

D/6-16/01

**DECISIONS OF THE CERTIFICATION OFFICER ON APPLICATIONS
MADE UNDER SECTION 108A(2) OF THE TRADE UNION AND LABOUR
RELATIONS(CONSOLIDATION) ACT 1992 (AS AMENDED)**

**IN THE MATTER OF COMPLAINTS AGAINST
THE COMMUNICATION WORKERS UNION**

-CWU -

COMPLAINANTS: Mr M P HUGHES

Mr D M HIGGINS

Date of Decisions: **2 February 2001**

Decisions

- 1.1 Under section 108A(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 as amended (“the Act”) any member of a trade union aggrieved by a breach of the union’s rules under section 108(A)(2)(d) of the Act in respect of “The constitution or proceedings of any executive committee or of any decision-making meeting” as defined by sections 108(A)(10) (a-c) and 108(A) 11(a - b) may complain to the

Certification Officer. If, after giving the member and the union an opportunity to be heard, I consider a breach has been committed I may make such order for remedying the breach as I think just in the circumstances.

- 1.2 On 17th March and 1st May 2000 I received letters from Mr Hughes and Mr Higgins respectively, both members of the Communication Workers Union (“the CWU”) alleging certain alleged irregularities of union procedures relating to the unconstitutional nature of the union’s decisions in respect of meetings in February and March 2000; of branch procedures; in the operation of the union’s disciplinary procedures; and in non-compliance with certain National Rules. In all there were 11 complaints. I list these below along with a note on which of the two complainants made them.

1 Despite a failure to reach a quorum set out in Rule 3.2 of the Standing Orders for meetings, the AGM of the South Yorkshire Branch held on 24 February 2000 proceeded with the elections of Officers and Branch Committee.(Both Mr Higgins and Mr Hughes made this complaint).

2 The AGM held on 24 February was inquorate, the meeting was null and void and consequently the Branch failed to hold an AGM before the last day of February thus breaching National Rule 4.4.2.6. (Both)

3 The Branch Committee consisted of only one member contrary to the requirements of National Rule 4.4.2(2). (Mr Higgins)

- 4 Mr Higgins’ “proposed amendment to scrap all existing rules and to substitute with the model rules was unilaterally withdrawn without explanation or the approval of the branch” contrary to National Rule 4.4.2.(5). (Mr Higgins)
- 5 Contrary to the National Rule 14.2 for all disciplinary action to be determined by a National Discipline Committee, disciplinary action against one member, Mr Mick Hall, had been carried out by one official, namely Mr Bill McClory. (Mr Higgins)
- 6 Contrary to National Rule 14.4.1, Mr Bill McClory is now both the first and last stage of the disciplinary process. (Mr Higgins)
- 7 In the case of Mr Mick Hall, contrary to the requirements of National Rule 14.4.5(c), suspension from benefits of membership had been carried out without the involvement of the National Discipline Committee. (Mr Higgins)
- 8 The General Secretary has failed to comply with the requirements of National Rule 15 (Mr Higgins).
- 9 Rules 9.9.1/2/3 of the Standing Orders for Meetings of the South Yorkshire Branch have been repeatedly breached. (Mr Higgins)

- 10 The General Secretary has failed to comply with requirements of National Rule 7.2.8(b) (Mr Higgins)
- 11 A proper request made in March 1999 in accordance with Branch Rule 7:4 calling for an Extraordinary General Meeting of the South Yorkshire Engineering Branch has not been acted upon. (Mr Hughes)
- 1.3 I made enquiries of both complainants and of the union, after which I was ready to make a decision but, as required by section 82(3) of the Act, I offered the parties an opportunity of a formal hearing. All parties agreed that such a hearing was unnecessary.

Decisions

- 1.4 **I dismiss all of these complaints for the reasons set out below.**
- 1.5 In the case of six complaints by Mr Higgins, Complaints 5,6,7,8,9 and 10, my basic reason for dismissing them is identical so I will give it here rather than repeat it throughout. In each of these cases Mr Higgins failed to provide sufficient information to enable the union to answer the complaint or for me to determine it in the complainants' favour.
- 1.6 I wrote to Mr Higgins on 18 May 2000 asking him in respect of each alleged breach of rule about which he complained if he would set out (among other things) (i) the rule he believed had been breached (ii) how in specific terms he believed that rule had been breached (iii) When he believed the breach took place. As required under Section

108B(5) I gave Mr Higgins until 12th June to reply. Mr Higgins had not replied by then so I wrote again on 26th June. Mr Higgins responded on 6th July. In respect of the six complaints the letter added nothing. I nevertheless put all of the complaints to the union.

