

**D/02/2025**

**Decision of The Certification Officer for Northern Ireland**

**In the matter of an application pursuant to Article 37 of The Industrial Relations (Northern Ireland) Order 1992 ('the 1992 Order').**

**Ms Caroline McDermott (Applicant)**

**V**

**UNISON (Respondent)**

**Date of Decision:**

**19 May 2025**

**DECISION**

Upon application by Ms Caroline McDermott ("the Applicant") under The Industrial Relations (Northern Ireland) Order 1992 ("the 1992 Order") it is alleged that UNISON (the Respondent) failed in its statutory duty to provide access to the union's accounting records.

**My decision is that the above-mentioned complaint is upheld:**

## **DECLARATION**

**I hereby issue a declaration that the Respondent breached Article 37 of the 1992 Order.**

## **REASONS**

### **General Background**

1. Ms McDermott (the Applicant) is a member of UNISON and registered a complaint with my office on 12 March 2024.
2. The Applicant alleges that the Respondent failed to meet the statutory requirements set out in Article 37 of the 1992 Order in how it dealt with her request to have access to the accounting records pertaining to a hardship fund established by the Down Education Branch.
3. The Applicant had registered a separate Article 37 complaint with my office on 28 February 2024 against the Derry Education Branch which I have already determined.
4. The Applicant was a member of the Derry Education Branch committee at the time she lodged her complaint in March 2024. She had previously held key positions within the branch committee as joint branch secretary, membership officer and welfare officer dating back to 2019.
5. The Applicant had raised concerns about the validity of the decision of the Derry Education Branch to donate £300 to the hardship fund.
6. I assessed the Applicant's complaint against the following criteria:
  - Was the complaint lodged within the statutory time limits.
  - Did the complaint fall within the scope of the Certification Officer's authorities set out in the governing legislation (the 1992 and 1995 Orders); and
  - Based on the information provided by the Applicant, was there a potential case to answer.

7. The complaint was lodged within the statutory time limits, fell within the scope of the governing legislation, and was accepted on the basis that the Applicant had presented an arguable case.

8. Following a series of engagements with the Applicant my office sent a copy of the complaint to the Respondent on 25 June 2024 for its consideration and response.

9. The Respondent has acknowledged it had a legal duty to facilitate access to the accounts relating to the hardship fund. My office liaised with the Applicant who agreed that a reasonable course of action would be to pause any determination of the complaint and that, subject to the relevant accounts being made available for inspection and copying, she may be willing to withdraw her complaint.

10. My office had further engagements with both parties to establish whether a resolution could be achieved; the Applicant remains dissatisfied with actions taken by the Respondent.

11. It became evident that the parties had reached an impasse and that the most appropriate action was to move to determine the complaint as originally framed by the Applicant.

12. Article 70 of the 1992 Order provides for the Certification Officer to regulate the procedure to be followed in determining any complaint made to him; I advised the parties of my intention to determine the complaint based on written submissions.

13. The Applicant provided a final submission on 6 December 2024; the Respondent has not taken up the offer to make a further submission.

## **The Complaint**

14. The Applicant has alleged a breach of Article 37 of the 1992 Order which governs how trade unions deal with requests from union members seeking access to union accounts.

15. The Applicant stated that she made a request to the Down Education Branch to view the accounts relating to a hardship fund established by the branch; that the request was not facilitated and that she made a complaint to the Regional Secretary as per UNISON's complaints procedure and was again ignored.

16. I have set out the timeline beginning with the Applicant's initial request for information on donations made to a hardship fund up to the date my office received this complaint.

- 1 & 27 February 2023, the Applicant emailed the Regional Secretary requesting the total amount donated from all Unison branches to an individual member from a recently established Hardship Fund.
- 2 March 2023, the Applicant emailed the Regional Secretary referring to her emails of 1 & 27 February 2023 querying donations to an individual member: and raising a formal complaint under UNISON's complaints procedure that her request of 1 February 2023 'had not been honoured'.
- 2 March 2023, the Regional Secretary responded advising that a Regional Committee donation of £300 had issued; that she was not privy to any branch donations but had been advised that a donation from the Derry Education Branch (the Applicant's Branch) had been reported at a recent AGM; and stated that the Applicant was only entitled to information relating to her own branch. The Regional Secretary also asked why the Applicant was seeking this information.
- 2 March 2023 the Applicant responded stating that it was her understanding that her union membership entitled her to ask any questions pertaining to Unison's finances.
- 21 August 2023 the Applicant emailed the Regional Secretary asking for a response to her request of 1 February 2023.
- 21 August 2023 the Regional Secretary responded stating that the Applicant was given full information on the Regional Committee donation and that any further queries should be directed to the branch that established the Hardship Fund.
- 10 January 2024 as directed by the Regional Secretary the Applicant emailed the Down Education Branch to request details of the donations made to the hardship fund.
- 16 January 2024 the Applicant submitted a request to the Down Education Branch to view and take copies of the accounting records relating to the hardship fund.
- The Applicant followed up on her initial request on seven occasions but received no response from the Down Education Branch.
- UNISON offered no evidence that the Regional Secretary or any union officials had responded to any of these communications.

- 12 March 2024 the Applicant lodged a complaint with my office alleging a breach of Article 37 of the Industrial Relations (NI) Order 1992 and UNISON's Complaints Procedure.

