

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

Mrs R Edgar

V

GMB

Date of decision:

26 October 2005

DECISION

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

1. I declare that between August 1998 and December 2003 GMB failed to hold a Branch 259 election, thereby breaching rule 37(7) of its rules;
2. I declare that between August 1998 and December 2003 GMB failed to ensure that Branch 259 had nine properly elected officers, thereby breaching rule 37(3) of its rules;
3. I declare that between August 1998 and December 2003 GMB allowed Branch 259 to hold meetings consisting of four unelected officers instead of the nine elected officers required, thereby breaching rule 37(3) of its rules;
4. I declare that between August 1998 and December 2003 all of the meetings of Branch 259 were inquorate as they consisted of four unelected officers instead of five elected officers, thereby breaching rule 37(3) of GMB's rules;
5. I declare that between August 1998 and December 2003 GMB failed to ensure that quarterly meetings of Branch 259 were held on the last meeting night previous to the last Saturday in March, June, September and December, thereby breaching rule 37(19) of its rules.

I consider it inappropriate to make any Order in relation to declarations 1-5 above.

6. I dismiss the applicant's complaint that by removing her from a training course GMB effectively disciplined her, thereby breaching rule 5.5 of its rules and natural justice.

REASONS

1. In applications dated 10 June 2004, the applicant, Mrs Rosemary Edgar, complained of six alleged breaches of rule by her Union, the GMB. The rules in question related to (i) the election of persons to an office, (ii) the constitution or proceedings of an executive committee or decision-making meeting and (iii) disciplinary proceedings, and therefore came within the jurisdiction of the Certification Officer by virtue of Article 90A(2)(a), (b) and (d) of the 1995 Order. The alleged breaches, as clarified in correspondence and (in the case of the disciplinary complaint) at the hearing, were as follows:
 - That between August 1998 and December 2003 GMB failed to hold a Branch 259 election, thereby breaching rule 37(7) of its rules;
 - that between August 1998 and December 2003 GMB failed to ensure that Branch 259 had nine properly elected officers, thereby breaching rule 37(3) of its rules;
 - that between August 1998 and December 2003 GMB allowed Branch 259 to hold meetings consisting of four unelected officers, instead of the nine elected officers required, thereby breaching rule 37(3) of its rules;
 - that between August 1998 and December 2003 all of the meetings held by Branch GMB 259 were inquorate as they consisted of four unelected officers, instead of five elected officers, thereby breaching rule 37(3) of GMB's rules;
 - that between August 1998 and December 2003 GMB failed to ensure that quarterly meetings Branch 259 were held on the last meeting night previous to the last Saturday in March, June, September and December each year, thereby breaching rule 37(19) of its rules; and
 - that by removing Mrs Edgar from a training course because she had complained to the Union about its failure to hold branch 259 elections the Union effectively disciplined her, thereby breaching rule 5.5 of its rules and natural justice.
2. These matters were investigated in correspondence and as required by Article 90B(2)(b) of the 1995 Order, the parties were offered the opportunity of a hearing. This took place on 5 October 2005. The Union was represented by Mr M O'Connor B.L. instructed by Mr J McShane of P. A. Duffy & Co, solicitors. Evidence for the Union was given by Ms P Buchanan (GMB Regional Organiser), Mr M Hanna (GMB Branch 259 secretary), and Mr J Young (Human Resources Department, B/E. Aerospace Ltd). Mr T Haugh (GMB Officer) also attended but did not give evidence. Mrs Edgar acted in person and Mr V McKay, a GMB

member, gave evidence on her behalf. A bundle of documents containing relevant correspondence and attachments was prepared for the hearing by my office. The rules of the Union were also in evidence. The Union submitted a skeleton argument.

