

## **TERMS OF REFERENCE**

### **INDEPENDENT INVESTIGATION INTO INVOLVEMENT BY UNION OFFICERS OR OFFICIALS IN THE OPERATION OF BLACKLISTS IN THE CONSTRUCTION INDUSTRY**

Unite the Union is commissioning an independent investigation into alleged involvement of any past or present union officers or officials in the operation of blacklists in the construction industry.

The independent investigation will be conducted by Jane McNeill QC (“the Investigator”).

#### **I. Remit and Scope**

The remit of the investigation will be to determine whether, on the balance of probabilities, past or present officers or officials of Unite colluded in blacklisting in the construction industry.

The scope of the investigation:

- is not limited to the time period when the Economic League/ Consulting Association was in operation and extends to contemporary allegations;
- includes all predecessor unions which now form part of Unite;
- includes any evidence of any suppression of information, relating to the operation of such blacklists, by union officers or officials, past or present.

The independent investigation will be carried out in accordance with the methodology agreed with the Investigator.

The independent investigation is not an investigation under Unite’s disciplinary procedures, whether for employees or under its rule book. The independent investigation is not intended to replace, or substitute for, any part of such disciplinary procedures.

#### **2. Evidence to be reviewed: High Court Litigation and Scottish Affairs Committee**

Evidence to be reviewed as part of the investigation will include:

- (i) documents disclosed by the Information Commissioners Office, the Defendant companies and others in the High Court blacklisting litigation, subject to necessary permissions being obtained;
- (ii) the reports and evidence of the Scottish Affairs Committee in its investigation of blacklisting;
- (iii) any other evidence from the High Court blacklisting litigation, subject to necessary permissions being obtained;

- (iv) witness statement evidence to be provided by individuals who believe they may have information relevant to the Investigation, together with such documentary evidence as they may provide for the purpose of the investigation; and
- (v) relevant documents held or controlled by Unite, subject to full compliance with data protection requirements applying to Unite and the Investigator.

The review of those sources to identify evidence which may potentially be relevant to the investigation will be carried out by Thompsons Solicitors LLP, subject to the necessary permissions being obtained. Should any question arise as to the potential relevance of evidence, that evidence will, subject to the necessary permission being obtained, be submitted to the Investigator for her determination as to whether the evidence is potentially relevant. However, the Investigator is not to be asked to review substantial quantities of the documentary evidence from the High Court blacklisting litigation.

### **3. Call for evidence from individuals**

Evidence is being compiled by Thompsons Solicitors LLP. Any documentary evidence which any individual wishes to provide should be submitted to Thompsons either by email to [BlacklistingInquiry@thompsons.law.co.uk](mailto:BlacklistingInquiry@thompsons.law.co.uk) or by post to Unite Blacklisting Inquiry, Thompsons Solicitors LLP, Congress House, 23-28 Great Russell Street, London WC1B 3LW, reference L213003/RH. All evidence to be considered for the purpose of the independent report must be received by Thompsons by 9 November 2021.

Individuals who wish to submit written witness statements should send them to the above email address.

Witnesses can give evidence anonymously. However, if a witness chooses to do so, this may affect the weight given to the evidence.

### **4. Report of the Investigator**

Subject to necessary permissions, all evidence identified as potentially relevant from the High Court blacklisting litigation and the Scottish Affairs Committee reports, together with all evidence submitted by individuals, will be sent to the Investigator, who will prepare the independent report.

The independent report will set out:

1. The conclusions reached as to whether, on the balance of probabilities, past or present officers or officials of Unite colluded in blacklisting in the construction industry, or whether generally or in specific instances there is insufficient evidence to reach such a conclusion;
2. The reasons for those conclusions; and
3. Lessons for the future and recommendations as to steps Unite should take.

The independent report will name the officers or officials against whom any factual findings of collusion are made, subject to compliance with data protection requirements and applicable procedures. Subject to such compliance, Unite will publish the report.