

THE INDUSTRIAL COURT

THE TRADE UNION AND LABOUR RELATIONS (NORTHERN IRELAND) ORDER 1995 (AS INSERTED BY ARTICLE 3 OF THE EMPLOYMENT RELATIONS (NORTHERN IRELAND) ORDER 1999)

SCHEDULE 1A – COLLECTIVE BARGAINING: RECOGNITION

DECISION ON WHETHER TO ACCEPT THE APPLICATION

The Parties:

Prison Officers' Association

and

Youth Justice Agency

Introduction:

1. The Prison Officers' Association (the Union) submitted an application to the Industrial Court (the Court) dated 12 May 2006 that it should be recognised for collective bargaining by the Youth Justice Agency (the Company). The Court received the application on 16 May 2006, and acknowledged receipt of the application to both parties on the same day. The Company submitted a response to the Court on 23 May 2006, which was copied to the Union.
2. In accordance with Article 92(A) of the Industrial Relations (Northern Ireland) Order 1992, the Industrial Court Chairman established a Panel of the Court to deal with the case. The Court consisted of Mr Barry Fitzpatrick, Chairman, and, as Members, Mr Irvine Mc Kay and Ms Fiona Cummins. The Case Manager appointed to support the Court was Mrs Marie Turner. The Panel met on Wednesday 31 May 2006 to determine whether to accept this application.

Issues:

3. The Court is required by the 1995 Order to decide whether the Union's application to the Court is valid within the terms of: paragraphs 5 – 8; is made in accordance with paragraphs 11 or 12; and is admissible within the terms of paragraphs 33 to 42 of Schedule 1A to the Order and is therefore to be accepted.
4. Paragraph 4 of Schedule 1A states that a union or unions seeking recognition must make a request to the employer and that paragraphs 5-9 apply to that request. Paragraph 8 states that a request will not be valid

unless it is in writing, identifies the bargaining unit and states that it is made under Schedule 1A. In both its letters of request dated 7 September 2005 and 23 February 2006 the Union did not specify that the request was made under Schedule 1A. The Court considered this and decided that, as the Union did not state that the request was made under Schedule 1A, paragraph 8(c) of Schedule 1A was not satisfied and, accordingly, there was no alternative but to decide that the request was not valid.

5. The Panel noted that if the request had met the validity requirement under paragraph 8(c), the application may have been deficient in other aspects. In the letter of request the address of the bargaining unit was given as Rathgael whereas in the application it was stated to be 19 School Avenue, Bangor. Also in the application the bargaining unit was described as “residential care workers”, whereas the letter of request states “care workers”. Paragraph 2(3) of Schedule 1A requires that ‘references to the proposed bargaining unit are to the bargaining unit proposed in the request for recognition’.
6. Furthermore, in relation to the requirements of paragraph 35(1) of the Schedule, the Panel observed that both the Union’s application and the employer’s response had made reference to existing recognition agreements involving UNISON and NIPSA covering workers in the proposed bargaining unit. The Panel also noted the employer’s Policy Statement concerning industrial relations in the Agency, in particular paragraph 7 detailing its commitment to “communicating, consulting and, where appropriate, negotiating with trade unions on all issues which affect the interests of staff ...”.
7. However, the panel was not required to make a decision on these points.

Decision:

8. The Court’s decision is that, as the letter of request was not valid under paragraph 8(c) of Schedule 1A the application is not accepted.

Barry Fitzpatrick

Mr Barry Fitzpatrick
Mr Irvine McKay
Ms Fiona Cummins

Date of Decision: 31 May 2006
Date Issued to Parties: 9 June 2006