- 1.7 In its response of 22nd September the union said in respect of the six complaints that Mr Higgins had not provided them with sufficient information for them to reply fully. In relation to complaint 10 they also raised the question of jurisdiction. I passed these views to Mr Higgins on 28th September and again sought clarification - this time by 24th October. However, in correspondence, dated 31st October, Mr Higgins declined the opportunity of a hearing. In the absence of a substantive reply I wrote to Mr Higgins again on 13th November with a request for a reply by 21st November in default of which I warned Mr Higgins that I was minded to dismiss these complaints.

- 1.8 In the absence of such a substantive response from Mr Higgins I am of the opinion that he has not provided sufficient information to enable me to find that the union had breached its own rules. It is for these reasons that I dismiss complaints 5,6,7, 8, 9 and 10 made by Mr Higgins.

Complaint One that despite a failure to reach a quorum set out in Rule 3.2 of the Standing Orders for Meetings, the AGM of the South Yorkshire Branch of the CWU proceeded with the election of officers for the Branch Committee

The Complainants' case

- 2.1 The complainants explained that the matter concerned the Annual General meeting of the South Yorkshire Branch of the union, which was held at Doncaster on 24th February 2000 and for which due notice had been given in accordance with union procedures. It is their case that, despite the fact that the requisite quorum of 30 had not been achieved because only 25 members attended the meeting, the meeting proceeded to elect officers to the branch committee. This, the complainants said, was in breach of national rule 4.4.2.6 and Rule 3.2 of the Standing Orders for Meetings. It is the complainants view that, in consequence, the meeting should have been declared null and void.
- 2.2 Mr Bill McClory, the Union's Assistant General Secretary, who had attended the AGM on 24th February as a facilitator, advised that those individuals nominated for branch officer's positions and branch committee membership should be declared elected and should take up their posts as from the closure of the meeting. In order to fill those vacant positions for which there had been no nominations, Mr McClory also advised that the AGM should be reconvened as soon as possible with this object in view. The reconvened AGM was duly set for 16th March 2000.
- 2.3 Both complainants raised the alleged breach of rule with the union's General Secretary, Mr D Hodgson. It is Mr Hughes contention that he did not receive a reply from the General Secretary. Mr Higgins wrote to Mr McClory (copied to the General Secretary) and asked him to address this issue and other matters which chiefly expressed Mr Higgins's general dissatisfaction with the running of the South Yorkshire branch. Mr McClory replied that the Senior Branch Officers had been re-elected and that as Mr Higgins was not an office holder in the branch, Mr McClory was not

prepared to enter into further correspondence with him about the running of the South Yorkshire branch. The complainants therefore concluded that union rule had been breached and that the matter had not been satisfactorily answered by the union's general and assistant secretaries.

The Union's response

- 2.4 The union responded that the AGM of 24th February was undeniably inquorate but that no elections for branch officers and committee members took place. Instead, the meeting took the advice of the union's assistant general secretary, Bill McClory, who was present as facilitator. His advice was that as there were no contested positions , the individuals nominated should take up the posts and a reconvened AGM should be held as soon as possible to deal with nominations for the vacant positions. Mr McClory subsequently confirmed his advice in writing to the branch, having received the endorsement of the National President for his actions.
- 2.5 The advice given by Mr McClory, in the union's view, should be seen in relation to a recent history of significant disruption at the South Yorkshire branch caused by a small number of individuals who, the union allege, have attempted to frustrate the effective running of the branch. Complaints received about the conduct of the 1998 Branch Annual General Meeting and ' subsequent events' necessitated an investigation by the union's Organisation and Training Committee(OTC) into the running of the branch. In its report to the National Executive , the OTC made a number of important recommendations to try to ensure the smooth running of affairs at the South Yorkshire branch in the future.