Findings of fact

3. Some of the facts that are important in this case are disputed between the parties. These will be dealt with later in this decision, as they arise. Apart from these, I now give the findings of fact that I make in light of the documents provided and the representations made by the parties.
4. At the relevant times, Mrs Edgar was (as she remains) an employee of B/E Aerospace (UK) Ltd in Kilkeel, Co Down, where she worked as a production expeditor. She was (and is) also a health and safety representative of the GMB in the company and a member of several years standing of GMB Branch 259, whose membership largely consisted of employees at the B/E Aerospace site.
5. About August 2003, Mrs Edgar became aware of a course, leading to a Certificate in Occupational Health and Safety, which was to start at the Belfast Institute of Higher and Further Education on Tuesday 16 September. The course was provided by the Irish Congress of Trade Unions ("ICTU"), to which the GMB is affiliated, and details of it were listed in an ICTU prospectus, which also contained an application form. How Mrs Edgar obtained the prospectus, and in particular the application form, is one of the matters on which the evidence of the parties differs. Mrs Edgar filled in the form and sent it to ICTU, and duly received a letter dated 5 September from an ICTU Education and Training Officer, confirming that a place had been reserved for her on the course.
6. About this same time, Mrs Edgar sought agreement from B/E Aerospace for time off to attend the course. She spoke first to Mr Young in the company's Human Resources department, who referred her to her line manager. The line manager agreed that she could attend the course, which he understood to be of 13 weeks' duration. On the first day of the course, the tutor advised the students that it was a 36-week course. The letter of confirmation had mentioned 13 weeks, but this referred only to the first of three blocks. (The ICTU prospectus had indicated that the duration was 36 weeks, but had also, somewhat confusingly, added: "13 Tuesdays from September 16"). Mrs Edgar reported back to her line manager, who on 26 September gave her permission to attend for the 36 weeks.
7. In early October B/E Aerospace was facing commercial pressures and considering declaring redundancies. Mrs Edgar's line manager told her that in this situation she would not be allowed to continue attending the course. On the suggestion of, and with help from, Mr Matchett, a GMB Regional Organiser, Mrs Edgar raised a grievance procedure within the

company. The outcome of this was agreement by management to allow her time off to complete the first 13-week block.

8. In November 2003 Mrs Edgar, using days from her holiday entitlement, attended a separate GMB course in Manchester. On a course there earlier in 2003 she had heard GMB members talk about their Branch meetings, and being unaware that any such meetings were held in Branch 259, she had spoken on her return to the Branch Secretary, Mr Hanna. In November, having again heard about Branch affairs from GMB members in Manchester, she took the matter up once more with Mr Hanna. In discussions with him and other Branch members on the B/E Aerospace site, she ascertained that no Branch meetings had been held for several years; and she made clear to Mr Hanna that she wanted one to be arranged. By January 2004, however, no meeting had taken place and Mrs Edgar raised the issue again with Mr Hanna. He said that a date would be fixed.
9. As she hoped to continue with the ICTU course in 2004, Mrs Edgar was also, during January, negotiating with B/E Aerospace for time off for the purpose. She was told that the company was prepared to agree to six days off and no more. In response she raised a new grievance procedure, this time on her own initiative, without involving GMB officials or Branch officers. This procedure was concluded on 19 February by a ruling of the Managing Director confirming the offer of six days. Mrs Edgar decided to accept these days and use her holidays to make up the remaining days needed for the next block of the course, starting in April 2004.
10. The meeting of Branch 259 promised by Mr Hanna took place on 26 February 2004. Mrs Edgar was unhappy with the notice that had been given of the meeting, with the way it was conducted, and with the elections of Branch officers that took place during it, and told Mr Hanna and others that she intended to pursue her complaints with the Union. On 3 March she wrote about them to Ms Buchanan, who had taken over as GMB Regional Organiser just two days earlier, on Mr Matchett's retirement.
11. On 8 March Mrs Edgar was, to her surprise, asked by Mr Young to provide a letter from the GMB confirming that she had authorisation from it to attend the ICTU course. She asked Mr Hanna to supply the letter, but he referred her to Belfast, i.e. to Ms Buchanan. Mrs Edgar spoke to Ms Buchanan by telephone about her need for a letter, and when Ms Buchanan visited B/E Aerospace shortly afterwards, she told Mrs Edgar she would look into the matter. However, when after some time she had heard nothing further, Mrs Edgar asked Mr Haugh, then an officer of Branch 259, to help. Mr Haugh contacted Ms Buchanan, who replied to him in a letter dated 9 April 2004: but this dealt with expenses for courses, not authorisation, and was written in general terms, making no specific reference to Mrs Edgar. Mrs Edgar thereupon made some telephone calls to Ms Buchanan's office, but by the start date of the

