

REPORT FOR EMPLOYEES REPRESENTATIVES MEMBERS FOR YEAR ENDING 31ST DECEMBER 2017

This report should be read by members in conjunction with the AR21 form as completed and uploaded to the Certification Officers web site. See

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722458/1264T_2017.pdf

The AR21 form gives the minimal details regarding the financial position and membership of the union, which we emphasise is a “scheduled” union, not a listed union. Sometimes people can’t find us on the Certification Officers web site, the reason being they are looking in the wrong place.

We are a small union, deliberately so. If we become too large we are unable to service members. The operation of ER is a bit like an insurance company working on the same principles. If too many people “claim” then we cannot service their claim in the way we want. So although we do want members, members have to be elected by the officers.

There are no limits on the type of business or industry from which we recruit. Originally we were all bus drivers, or mostly so, but members are now from a wide variety of trades and professions.

However, there is a regional limit. Membership is open to people in the Greater London area and the Home counties. If you wish to join from another area of UK this will have to be agreed, in view of the larger costs for us in servicing any possible claim.

Our work continues in representation at the ‘plant’ level and then if we cannot resolve issues with the local management we institute an Employment Tribunal case, if need be representing our client before the EAT (Employment Appeal Tribunal), if the decision is adverse to us at the ET level. If the decision is adverse at the EAT level we can and do go on to the Court of Appeal, if we feel there is an arguable case.

The biggest problem this last year has been GHIB (Ghana International Bank) and the Financial Ombudsman Service (FOS). During 2017 GHIB started poking around and requiring more personal data from our members than we thought they were entitled to. A dispute developed between ER and GHIB, with the result that GHIB terminated our 7 year contract with the Bank. At this point we involved the FOS and a complaint was lodged against GHIB. This complaint is still being processed.

We reserve the right to begin judicial review proceedings if the complaint v GHIB is not resolved by the FOS to our satisfaction.

In the meantime this means members, if they have not done so already, need to sign up again as members with our new bank:

UNITY TRUST BANK

Nine Brindley Place

Birmingham B1 2HB

Sort code 608391

Account number 20395656

You can pay in an annual lump sum £96 or by standing order at £8 a month made out to EMPLOYEES REPRESENTATIVES.

If you have not already done so please change your bank account. We were under the impression that GHIB would do the transfer of existing members for us. But not so. In other words GHIB set out to destroy our union by depriving us of cash flow, without any sensible reason being given. This is fundamental attack on the working class and the right in UK law for independent unions to exist. See

<https://www.youtube.com/watch?v=mIFNO5GodWo&t=40s>

One specific complaint we made to the FOS was re possible loss of members funds.

The adjudication from FOS is deeply disappointing on this one particular point: see copy of FOS response below.

“I have received all of the information I need to consider your complaint and I’ve finished investigating it. If you’d like to speak to me following receipt of this email, please don’t hesitate to do so.

Your complaint was about Ghana International Bank (GIB) not safeguarding payments that were being sent by Employees Representatives (ER) members to GIB, after the ER account had been closed. You feel that these funds should be put into a separate account as there’s a likelihood of the funds being lost or not returned to the members just in case they’ve changed their bank account details. You consider it to be the duty of GIB to safeguard these payments even if the ER account

has been closed. You've also complained that GIB haven't provided a list of payments that they have returned which will allow you to quantify losses.

The ER account with GIB was due to close on 27 August 2018 but it was closed earlier than this. As a result, any incoming payments that were being received by GIB for this account, were being returned by GIB to the sender as the account was closed.

I note that ER closed this account earlier than it was due to because they received a letter from Unity Trust Bank (UTB) dated 16 July 2018 requesting that the account be closed. UTB requested that the balance from the GIB account needs to be transferred to the new UTB account and then for the GIB account to be closed. UTB also sent GIB an 'account transfer request' mandate which was signed by both you and Mr Patrick.

This mandate clearly shows that whatever instruction UTB give to ER, you authorise ER to act on UTB's instructions. In the letter of 16 July 2018, UTB instructed GIB to *close the account and transfer the balance* to UTB.

As GIB acted on the exact instructions given by UTB which you and Mr Patrick had authorised UTB to give, I can't see that GIB have done anything wrong.

However I have further considered whether there has been any impact by GIB's actions where they closed the account earlier. Although they haven't done anything wrong by acting on UTB's instructions, I think it's important for me to consider whether this had any impact.

I note that you had sent a written announcement to all ER members prior to 12 July 2018 (which is before the GIB account closed) advising all ER members that any further payments should be made to UTB and provided the new sort code and account number. Nonetheless, even if ER members hadn't seen this announcement and were continuing to send payments to GIB after the account closure, GIB would return these payments to the sender.

You believe these returned payments could potentially be lost or not returned correctly. But you haven't yet been able to quantify these losses which you believe is due to GIB not providing the list of returned payments. However, I'm not persuaded they have to provide this list to you because you aren't making these payments.

These payments are being made by ER members and if ER members feel they have not received the returned payments *after* the account closed, this would be something *they* have to raise. So as there's no evidence of any losses, I can't reasonably say that GIB have made an error or that there has been any financial loss.

Furthermore, GIB have explained their internal processes as to what they do when they return payments. If an incoming payment is made to a closed account, the payment is returned using the original sender's details and then it is reviewed by an authoriser to make sure these are correct and then funds are sent back. If there is an error, they receive a message which they review then amend the details and re-send the return payment.

I appreciate that if an ER member changes their details *after* they sent the initial payment to the closed ER account, it's possible that the payment may not be returned to the original sender. However there's no evidence of a sender changing their details or that there's actually been any losses. As stated previously, this would be something for the sender to raise should they feel they have a loss, not for GIB to provide you with a list of returned payments.

I've also taken into consideration what you've said about GIB not safeguarding payments and should be putting them in a separate account rather than returning them. GIB's processes are that once an account is closed and any funds are being received which are intended for that closed account, these should be returned. This isn't unreasonable as there would be no active relationship and GIB isn't required to keep these funds. I cannot tell GIB to change their processes but can only consider whether they've followed their processes correctly. As I have no evidence to show that GIB haven't followed their processes correctly, I won't be asking them to do anything further.

If you are unhappy with what their processes are, this is something for the regulator to consider as it's not our role to do so.

I think this is a fair outcome in the circumstances, for the reasons I've explained. But if you decide that you don't accept what I've said, then please let me know by 26 September 2018. If I can't resolve things then an ombudsman here can look at everything again and make a final decision. If I don't hear from you by that date we might not be able to look at your complaint again."

So members can bring their own complaint to the FOS if they believe GHIB failed to look after their funds.

I should add re GHIB the bank is a UK bank round the corner from the Bank of England. We do not know what political pressure were put on GHIB to destroy our union. But we won't go away!! We will continue the fight against the FOS and Google who tried to destroy our You Tube account but need your support by you signing up again.

Best wishes from William Spring ER General Secretary September 2018