- 2.6 The events on the evening of the reconvened AGM on 16th March, the union argued, indicate that despite every effort being made to reconvene the AGM in accordance with branch rules, a number of union members attended the venue but not the meeting itself, it is alleged, in a deliberate attempt to render it inquorate. These same individuals held a demonstration outside the meeting venue, distributed documents containing anonymous claims and allegations and used a video camera, the purpose of which appeared to be to intimidate those wishing to attend the meeting and to film the meeting itself.
- 2.7 The South Yorkshire Engineering Branch, the union said, had over 1250 members. It covered a geographical area which included the whole of South Yorkshire, part of North Nottinghamshire and part of North Derbyshire. The union said that ‘it is absolutely essential, and in the interests of all of its members that it continues to function effectively and to engage in a constructive dialogue with all of its employers.’
- 2.8 The union believed it took the only sensible course of action at the 24th February AGM to accept the nominations and reconvene the AGM to deal with vacancies for the other offices. This would ensure continuity and the smooth running of branch affairs in the light of the branch’s history of difficult working relationships. In the absence of officers and a branch committee to enable it to discharge its function, the alternative would have been for the CWU Head Office to take over the running of the branch. This, the union said, would be an extremely difficult thing to do from a distance. They therefore concluded that the action they took was, nevertheless, the only practical option in these difficult circumstances.

Reasons for my Decision

2.9 Rules 3.2 and 3.3 of the union's Standing Orders for Meetings state that:

"The quorum for the AGM shall be 30 and the quorum for any other General, Special General or Extraordinary General meeting shall be 15.

The quorum shall be reached 15 minutes after the scheduled commencement of the meeting. If there are extenuating circumstances the Chair will have the discretion to allow an extra 15 minutes.

If the quorum is not reached by that time and providing there are at least 8 lay members present , the members in attendance may if they so wish form a committee to discuss and debate the issues on the agenda(excluding AGM, decisions on financial outlay and Industrial Action). All decisions must be ratified by the next General Meeting."

2.10 It is common ground between the parties that the quorum of 30 was not reached.

Although the rule clearly states what may be allowed in these circumstances, it is silent on the matter of what should happen if the branch was completely unable to achieve a quorum at an AGM. In the event, the union contended that it did not carry out elections and its sole action in regard to the filling of branch officer and committee positions was to take the advice of the facilitator to accept the uncontested nominations that had been received, and reconvene the AGM at the earliest opportunity.

2.11 I am satisfied that the branch did all it could to convene both AGM's in accordance with Rule and that in spite of this (and probably due in part to the disruptive efforts of certain members) it was unable to achieve the quorum which would enable it to carry out elections at an AGM in the normal manner. It is in any case not unusual to be unable to fill branch positions and, given the uneasy history of this branch and the very difficult situation in which this AGM was held, I consider that the union resolved the problem in its own way and in a manner which was commensurate with the needs of the branch and its healthy continuity. I do not therefore propose to interfere with the union's actions. **I find no breach of rule in this complaint.**

Complaint Two that, as the AGM held on 24 February was inquorate, the meeting was null and void and consequently the branch failed to hold an AGM before the last day of February thus breaching National Rule 4.4.4. paragraph 6

The Complainants' Case

3.1 The complainants contend that due to the inquorate nature of the AGM which was held on 24th February, the meeting should have been declared null and void. Given the requirement in National Rules to hold AGM's before the last day of February, the complainants argued that the branch was therefore in breach.

3.2 Mr Higgins wrote to the union's General Secretary on 2 March 2000 and complained that National Rules had not been complied with, in the manner suggested in paragraph 3.1 above, referring at the same time to a letter he had written to Mr McClory, Assistant General Secretary of the union, in the same vein. By his letter of 6 March, the General Secretary indicated to Mr Higgins that he was not prepared to intervene in

the matter of the running of the South Yorkshire Engineering branch and that Mr McClorey's reply of 29 February should suffice.

- 3.3 There apparently being nothing more to be gained by pursuing the matter with the General Secretary and being clearly dissatisfied with Head Office's response, both Mr Higgins and Mr Hughes made complaints to me of breach of national rule 4.4.2 paragraph 6, which requires a branch to hold an AGM not later than the last day of February in each year.

The Union's Response

- 3.4 The substance of the union's responses in paragraphs 2.4 to 2.8 apply in this complaint, of the AGM not being held by the date required in National Rules . The union claimed that it made considerable efforts to achieve a quorum in respect of both the AGM of 24 February and the re-convened AGM of 16th March. The measures taken as the result of advice by Bill McClorey ensured, the union claimed , that branch affairs could continue in the best interests of its members.
- 3.5 The union argued that the fact the AGM, held on 24 February, did not achieve a quorum did not automatically render those proceedings null and void. The National Rules are silent on the question of the failure of AGM's to reach a quorum. In the absence of guidance from Rule, the national officer present at the meeting as facilitator, took the decision to reconvene the AGM as early as possible to deal with the nominations for branch officers and committee members where nominations had not been received at the 24th February AGM. This course of action was subsequently

endorsed by the national president who had the authority, it is claimed, to make consequential decisions where the Rules were silent.