course, 20 April, there had been no further communication and so she took a day's holiday and attended. On 23 April the ICTU Education and Training Officer told her by telephone that she must cease attending the course and that Ms Buchanan would write to her to explain the reason. Mrs Edgar had some discussion with Ms Buchanan and on 28 April wrote to her asking for an explanation. By letter dated 29 April (in response, clearly, to the discussion rather than the letter) Ms Buchanan informed her that: "Further to our previous discussion, I have consulted widely with all those involved with your attendance on the Health & Safety course. I am satisfied that there was no authorisation from any part of GMB for your participation in the course and I have to advise you that authorisation will not be provided retrospectively."

12. Mrs Edgar pursued the matter without success; she was unable to continue attending the course. In addition, she received no reply to her letter of 3 March about the Branch 259 meeting and elections. She brought her complaints to the Certification Office.
13. Mrs Edgar wished to attend the session of the ICTU Health and Safety course starting in September 2004, but was unable to do so because B/E Aerospace were not willing to allow her any days off. She did not seek to dispute this and she did not ask the GMB to intervene on her behalf. In June 2005 new elections were held in Branch 259 in accordance with GMB rules.

The Relevant Statutory Provisions

14. 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, subject to paragraphs (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)*
- (d) the constitution or proceedings of any executive committee or of any decision-making meeting;*

(e)

Declarations and orders

90B. –

(3) *Where the Certification Officer makes a declaration he shall also, unless he considers that to do so would be inappropriate, make an enforcement order, that is, an order imposing on the union one or both of the following requirements –*

- (a) *to take such steps to remedy the breach, or withdraw the threat of a breach, as may be specified in the order;*
- (b) *to abstain from such acts as may be so specified with a view to securing that a breach or threat of the same or a similar kind does not occur in future.*

Relevant extracts from the Union Rules (as amended 2003)

15. Rule 5 – Membership

5.5 *The Central Executive Council, a Regional Council, or a Regional Committee shall have the power to suspend from benefit, or prohibit from holding any Branch Office, any member who in their judgement is guilty of attempting to injure the Union or acting contrary to the rules or who makes or in any way associates himself or herself with any defamatory, scurrilous or abusive attacks whether in any journal, magazine or pamphlet or by word of mouth, on any Official of the Union or Committee of the Union, or who acts singly or in conjunction with any other members or persons in opposition to the policy of the Union as declared by its Committee or Officials under these rules, or who gives encouragement to, or participates in, the activities of any organization, faction or grouping whose policies or aims have expressed or implied promotion of racial supremacy or racial hatred at their core, or for any reason they deem good and sufficient.*

5.6 *A Regional Council or a Regional Committee shall have the power to recommend to the Central Executive Council the expulsion from membership of any member on any of the grounds specified in clause 5 of this rule. Whether on such a recommendation or otherwise, the Central Executive Council shall have the power to expel from membership any member on any of the grounds so specified. No expelled member shall be eligible for re-entrance into membership without the consent and*

approval of the Central Executive Council, or a Regional Committee.

- 5.7 The Central Executive Council, a Regional Council or a Regional Committee shall have power to debar any member from holding any office or representative position in the Union, for such period as the Council or Committee concerned shall specify or from participating in the conduct of the business of the Union where in their opinion such member is acting contrary to the policy of the Union or against the best interests of the Union, or for any other reason which they shall deem good and sufficient.*
- 5.8 If the member subject to disciplinary proceedings under clause 5 or clause 7 of this rule by a Regional Council or Regional Committee is not satisfied with the written decision, he/she may appeal in writing within one month to the General Secretary for reference of the case to the Central Executive Council, the decision of which shall be final. In giving its decision, the Regional Council or the Regional Committee must notify the member in writing of his/her right to appeal.*
- 5.9 If the member subject to disciplinary proceedings by the Central Executive Council is not satisfied with the written decision, he/she may appeal in writing within one month to the General Secretary for reference of the case to the Appeals Tribunal, the decision of which shall be final. In giving its decision, the Central Executive Council must notify the member in writing of his/her right to appeal.*
- 5.10 At each hearing before the Regional Council, the Regional Committee, the Central Executive Council or the Appeals Tribunal (as the case may be), the member shall have the right to hear the evidence against him/her, to answer it and to question witnesses. He/she shall have a reasonable opportunity to present his/her case. He/she may put his/her case orally or in writing, and shall have the right to support his/her case by written statements, or to produce witnesses.*

