with Mr Campbell he invoked a complaints procedure. If I am wrong about that, I believe that he would still not be able to claim the benefit of the extension of time, because Article 90A(6)(b) requires that a complaint procedure be invoked "*to resolve the claim.*" It is clear that Mr Lawlor was not complaining to Mr Campbell in order to have his claims about rule breaches resolved, but in order to persuade the Union that the

disciplinary proceedings against him were fatally flawed and should be withdrawn.

61. Mr Lawlor's letter of 8 February to the joint secretaries of the branch is clearly expressed as a formal complaint about breaches of rules by the branch at the meeting of 1 February. Mr Lawlor said that he sent this letter through the hospital's internal mail system on the day it was written. I note that Mr Lawlor later wrote to the joint secretaries (see para.20 above) saying, "*Again I must make a formal complaint...*" (my emphasis), which may be a reference to the 8 February letter. Both of the joint secretaries said in evidence that they did not receive it and had never seen it until it appeared in the bundle for this hearing. Mr O'Neill cast doubt on its authenticity, noting it had been brought forward very late: it had not been included with Mr Lawlor's application in November 2008 or mentioned in the section of the application form which asks whether and when a complaint was made to the union; and it was not mentioned in a letter Mr Lawlor wrote to the Certification Office on 3 August 2009 in response to the Union's argument that his application was out of time. (Mr Lawlor sent a copy of the letter to the Certification Office on 9 September 2009 for inclusion in the bundle, apologising for its late submission; but in fact he had already sent a copy earlier, in April 2009). He added that if, as Mr Lawlor himself stated, he was pursuing his complaints via the disciplinary procedure from 5 February 2008 on, it was hard to understand why he would write a letter of complaint to the branch on 8 February. He never followed it up with the branch.
62. Despite Mr O'Neill's points, I accept that the letter of 8 February 2008 was written on that date. If it was not sent, or if it was sent but not received, it could not invoke a complaints procedure; if it was sent and received, it potentially did. The evidence available to me does not definitively confirm or refute any of these possibilities. Mr Lawlor was not able to provide evidence that he had sent it or that it had been received in the branch office (though the latter is perhaps hardly surprising). Mr Rafferty and Mrs Harte, on the other hand, gave very firm and unequivocal testimony that they had never received the letter. I have no objective grounds for disbelieving or discounting their testimony. The conclusion I come to on balance is that one of the first two possibilities mentioned above is probably the truth of the matter. I must

therefore draw the further conclusion that the letter of 8 February did not invoke the procedure.

63. Given this conclusion, I do not need to address Mr O'Neill's submission that Mr Lawlor would have known that, if he had invoked the procedure, it was concluded by 22 April 2008, and that his application was made more than six months after that date and therefore did not trigger an extension. He cited the Great Britain Certification Officer in *Brady v ASLEF* (para.31 above) in support. Had I had to address this issue, I should have had to reflect on the differences between the circumstances in *Brady* and the present case. ASLEF wrote several times to Mr Brady about his appeal without response, and ended by writing to his representative to the effect that it assumed that he did not intend to pursue the appeal. The Certification Officer judged that at that point Mr Brady should have known that the procedure was concluded. In contrast, there was no correspondence between the Union and Mr Lawlor, except the letter of 8 February. If I had considered that the branch secretaries received the letter (i.e. the procedure was invoked), but ignored it and made no response whatever to it, I should have been very reluctant indeed to accept that Mr Lawlor should have known, in the face of the Union's silence, that the procedure was concluded by 22 April.
64. The next event that Mr Lawlor claims was an invocation of the complaints procedure is Mr Forster's letter of 15 May 2008 to the joint secretaries of the branch. This letter concerns the branch meeting and resolution of 22 April 2008 and is therefore relevant only to Complaints 3 & 4 in Mr Lawlor's application.
65. The word "complaint", as Mr O'Neill pointed out, does not appear in the letter. Mr Forster states that the passing of the resolution to suspend Mr Lawlor from branch activities was in breach of rule and unconstitutional. He expresses "*disappointment and alarm*" at the resolution; "*strongly advises*" the secretaries they cannot enforce it; "*trusts that they will advise the branch*" likewise; "*trusts that they will heed his advice*", so that it will not be necessary for him to refer the matter to the NEC; "*trusts that they will bring this [the dangerous use of discriminatory arguments in the resolution] to the attention of the branch*". The letter ends:

"I trust these few words of advice and caution are taken in the spirit in which they are intended. I hope that you will follow the advice I am giving the branch on Pat's behalf and allow the proper disciplinary process to continue without compromising the NEC, your branch, and of course Pat's individual rights as a member.