- 3.6 The AGM of 24 February, the union argued was not therefore null and void and by virtue of the decisions taken both then and at the subsequent AGM, which ensured that the branch had the necessary officers to enable it to continue without the direct control from CWU Head Office to which a voided AGM would have led.

Reasons for my Decision

- 3.7 National Rule 4.4.2.6 stipulates that :

“ Every branch shall meet not less once every three months. The Annual General Meeting of the Branch shall be held not later than the last day of February in each year”

- 3.8 It is the complainants' contention that, as a quorum was not reached at the AGM of 24th February, the subsequent meeting on that evening should be regarded as null and void and the union would therefore be in breach of the requirement of Rule to hold an AGM by the last day of February.

- 3.9 There is no dispute about the fact that the meeting of 24th February was inquorate. However, the rule requires that a meeting be held but it is silent on the question of the status of an AGM if it is inquorate. It is my view that, as the branch adopted the correct procedure for calling, notifying and holding a meeting by the due date, that this should be regarded as satisfying the requirements of Rule 4.4.2.6.

3.10 I therefore find no breach of rule in this complaint.

Complaint three that the branch committee consisted of only one member contrary to the requirements of National Rule 4.4.2.2

4.1 Both Mr Higgins and Mr Hughes raised this complaint but Mr Higgins has supplied the argument in his letter to me of 6th July 2000, that in accordance with Rule 4.4.2.2:

“ A Branch Committee must consist of at least 5 members - only one person was named as a potential committee member; all others were named as ‘officers’. It is not viable to claim that officers are also committee as this undermines the whole purpose of a committee acting as an overseer of the elected officers.”

4.2 In the absence of any information to the contrary from the complainants, it appears that the reference to the Branch and Committee relates to the fact that the Committee and branch Officers were appointed as the result of the two inquorate AGM’s of 24th February and 16th March 2000. The use of this terminology may have been occasioned by the fact that the process of re-election of both committee and branch officers was incomplete until the process of election was finalised at the 16th March AGM.

The Union’s response

4.3 The union contended that Mr Higgins was incorrect in stating that the branch committee consisted of only one member. The branch committee consisted, according to the union, of six officers and one lay member and that this would be in compliance with national rule 4.4.2.2.

Reason for my Decision

4.4 There is a paucity of argument by both sides in the matter of the constitution of the branch committee. No-one has pointed to a rule which says that officers are, or are not, committee members. In my experience officers are committee members and I shall interpret the rule in that light. It follows that if the AGM's of 24th February and 16th March(though inquorate) have been accepted by me as meetings at which officers and committee members of the branch were properly appointed, then it cannot be said that the branch committee consisted of only one member.

4.5 I therefore agree with the union's view that the branch committee was constituted in line with the requirements of rule 4.4.2.2 and consequently **I find that no breach occurred in this respect.**

Complaint four that Mr Higgins' “Proposed amendment to scrap all the existing rules and to substitute with model rules was unilaterally withdrawn without explanation or the approval of the branch” contrary to national rule 4.4.2.5

The complainant's case

5.1 At the outset, Mr Higgins refers to his circular to branch members(copied to the General Secretary) of 4th February 2000 and the(apparently) three abortive attempts

to seek revisions to the branch rules. Following this, I received an undated document from Mr Higgins on 8th May 2000 in which he refers to ‘rules revisions - the following rules revisions are standing in the name of the branch Officers.’ In this document, Mr Higgins proposed an amendment to the branch rules of the South Yorkshire Engineering Branch(404) to ‘delete all after rule 1(the name of the branch) and adopt the ‘Model Bye-Laws’ as described in the CWU Rule Book 4.4.2.5.

5.2 Mr Higgins’ formal complaint of 1 May 2000 drew my attention to the ‘final meeting’ in which he alleged the branch were supposed to deal with his amendment to revise branch rules according to the Model Bye-Laws. According to Mr Higgins, his proposed amendments were withdrawn unilaterally without discussion and that this was ‘without precedent.’ Allegedly, Mr McClory (the union’s facilitator for these branch meetings) did nothing to prevent ‘this abuse of power taking place despite his claim to be the arbiter of fair play’

The Union’s response

5.3 According to the union, Mr Higgins’ proposed amendment was inconsistent with the terms laid down by the NEC and it was therefore ruled out of order. The union claim that Mr Higgins did not understand his own proposed amendment in so far as no reference was made in his published amendment to ‘model rules,’ and a full explanation was allegedly provided to the rules revision meeting which was not challenged. Mr Higgins apparently did not attend this rules revision meeting at which his proposal was to have been discussed, and according to the union, Mr Higgins could have attended if he had so wished.