16. Rule 37 – Branches

- 37.3 *Each Branch shall have a President, Secretary, Equality Officer, Youth Officer and two Auditors (except in Branches of less than 100 members, in which case one Auditor shall be appointed), and a Committee of not less than nine members, including President and Secretary, Equality Officer and Youth Officer who shall act within the powers stated in these rules. Five shall form a quorum.*

Where a Branch Administrative Officer is appointed, s/he shall attend meetings of the Branch Committee with the right to speak and vote. Where a District Officer is appointed, s/he shall attend meetings of the Branch Committee with the right to speak but not to vote.

- 37.7 *All Branch Officers, and the Branch Committee, but not whole-time Branch Secretaries, District Officers, or Branch Administrative Officers, shall be elected at the last meeting in June every four years. Nominations may be made at any of the three meeting nights preceding the General Meeting, and shall be posted in a conspicuous place in the meeting room. If no nominations (or insufficient number of nominations) are received for Branch Officers or Branch Committee at any of the three meeting nights preceding the General Meeting, nominations may be made at the General Meeting. If, however, sufficient prior nominations have been received in accordance with Rule, no nominations can be accepted for that particular office at the General Meeting.*

- 37.19 *The quarterly meetings of each Branch shall be on the last meeting night previous to the last Saturday in March, June, September and December.*

Summary of Submissions

Submissions on Complaints 1 - 5

17. At the start of the hearing Mr O'Connor, on behalf of GMB, conceded that there had been five breaches of rule in relation to elections and proceedings of Branch 259 as specified in the application. He said that there had been no sinister motivation behind the breaches and no intention to exclude anyone from participation: the Branch had been run in a way that suited the members and there had previously been no complaints. However, once the issues were brought to the Union's notice, they were attended to: the February 2004 elections, though perhaps technically flawed, had partially remedied the situation, and the elections held in June 2005 had done so completely. The GMB had now made arrangements to ensure that the Branch was run in future in

accordance with the Union's rules. The June 2005 elections had seen all the existing office holders re-elected.

18. Mrs Edgar said that she was pleased that the Union had conceded the breaches of the rules. She agreed that the June 2005 elections had been properly organised and run.
19. I therefore advised the parties that I would make five declarations in the terms which appear on the first page of this decision. I also advised them that I would not make any enforcement orders in relation to these breaches, as the Union had remedied the situation.

Submissions on Complaint 6

By the Applicant

20. Mrs Edgar said that in August 2003 Mr Hanna had drawn the ICTU course to her attention and suggested that it would be a good one for a Health and Safety representative to attend. He gave her the application form, and she completed the parts that were for her to complete. She then asked Mr Hanna what she should now do with the form; he told her to send it to ICTU, which she did. ICTU wrote to her on 5 September confirming her place on the course.
21. Mrs Edgar told Mr McKay, a GMB Health and Safety representative at another company, about the course, suggesting that he might like to apply. Mr McKay gave evidence that Mrs Edgar told him at that time that Mr Hanna had got her on the course and that she advised him to contact his own Branch Secretary. He did so, was put in touch with GMB HQ in Belfast, and gave necessary details over the telephone to (he conjectured) the Regional Organiser's secretary. After some time he received two letters: one from GMB saying that he had been put forward for the course and one from ICTU saying that a place had been reserved for him. He did not fill in or sign the ICTU form, or even see it.
22. When she was asked by B/E Aerospace in March 2004 to provide GMB authorisation for the April - June 2004 block of the course, Mrs Edgar was surprised, but did not feel there was any cause for concern. It did not occur to her that there was any question mark over her approval to attend. She had, after all, applied on the recommendation of the Branch Secretary and in the way he had advised; ICTU had awarded her a place; the GMB Regional Organiser, Mr Matchett, had intervened on her behalf to enable her to stay on the course in 2003; and she had attended 11 of the 13 classes held that year.
23. Mrs Edgar said that when she asked Mr Hanna if he would provide the letter B/E Aerospace wanted, he told her to speak to HQ in Belfast and was aggressive and hostile. Her contacts with Ms Buchanan on the problem seemed to achieve nothing, and she felt that whereas previously the GMB had been supportive of her in her dealings with management, now they had withdrawn support and were being deliberately unhelpful.

