

**DECISION OF THE CERTIFICATION OFFICER ON A COMPLAINT
MADE UNDER SECTION 82(2) OF THE TRADE UNION AND LABOUR
RELATIONS (CONSOLIDATION) ACT 1992 BY A MEMBER OF A
TRADE UNION AGGRIEVED BY A BREACH OF A TRADE UNION'S
POLITICAL FUND RULES**

**IN A MATTER OF A COMPLAINT AGAINST
UNISON - THE PUBLIC SERVICE UNION**

Date of Decision

4 December 1997

DECISION

Under Section 82(2) of the Trade Union and Labour Relations (Consolidation) Act 1992 (the Act) if a member of a trade union is aggrieved by a breach of the union's political fund rules made in pursuance of Part I Chapter VI of the Act, he 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.

The application

1. On June 15 1997 I received a complaint from a member of Unison - The Public Service Union (“the union”) that it was in breach of its political fund rules because a branch of the union had made a donation to the “Socialist Workers Appeal” from its branch fund, which was funded from the union's general fund, rather than the political fund of the union as required by statute.

The requirements of the legislation

2. The provisions of the 1992 Act relevant to this complaint are found in sections 82, 71, 72 and 73.

3. Section 82 of the Act requires a union wishing to engage in political activities to have rules providing for payment to be made out of a separate political fund. It also provides an avenue of complaint if these rules are broken. It reads:

“(1) The trade union's rules must provide:-

(a) that payments in the furtherance of the political objects to which this Chapter applies shall be made out of a separate fund (the “political fund” of the union);

(2) A member of a trade union who claims that he is aggrieved by a breach of any rule made in pursuance of this section may complain to the Certification Officer.

(3) Where, after giving the member and a representative of the union an opportunity of being heard, the Certification Officer considers that a breach has been committed, he may make such order for remedying the breach as he thinks just under the circumstances.

(4) Any such order, on being recorded in the county court or, in Scotland, the sheriff court, may be enforced in the same way as an order of that court.”

4. Section 71 establishes a further requirement on unions wishing to pursue political objects to have in force both a “political resolution” approving those objects and rules for making payments in furtherance of those objects from a separate fund.

5. Section 71 states:

“(I) The funds of a trade union shall not be applied in the furtherance of the political objects to which this Chapter applies unless -

- (a) there is in force in accordance with this Chapter a resolution (a “political resolution”) approving the furtherance of those objects as an object of the union (see sections 73 to 81), and*
- (b) there are in force rules of the union as to -*
 - (i) the making of payments in furtherance of those objects out of a separate fund, and*

which comply with this Chapter (see sections 82, 84 and 85) and have been approved by the Certification Officer.

(2) This applies whether the funds are so applied directly, or in conjunction with another trade union, association or body, or otherwise indirectly.”

6. Section 72 of the Act details the political objects to which the restriction given in section

71 applies. That section reads :-

“(I) The political objects to which this Chapter applies are the expenditure of money -

- (a) on any contribution to the funds of, or on the payment of expenses incurred directly or indirectly by, a political party;*
- (b) on the provision of any service or property for use by or on behalf of any political party;*
- (c) in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot by the union in connection with any election to a political office;*
- (d) on the maintenance of any holder of a political office;*
- (e) on the holding of any conference or meeting by or on behalf of a political party or of any other meeting the main purpose of which is the transaction of business in connection with a political party;*

(f) on the production, publication or distribution of any literature, document, film, sound recording or advertisement the main purpose of which is to persuade people to vote for a political party or candidate or to persuade them not to vote for a political party or candidate.

(2) Where a person attends a conference or meeting as a delegate or otherwise as a participator in the proceedings, any expenditure incurred in connection with his attendance as such shall, for the purposes of subsection (1)(e), be taken to be expenditure incurred on the holding of the conference or meeting.

(3) In determining for the purposes of subsection (1) whether a trade union has incurred expenditure of a kind mentioned in that subsection, no account shall be taken of the ordinary administrative expenses of the union.”