Reason for my decision

5.4 National Rule 4.4.2.5 states that:

“Branch bye-laws shall make provision for:

- Branch elections
- Duties of officers
- Administration of branch

In the event of a Branch not having adopted bye-laws the model bye-laws approved by the National Executive Council shall be deemed to have been adopted.”

5.5 Mr Higgins complaint relates to a proposal to scrap all ‘existing rules’ and to replace them with the model rules. The branch could have done this, or indeed merely scrapped all its rules and left its operations to be covered by the deeming provisions in rule 4.4.2.5. But there is nothing in rule 4.4.2.5 requiring it to do so. **I therefore dismiss this complaint.**

Complaint eleven that a proper request made in March 1999 in accordance with Branch Rule 7.4 calling for an Extraordinary General meeting of the South Yorkshire Engineering Branch has not been acted upon.

6.1 Rule 7.4 of the CWU South Yorkshire Branch says that:

“An extraordinary General meeting may be called by written request to the Branch Secretary signed by at least 10 effective members. The

request must state fully the objective of the meeting and give the text of any motions proposed to be moved thereat. Each such request must be accompanied by a deposit of £20 which will be forfeited if less than 8 of the members requesting the meeting are not present 15 minutes after the advertised time of the meeting. No business other than specified on the agenda shall be discussed. The meeting can continue with the consent of the members present.”

- 6.2 The sequence of events is that the Extraordinary General Meeting(EGM) was requested by Mr Dave Booker, branch deputy secretary, in writing to the branch secretary on 15th March, in compliance with the specifications of Branch Rule 7.4 as set out in paragraph 6.1 above. The matter concerned the attendance of a Ms Diane Coulby at an official union meeting to which she was not entitled to attend as a non-union member, and at the alleged invitation of the branch secretary. Mr Booker wrote to the branch secretary on 12th April to ask why his request for an EGM had not been acknowledged. Following this, an EGM was arranged for 9th May 1999 and notice given to members by the local branch chairman, Roger Pheasey. Subsequently, the branch chairman wrote to members on 30th April to advise them that he had postponed the EGM on the instructions of CWU Headquarters. Mr Booker responded to this by asking the branch chairman in a letter of 6th May to tell him who had issued the instruction to postpone the EGM and why. The Branch chairman wrote back on 17th May and said that he thought Mr Booker’s action was inappropriately raised in correspondence, without precedence and not in keeping, in his view with conduct becoming of a branch officer. He directed Mr Booker to enquire of the National Organising Officer, Eric Lovett, who had communicated this decision to the local

branch chairman. Mr Booker's correspondence had been copied to the Union's General Secretary but no response was received from him. Subsequently, Roger Pheasey, the branch chairman declared the matter of the EGM discharged at item 8 of the minutes of the Officer's Meeting, South Yorkshire Branch Office, on 12th October 1999. Mr Hughes therefore claimed that, by this action, the union were in breach of branch rule 7.4

The Union's response

- 6.3 The Union responded to the complaint by referring to comments made by Roger Pheasey, the South Yorkshire Engineering Branch Chairman(the branch of which the complainant is a member) in a letter to the General Secretary dated 25th May 2000 which was copied to the complainant for comment. The Union have offered this as their formal response to the complaint.
- 6.4 The branch chairman initially responded to Mr Booker's requests for an EGM by telling him that he thought the manner in which Mr Booker had raised the matter was inappropriate, being outside the terms of Recommendation 6(g) of the NEC Investigation Report. This report was the ' Report of the NEC Investigation into the South Yorkshire Engineering Branch' drawn up to address the serious difficulties adversely affecting the efficient running of this branch(see paragraph 2.5 above) . Recommendation 6(g) states that:

“The recognised forum for discussing office organisation and airing grievances shall be the Officers' meetings. These meetings shall be scheduled and branch Rule 5.1 amended to encourage attendance”