Ms Buchanan sent an irrelevant letter about course expenses when asked about authorisation and spoke of retrospective approval when what Mrs Edgar was seeking was support to allow her to carry on with a course she had been accepted for and had already partly completed (at some expense to herself on travel and textbooks).

24. Mrs Edgar said that she was not aware of any special procedures that had to be followed in applying for courses. Her attendance at GMB courses in the past had been arranged through the Branch in a casual way. She had never before applied for an ICTU course. She did not know that she was expected to provide a letter from GMB to B/E Aerospace, and had not been asked to do so for any previous course.
25. The difficulties she was having over authorisation and the change of attitude she perceived in Branch officers led Mrs Edgar to question why this problem had arisen at just this time. She came to the conclusion that it was connected with the complaints she had recently made about the running of Branch 259. She considered that she was being punished for making those complaints and that her removal from the course was an act of discipline against her by the GMB.

For the Union

26. Mr O'Connor said that there was a proper procedure for applying for courses, which Mrs Edgar had not followed, though she had attended courses before and should have known it. She had not consulted Branch officers and the application form she had sent to ICTU (which was in the bundle) was blank in the place marked "Signature of full-time officer". She had in fact never obtained any GMB authorisation to attend the course. This, and not any alleged punishment of her, was the source of her later difficulties.
27. Mr Hanna stated in evidence that he had not given the ICTU application form to Mrs Edgar. He had only learned in December 2003 that she was on the course and had no direct contact with her about it until she asked him for a GMB letter of authorisation in March 2004. He denied being aggressive towards her at that time: he had no authority to deal with ICTU courses, only GMB ones, and he had merely referred her to HQ, where the authority lay. He would have done the same if she had, as she wrongly claimed, consulted him in August 2003 about the course.
28. In her evidence, Ms Buchanan said that when Mrs Edgar telephoned her on 8 March 2004 she said she was looking for authorisation for a course she had been on. Ms Buchanan thought this strange, and when she probed further about why authorisation was needed now, Mrs Edgar's answers were unclear. She then asked who had signed the form, to which Mrs Edgar replied that Mr Matchett had given her the form. At a later date, however, Mrs Edgar told her that it was Mr Hanna who had done so.

