

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 Nick Randall KC and John Carl Townsend (“the Investigators”).

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 Investigators.

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 Investigators.

The review of those sources to identify evidence which may potentially be relevant to the investigation will be carried out by the Public Interest Law Centre, 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 Investigators for their determination as to whether the evidence is potentially relevant. However, the Investigators are 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 the Public Interest Law Centre. Any documentary evidence which any individual wishes to provide should be submitted to Public Interest Law Centre either by email to ibci@pilc.org.uk or by post to the Independent Blacklisting Collusion Inquiry, c/o PILC, 17 Old Ford Road London E2 9PJ.

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 Investigators

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 Investigators, 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.