- 6.5 The Chairman raised these concerns at the branch committee meeting on 22nd April 1999 at which it is alleged Mr Hughes attended. Mr Pheasey advised the meeting that he would be ‘seeking further counsel’ regarding the EGM and would report back. This action led to the postponement of the EGM by the National Organiser, Eric Lovett, who called for a report from the branch chair as to why it had been thought necessary to call for an EGM.
- 6.6 Mr Pheasey decided that Mr Booker’s action was outwith branch rules and therefore raised formal disciplinary charges with CWU Head Office and this was reported to the branch committee meeting on 13th May 2000. The action of Mr Booker in requesting an EGM allegedly outwith branch rules and the joint actions of Mr Booker and Mr Hughes in making unsubstantiated allegations to CWU National Executive Council members in writing by their letter of 16th June 2000, ‘escalated the subject matter of the EGM to a higher authority’. In raising the matter of the EGM in this manner with the NEC, Mr Hughes and Mr Booker had, in the union’s view put the question of a resolution beyond branch competence and into a higher(national) forum. As a consequence of the EGM now being decided at CWU Headquarters level, Mr Pheasey, the local branch chair, decided that as far as the branch was concerned, the matter had been discharged and he reported this to the meeting of the branch officers on 12th October.
- 6.7 The union is of the opinion that the complainants had not pursued the matter fully, because they had opportunities to raise the EGM question at ‘4 officers’ meetings, 5 committee meetings, 3 branch meetings, 1 sectional meeting, and 2 AGM’s and did not do so. Mr Hughes did not sign the petition to request an EGM nor did any of the

signatories to the EGM petition subsequently make any further representations in the matter.

- 6.8 In conclusion, the union contend that the union's National Executive Council, in their report and recommendations following their special investigation into the Branch in 1998, specifically recommended that the recognised forum for discussing 'office organisation and airing grievances' was the Branch Officers' Meetings. Thus, in the union's view, the matter should have been raised at local level in officers' meetings. In so far as the underlying reason for the complaint was a series of grievances by Mr Hughes and Mr Booker against the branch secretary and local officers, that is where these matters should have been discussed. Mr Hughes and Mr Booker would therefore be in breach of local branch rules by invoking EGM procedure and by choosing to involve CWU HQ in what was essentially a local dispute. Further, they would be in breach of national rule 4.3.1.2 which states that:

"All Branches are subject of the authority of the National Executive Council and shall implement and comply with the decisions and instructions of the National Executive Council or the general Officers within their powers in relation to affairs of the union, its members, Branches and the regional committees"

Having already issued the direction in the NEC report to deal with grievances at local level, the union were of the opinion that Mr Booker and Mr Hughes had acted outside Rule in not following an instruction(recommendation) issued to the Branch by the NEC.

6.9 The union believe that these actions negate any argument Mr Hughes made regarding the EGM complaint.

Reasons for my Decision

6.10 Branch Rule 7.4 clearly sets out the procedure for invoking an EGM, but it is silent on the question of what sort of complaint should be brought. Mr Booker and his co-signatories had complied with the requirements of Branch Rule 7.4 and therefore, *prima facie*, had a right to expect the Branch Chairman to call an EGM.

6.11 This, though, has to be considered against the background of the recommendation of the NEC Investigation outlined in paragraph 6.8 above. This laid down that certain matters should be discussed at branch officers' meetings (office organisation and the airing of grievances). By reference to the motion to be put at the EGM, I am satisfied that it constituted a grievance against the Branch Secretary, Mr Les Watson, and was therefore a matter which the NEC recommended should have been dealt with at a branch officers' meeting. However, it was not and the matter of the EGM request went beyond the branch to national level, where the union's National Organiser, Eric Lovett, became involved and called for a report to explain why it had been thought necessary to call for an EGM. Further, the complainant and Mr Booker referred their correspondence to the Union's General Secretary and subsequently brought the matter and other charges against local officers to the attention of the NEC, in their letter of 16th June 1999. I therefore have no doubt that the matter of the EGM had now become a national concern.

- 6.12 I see this complaint in the context of the very uneasy history of branch affairs necessitating the NEC Special Investigation and I think the force of National Rule 4.3.1.2 prevails in this situation. This states that National decisions and instructions are paramount and the NEC had, in effect, by its Special Report instructed the branch to deal with matters such as that covered by Mr Booker's request for an EGM, at branch officers' meetings. The substance of the EGM concerned Mr Booker and Mr Hughes' grievance against the Branch Secretary, Les Watson, and this was a purely local affair and should have been dealt with as such and in accordance with the NEC instruction.
- 6.13 This is a case where branch and national rules appear to conflict. In such cases, and particularly in the circumstances of this case, I am clear that national rules prevail. I therefore find that the failure to hold an EGM of the South Yorkshire branch was not contrary to the union's rules. **It was for this reason that I dismissed this complaint.**

E G WHYBREW

Certification Officer