The background

7. In the January 1997 edition of the union's Westminster Branch's magazine “United” it was reported that the Branch Committee had made a donation to the “Socialist Worker Appeal” of £100. In May 1997 the complainant wrote to the Branch Secretary asking for an explanation of the donation.
8. In response the Branch Secretary said that the donation had been to the Socialist Worker Appeal and not to the Socialist Workers Party and that the ownership, management and printworks of the newspaper were separate entities from the political party called the Socialist Workers Party.
9. In the complainant's view the donation was one of a political nature which could not properly be made from a fund of the union other than a political fund. It was argued that the donation was a contribution to expenses incurred by the Socialist Workers Party, either directly or indirectly. As the Socialist Worker was used by and on behalf of the

Socialist Workers Party, the donation was expenditure on the provision of a service used by and on behalf of that party. As the donation by the Westminster Branch came from the general funds of the union the complainant argued that there had been a breach of the union's political fund rules.

The union's response

10. In correspondence the union made the following admissions:-
 - a) The union was clear that donations to the Socialist Workers Party could not be made from either the general fund or political fund of Unison.
 - b) There were claims that the Socialist Worker was a separate entity to the Socialist Workers Party. But having sought advice the union was clear that donations could not be made to the Socialist Worker and/or the Socialist Workers Party without breaching Unison rules.
 - c) In March 1997 the General Secretary had written to all branches setting out the position and asking those branches which had made donations to seek to recover any monies paid.
11. On 7 November 1997 I received confirmation to my satisfaction that the £100 donation made by the Unison Westminster Branch had been recovered and returned to branch funds. In these circumstances both parties agreed that the hearing that had been arranged to consider the complaint was not necessary.

Reasons for my decision

12. This complaint is simple and straightforward and I have reached my decision because the union conceded, in my view quite correctly, that the donation in question should not have come from the general funds of the union, and that in making such a donation the Unison political fund rules were breached. I am satisfied that a donation to the Socialist Worker Appeal represented “a contribution to the funds of, or the payment of expenses incurred directly or indirectly by, a political party” (within the meaning of section 72(1)(a) of the 1992 Act).

13. From correspondence with both the complainant and Unison it is clear that other branches may also have responded to similar appeals by the Socialist Worker. Whilst I have seen letters that have gone from the General Secretary to Branches reminding them of the provisions of both the statute and Unison's political fund rules I believe that it is important for all members to be aware that any donation by Branches to the Socialist Worker will be a breach of the Unison political fund rules.

Decision

14. For the reasons set out above on 2 December 1997 I issued the following declaration:
“The payment of £100 by the Westminster branch of Unison - The public service union to the appeal by the Socialist Worker was a breach of Unison's political fund rule J.1.1(a) in that a contribution to the funds of, or to the payment of expenses incurred directly or indirectly by, a political party was made from its general funds contrary to the provisions of section 71 of the Trade Union and Labour Relations (Consolidation) Act 1992.”

Remedial action

15. The union has taken steps to recover the donation of £100 which lead to the breach and it has been returned to the branch's general fund. In normal circumstances there would be no need for any further action. However, as I have indicated above, I believe that it is important for members to be aware of what has taken place. I should make it clear that the union has responded quickly and effectively in dealing with these matters and has co-operated fully with my enquiries and in taking steps to recover the donation. Nevertheless it is apparent from correspondence that I have seen that some branches may have failed to take heed of the guidance issued by Unison in respect of donations by branches to political parties. In light of this I have asked the union to give publicity to my decision and they have readily agreed to do so.

16. Consequently Unison have agreed to publish the following notice to all its members in its regular journal.

“DECISION OF THE CERTIFICATION OFFICER IN RESPECT OF A COMPLAINT MADE UNDER SECTION 82(2) OF THE TRADE UNION AND LABOUR RELATIONS (CONSOLIDATION) ACT 1992 CONCERNING UNISON - THE PUBLIC SERVICE UNION

On 4 December 1997 the Certification Officer issued a decision on a member's complaint made under the Trade Union and Labour Relations (Consolidation) Act 1992 to the effect that Unison had acted in breach of its political fund rules and of statute.

The decision is that Unison was in breach of its political fund rules in that a donation was made to the Socialist Worker Appeal from its general fund by its Westminster Branch. This was contrary to the provisions of section 71 of the Trade Union and Labour Relations (Consolidation) Act 1992. Under the direction of the union the Westminster Branch recovered its donation of £100 which has been returned to branch funds. Mr Bickerstaffe, General Secretary has written to remind all branches that contributions or donations cannot be made

by branches to any political party without breaching both Unison political fund rules and statute.”

E G WHYBREW
4 December 1997