29. Ms Buchanan said she did not simply assume straight away that Mrs Edgar's request implied something irregular. She looked into the background. She checked the records at GMB HQ in Belfast and spoke to GMB officials who might have been involved (though not Mr Matchett, who had just retired), but she found no trace of any contact between HQ and Mrs Edgar about the course. She also asked ICTU for a copy of Mrs Edgar's application form, which proved not to have been signed by a GMB officer. In addition, there was the fact that Mrs Edgar had given her conflicting accounts of who had provided her with the form. From all of this, Ms Buchanan concluded that Mrs Edgar had not been authorised to attend the course. She was now seeking authorisation for the April - June period, but since this was part of the same 36-week course, she was effectively asking for retrospective authorisation. Ms Buchanan was not prepared to provide that.
30. Ms Buchanan argued that it was significant that when Mrs Edgar was in dispute with B/E Aerospace in January 2004 over time off, she did not seek help from GMB officers, as she had done on other occasions. She believed this was because Mrs Edgar knew she had not followed procedure and was not authorised, and feared that Union involvement would reveal this. She felt that Mrs Edgar would have asked for Mr Hanna's help if he had originally given her the form and supported her application, as she claimed.
31. The two issues raised with her by Mrs Edgar in March 2004 were, Ms Buchanan said, quite separate and unconnected; she did not associate them in her mind and she never asked Mrs Edgar any questions or made any comment about the Branch 259 elections when speaking to her about the ICTU course. She had refused to supply the letter asked for because it was wrong to backdate approvals, not for any reason to do with the Branch elections.
32. Mr Young said in his evidence that he recalled Mrs Edgar approaching him in August 2003 for time off for a 36-week course. He thought this was an exceptional period to ask for, but told her it was not his decision and referred her to her line manager. He said that there was an agreed procedure between B/E Aerospace and the GMB about time off for training. The GMB would consider requests from members and where it decided to support, would write to the HR department, identifying the employee and the course (topic, duration etc) and requesting that the employee be released, with pay, for the required number of days. The company would write back to the Union, sanctioning the time off or not, as the case might be. After the Managing Director's decision of 19 February 2004 to allow Mrs Edgar six days for the ICTU course, someone in management raised the question whether there was a Union request for her participation in the course. None was found and it was at that point that Mr Young asked her to get a letter from the GMB.

Conclusion

33. It is clear that Mrs Edgar was not authorised by the GMB to attend the ICTU course. Her application went straight to ICTU without passing through any GMB administrative system or structure. This is not to say that Mrs Edgar knew, or should have known, that her attendance was not authorised. I do not accept either of those propositions.
34. The Union contended that there was a proper procedure for applications and that Mrs Edgar would have known it, having attended courses on other occasions. But the evidence given at the hearing showed that there were two different procedures in use and moreover, that these procedures were not always adhered to. If the course was a GMB one, the procedure was that the member applied to his or her Branch Secretary, who was able to approve attendance. If it was an ICTU course, the member was to approach the Branch Secretary, who would forward the application to GMB HQ for signature (if agreed) by a full-time officer; GMB HQ would then forward the signed application to ICTU and advise the member by letter that they had done so. ICTU would also write to the member to confirm acceptance on the course.
35. Applications for GMB courses were, like other things, handled in a casual manner in Branch 259 at that time. It would probably not have been obvious to Mrs Edgar that there was anything that could be called a procedure here: if you wanted to go on a course, you just spoke to Mr Hanna. When she came to apply for an ICTU course, there would have been no reason for her to think that she had to do something different. There was nothing written down about procedures for attending courses; and by her own admission, she had not previously heard of ICTU, and was not clear what it was. I find her account of how she applied convincing. The Union's assertion that she acquired the prospectus herself and sent the form off to ICTU without reference to anyone at Kilkeel seems to me implausible. I believe she did receive the form from Mr Hanna, and that Mr Hanna did tell her to send the completed form to ICTU. Mr McKay's evidence supports this and I believe it is likely that Ms Buchanan is mistaken in thinking that Mrs Edgar told her the form had come from Mr Matchett. It is easy to see how during what was probably a quite confused telephone conversation, Mrs Edgar, being asked for details of HQ involvement in her course, might have mentioned that Mr Matchett had helped her; and how Ms Buchanan might have misunderstood that reply.
36. Even if Mrs Edgar had thought about procedures for ICTU courses, she would have had great difficulty in being clear what they were. As mentioned, there was nothing written, and observation of actual practice would not have helped her significantly. Mr McKay followed a path which did not involve him in even seeing an application form (though admittedly the process may have been truncated in his case because his application was made close to the deadline). Again, although Mr Hanna said that as a Branch Secretary he could not authorise ICTU applications, which must go to HQ, this was contradicted later in the

hearing by Ms Buchanan. When asked why Mr Matchett had supported Mrs Edgar, when as the relevant full-time officer he would have known that he had not authorised her attendance, Ms Buchanan said he might have assumed a Branch Secretary had done so, because there would be some Branch Secretaries who would sign off ICTU forms. In this environment, it seems unreasonable for the Union to maintain that Mrs Edgar ignored procedures and knew that she was doing so.