## Considerations

17. In determining whether to uphold or not uphold this complaint I must be guided by the requirements of Article 37 of the 1992 Order; the following provisions are particularly relevant to this case:

### **Right to inspect union's accounting records**

**37.—**(1) It shall be the duty of a trade union to keep its accounting records available for inspection in pursuance of this Article from their creation until the end of the period of six years beginning with the 1st January following the end of the period to which the records relate.

(2) Where—

(a) at a time when a trade union is required under paragraph (1) to keep any accounting records available for inspection, any person who is a member of the union makes a request to the union to be allowed access to any of those records; and

(b) none of the records that are the subject matter of the request relates to a period other than one which includes a time when that person was a member of the union, it shall be the duty of the union to comply with the request in accordance with paragraph (3) and, if the period mentioned in paragraph (1) expires before the request is complied with, to continue to keep those records available for inspection by that person until the request is complied with.

(3) The trade union shall perform its duty to comply with a request under paragraph (2)—

(a) by making arrangements with the person who made the request for that person to be allowed, before the end of the period of twenty-eight days beginning with the day on which the request was made, to inspect the records which are the subject matter of the request;

(b) by allowing that person and any accountant who may accompany him for the purpose to inspect those records at the time and place arranged; and

(c) by securing that at the time of the inspection that person is allowed to take, or is supplied with, such copies of, or of extracts from, any records inspected by him as he may require.

(4) Except where the parties to any arrangements made under paragraph (3) otherwise agree, an inspection under any such arrangements of any accounting records shall be at a reasonable hour and at the place where the records are normally kept.

(5) A trade union shall not be required to allow a person inspecting any accounting records under this Article to be accompanied by an accountant if the accountant fails to enter into such agreement as the union may reasonably require for protecting the confidentiality of the records.

(6) Where—

(a) a trade union complies with a request made by any person under paragraph (2); and

(b) that person had been informed by the union, before any arrangements were made in pursuance of that request—

(i) of the union's intention to charge for allowing that person to inspect the records to which the request relates, for allowing that person to take any copies of, or of extracts from, those records or for supplying any such copies; and

(ii) of the principles in accordance with which its charges will be determined, that person shall be liable to pay to the union on demand such amount, not exceeding the reasonable administrative expenses incurred by the union in complying with the request, as is determined in accordance with the principles of which that person was so informed.

18. The Applicant submitted her request to the Down Education Branch on 16 January 2024, as directed by the Regional Secretary in her email of 21 August 2023.

19. It is clear from the timeline at paragraph 16 and the various submissions provided by both Parties that the Respondent breached Article 37(3)(a) of the 1992 Order in not responding to the Applicant's request within the twenty-eight-day statutory period.

## **Final Conclusions**

20. Having upheld the Applicant's complaint, I am required under Article 37(7B) of the 1992 Order to determine whether it is appropriate to issue an Enforcement Order:

**Where the Certification Officer is satisfied that the claim is well-founded, he shall make such order as he considers appropriate for ensuring that the applicant—**

- **(a) is allowed to inspect the records requested,**
- **(b) is allowed to be accompanied by an accountant when making the inspection of those records, and**
- **(c) is allowed to take, or is supplied with, such copies of, or of extracts from, the records as he may require.**

21. In determining the need for an Enforcement Order I have reviewed the various engagements between the two parties and the very significant number of submissions over the period since my acceptance of the complaint.

22. The Applicant's final submission of 6 December 2024 confirms that she had been provided with bank statements setting out the totality of the transactions in and out of the hardship fund amounting to £4000. Her statement goes on to clarify that she had concerns that there was an omission in the accounting records provided by the Down Education Branch as the £300 donation from the regional committee, referred to in the Regional Secretary's email of 2 March 2023, was not included.

23. The Applicant's statement goes on to confirm that she had further exchanges with the Regional Secretary about the absence of the regional committee donation; and that the Regional Secretary then provided a further set of accounts which included the regional committee donation of £300 and two additional payments bringing the total amount of transactions up to £4900.

24. The Applicant's submission raises concerns about what she sees as discrepancies between the two sets of accounts provided by the Respondent.

She has requested that I make an order requiring the Respondent to provide online bank accounts and bank statements for the Down Education Branch.

25. Article 37 affords individual members the right to inspect a union's accounts, but the intention of the legislation is not to confer on union members the right to challenge the regularity of the financial affairs of a union.

26. The right to raise concerns about the conduct of a union's financial affairs is provided for under Article 11A(6)(a) of the 1992 Order (**Statement to members following annual return**). This was not a matter raised by the Applicant's in this complaint.

27. I am content that the Respondent has made every effort to make available the accounting records pertaining to the hardship fund established by the union. I have also noted that the Respondent has made available the union's regional accounts even though they were not cited by the Applicant in her original Article 37 request.

28. In upholding the Applicant's complaint, I do have concerns about the way in which the Applicant's original request was handled. However, I have already made an Enforcement Order in a recent decision (**D/01/25 McDermott v Unison**) requiring the same Respondent (**Unison**) to issue a circular reminding all branches/committees of the union's responsibilities under Article 37 of the 1992 Order.

29. I therefore deem that the making of an Enforcement Order is not required in this instance.

**Tom Evans OBE**

**Certification Officer for Northern Ireland**