The joint secretaries said that they did not see the letter as a complaint. They did not reply to it, and Mr Forster seems not to have sought a reply, though he was given a verbal assurance by Mr Rafferty, that the branch did not intend to enforce the resolution.

66. In my reading of it, the object of this letter was not "*to invoke any internal complaints procedure of the union to resolve the claim*". It seems plain that Mr Forster was not seeking to resolve a complaint of breach of rules, but rather to secure that Mr Lawlor was not suspended from his branch role while the disciplinary process was still under way. That he appears to have been satisfied by an assurance that the resolution was not going to be acted upon lends considerable support to this view.
67. Mr O'Neill drew my attention to cases of *UNISON v Bakhsh* and *Mr R O M Foster v Musicians' Union ((D/13-17/03)*. Mr Bakhsh and Mr Foster both argued that their time for applying to the Certification Officer had been extended because letters they had sent to their unions had invoked an internal procedure to resolve their claims. Neither was upheld. In *Bakhsh* the EAT found that:

...what Mr Bakhsh was asking [the decision-taker] to do was to reconsider her decision. The correspondence that follows is essentially of the same kind: Mr Bakhsh and his representative are advancing points to those whom they took to be the effective decision-takersand there is nothing that could fairly be represented as the invocation of a complaints procedure"

68. In *Foster* the Great Britain Certification Officer found that Mr Foster's letters were "*not expressed in the terms expected*" of letters written to invoke a procedure to resolve the claim:

“Rather they demand information and express the Applicant’s indignation. ...A distinction can be drawn between letters of protest and letters which invoke an established procedure.... In my judgment the letters of the Applicant fall into the former category and they therefore did not stop time running against him.....”

69. I respectfully accept these findings and judge that similar considerations apply to the present case. Mr Forster’s letter is not expressed in the terms expected of a letter invoking a complaints procedure to resolve a claim. It is offering advice and giving warnings about the consequences for the branch, and for the disciplinary proceedings against Mr Lawlor, if the resolution of 22 April is implemented. It is seeking to prevent the implementation of the resolution. It cannot “fairly be represented as the invocation of a complaints procedure.”
70. Mr Forster made a written submission and oral representations to the NEC disciplinary panel which heard the complaints against Mr Lawlor on 2/3 October 2008. Mr Lawlor argues that these also were invocations of the complaints procedure.
71. The fourth paragraph (of five) in the written submission refers to the actions of Mr Lawlor’s branch. The resolution of 22 April 2008 is expressly mentioned; that of 1 February 2008 is not, though Mr Lawlor claimed that it is implied. The paragraph states that the actions of the branch

“have further compromised the impartiality of the hearing. It has acted unilaterally by moving to have Pat suspended from all branch activity despite my warnings to the contrary.”

72. After some sentences expressing concern about possible political motives behind the resolution, the paragraph concludes:

“I believe that the branch has contravened Rules 1 7.1 and 7.2, as well as Schedule D and compromised the entire process and Pat’s individual rights to an impartial and independent hearing. On these grounds alone, the hearing should be abandoned and advice given to the region about the conduct of their branch.”

73. The word “complaint” does not appear, and as with the letter of 15 May 2008 it is difficult to see this paragraph as the invocation of a procedure to resolve a claim about a breach of rule. The aim, explicitly stated, is to have the disciplinary hearing abandoned on the ground that actions done in breach of rule have made it impossible for it to be independent and impartial. The final proposal in the paragraph is that “advice should be given to the region” about the conduct of the branch, not, as one might expect if this was a complaint, that the region should investigate the alleged breaches of rule before the disciplinary process continues.
74. In addition, the same issue arises as with the complaints Mr Lawlor and Mr Forster made to Mr Campbell. The disciplinary panel was hearing complaints against Mr Lawlor; it was not empowered to receive and process complaints from him. If Mr Lawlor was making a complaint in this way, then he was following no “recognisable formal procedure” known to the Union.
75. It was claimed that when the complaints were raised orally at the disciplinary hearing, the panel, and the chairman in particular, expressed grave concerns about the branch’s actions and accepted the complaints, thereby confirming Mr Lawlor in his belief that they were being dealt with within the disciplinary proceedings. There is an indication in the manuscript notes made by Mr Short, which the Union provided at my request, that the complaints were indeed raised at the hearing and that the panel took the line that they were not related to the matter in hand, but that they would follow them up separately. But whether this was an acceptance of the complaints by the Union or not (in my judgment it was not), acceptance or otherwise of a complaint as I have said above, is not important for the purposes of Article 90A(6)(b): the question is still whether a procedure was invoked to resolve the claim. In my judgment, nothing done by Mr Lawlor or Mr Forster in the context of the hearing of 2/3 October allows me to answer “yes” to that question.
76. Finally I consider the complaints Mr Lawlor made in his letter of 10 November 2008 to Mr Nelson. This says:

“I am writing to you to formally record two complaints that I wish to pursue as grievances against Unison Public Service Union to which these are;

- 1. I have been unfairly dismissed from my position as union convenor for nursing in the Royal Hospitals Belfast.*
- 2. I have suffered political discrimination which has lead to unjustifiable disciplinary proceedings and expulsion from Unison.*

I look forward to hearing from you.”

77. The second of these complaints is not about any of the matters to which Mr Lawlor’s application to me refers, and is not, in fact, within my jurisdiction. The first, though it speaks of dismissal from office, might arguably refer to those parts of his application which concern breaches of rule relating to suspension from office and suspension from the Union. Even if that is accepted, however, this complaint cannot trigger an extension of the primary limitation period for his application. In order to do so it would have had to be made within that period, i.e. within six months from the date of the alleged breaches. The latest breach allegedly took place on 22 April 2008, the day of the branch meeting and resolution. The complaint to Mr Nelson would have had to be made by 22 October 2008, but was not. It therefore fails to comply with Article 90A(6)(b) and does not bring Mr Lawlor’s application within time.
78. On a more general line of argument, Mr Lawlor pointed out that Article 90A(6)(b) spoke of the invocation of “any complaints procedure of the union.” He laid stress on the word “any”, suggesting, as I understood it, that a union might have more than one complaints procedure and that, if so, the invocation of any of them would satisfy Article 90A(6)(b). He then maintained that UNISON’s disciplinary procedure was a complaints procedure (indeed its primary one) and that in pursuing his complaints through it he had invoked a complaints procedure. I reject this argument. The Union has a formal complaints procedure, readily available to members, that is designed to resolve complaints about breaches of rule or other procedural issues such as Mr Lawlor wished to raise. It has no other. In the ordinary reading of Article 90A(6)(b), from which there is no reason to depart in this instance, it was invocation of this procedure that was needed if an extension of time was to be relied on.

79. The claim that the disciplinary procedure is a complaints procedure I consider to be misconceived. The procedures are separate and distinct. A disciplinary procedure is designed to answer the question “Did this person commit the offences alleged and if so, what penalty is to be imposed on him?” The question in a complaints procedure will normally be about whether the complaint is justified and if so, what remedies there may be for the complainant. (UNISON’s complaints procedure asks complainants to “*state clearly what they wish UNISON to do and the outcome being sought*”). Those remedies will not normally include the imposing of a penalty on others. The same act which provokes a complaint might, of course, also trigger disciplinary proceedings. But, as the Great Britain Certification Officer found in *Radford v Equity*, at para. 34:

“The fact that disciplinary action might be taken in relation to the same matters that could be raised as a complaint does not automatically translate a disciplinary procedure into a complaints procedure”

In my judgement therefore a procedure the end of which is to make decisions about penalties cannot normally be a complaints procedure for the purposes of Article 90A(6)(b). The appeal mechanism within a disciplinary procedure may be considered a complaints procedure for those purposes; its object is to secure a remedy, the reversal of a disciplinary decision.

80. I therefore find with regard to:

- (i) the conversations with Mr McCarthy, Mr Rafferty and Mrs Harte on 1, 4 and 5 February 2008, (ii) the alleged complaint to Mr Campbell on 5 February 2008, and (iii) Mr Lawlor’s letter of 8 February 2008 to Mr Rafferty and Mrs Harte, all of which relate to Complaints 1&2 in Mr Lawlor’s application;
- (iv) Mr Forster’s letter of 15 May 2008 to Mr Rafferty and Mrs Harte, which relates to Complaints 3&4 in Mr Lawlor’s application;
- (v) Mr Forster’s written submission of 2/3 October 2008 to the NEC disciplinary panel, (vi) Mr Forster’s and Mr Lawlor’s alleged complaints to that panel, and (vii) Mr Lawlor’s letter of 10 November 2008 to Mr Nelson, which relate to Complaints 1-4 in Mr Lawlor’s application,

that no internal complaints procedure of the Union was invoked to resolve Mr Lawlor's claims and that consequently no extension of the primary limitation period was secured. Mr Lawlor's application of 11 November 2008 is therefore out of time.



Roy Gamble
Certification Officer for Northern Ireland