37. There were also procedures between the GMB and B/E Aerospace, as described at paragraph 32 above. Under these, when Mrs Edgar first mentioned the possibility of attending the ICTU course, management in B/E Aerospace ought to have expected a letter from the GMB asking that she be granted time off with pay. Instead, all the discussions were held direct with Mrs Edgar and the matter of a GMB letter was never raised. The offers of first 13, then 36 days were made without reference to the GMB. Mr Young said at the hearing that Mrs Edgar's line manager might not have been aware that he needed a letter from the Union. It appears that B/E Aerospace were no more secure in their understanding of procedures or assiduous in adherence to them than the GMB.
38. Leaving aside the question whether Mrs Edgar herself might have been more careful in her handling of the application form, there were several points at which her future troubles could have been forestalled by others. Mr Hanna could have given her accurate advice; B/E Aerospace management could have applied their own procedures properly and asked for a GMB letter at the right time; ICTU could have noticed that the application was not countersigned by a full-time official and sent it back for completion. None of these things happened. In my view, Mrs Edgar believed in good faith that she was legitimately on the course. When matters which could have been attended to earlier became obstacles to her continuing her course in April 2004, she was understandably both bemused and suspicious.
39. Nevertheless, I do not consider that Mrs Edgar has shown that what happened constituted deliberate punishment of her by the Union. She was unable to cite any statement or action by a Union official or Branch officer specifically connecting her complaints about the Branch 259 elections with the ICTU course. The timing of her problems over the course and the change of attitude that she perceived were the sole foundations of her belief. They are insufficient to sustain her case.
40. It was Ms Buchanan who made the decision not to provide Mrs Edgar with the letter she asked for. There was nothing in the evidence before me to suggest that Ms Buchanan had any reason whatever to want to harm Mrs Edgar. At the time the issue arose, she scarcely knew Mrs Edgar. The complaints about the operation of Branch 259 caused her no direct personal difficulties or inconvenience. The officers of the Branch might conceivably have felt angry with Mrs Edgar because of her complaints: but even if they did (and that was denied), there was no evidence to suggest that they made any approach to Ms Buchanan to act

against Mrs Edgar as a result; and none that she would have entertained it, if they had.

41. On the contrary, having heard her evidence, I believe that Ms Buchanan, newly installed as Regional Organiser, was anxious to behave as correctly as possible and that it was this that dictated her approach to Mrs Edgar's request for a letter. She saw this as a request for retrospective authorisation and refused to accede to it because she believed that to do so would be wrong in principle, bad practice, and open to criticism. At the hearing, Mrs Edgar strongly denied that she had ever asked for retrospective authorisation and I accept her denial. Her perspective and Ms Buchanan's were different. To Mrs Edgar, her request was for confirmation of an authorisation she already had, not for a new, back-dated, one; to Ms Buchanan, who found no trace of a previous authorisation, it was precisely the latter. The element of cross-purpose in this is likely to have fuelled misunderstanding between Mrs Edgar and Ms Buchanan.
42. From the evidence before me I conclude that Mrs Edgar's problems over the ICTU course arose from muddle rather than malice. The application procedures of both the Union and B/E Aerospace were not clear, or not properly observed, or both. Branch 259 had a very lax approach to rules and procedures generally, while Ms Buchanan took a much more rigorous line. It was Mrs Edgar's misfortune that the confusions engendered left her unable to continue with her course. She clearly suffered actual loss in consequence of this. She missed the opportunity to acquire additional skills and knowledge which would have been useful to her in her role as a union Health and Safety representative and her hopes of adding a Certificate in Occupational Health and Safety to her formal qualifications were frustrated. Although I understand her sense of grievance, the issue I have to decide is whether there was any intention on the part of the Union to punish her for her complaints about the Branch 259 elections. I do not find that this was the case.
43. I therefore dismiss Mrs Edgar's complaint that by removing her from the ICTU training course, the Union effectively disciplined her, thereby breaching rule 5.5 and natural justice.



Roy Gamble
Certification Officer for Northern Ireland