

Industrial Court
Annual Report
2002-2003



This report on the activities of the Industrial Court for the period 1 April 2002 to 31 March 2003 was sent by the Chairman to the Department for Employment and Learning on 27 June 2003.

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CHAIRMAN AND DEPUTY CHAIRMAN'S REVIEW OF THE YEAR



Richard Steele
Chairman

In our inaugural Annual Report, we outlined the historic role of the Industrial Court and the new legislative remit involving statutory recognition and de-recognition of trade unions introduced through the Employment Relations (Northern Ireland) Order 1999. We commented on the dynamic relationship established between ourselves and the Central Arbitration Committee (CAC), our equivalent body in Great Britain, and we



Barry Fitzpatrick
Deputy Chairman

are pleased to report that our relationship has continued to develop. We would also take this opportunity to express our thanks to the Labour Relations Agency (LRA), and look forward to further developing links between our two organisations.

In this our second year, we have dealt with a further eleven applications for statutory recognition, some more complex than others and we will comment on them in this Report.

Also during this year we have delivered a number of training sessions to trade unions and employers' organisations and have further expanded our guidance notes and website to ensure that timely, relevant information is readily available.

We have a relatively small panel base and this has ensured that the Panel Members have very rapidly gained invaluable experience dealing with, at times, quite complex issues. Their contribution to the statutory process and commitment to the Court is to be commended.

A number of staff changes in the Secretariat have also taken place during this year, and we would like to take this opportunity to say a very fond and grateful farewell to the first Secretary of the Industrial Court, Tim Devine. Tim was almost single-handedly responsible for pioneering the re-establishment of the Industrial Court. Tim has left the Secretariat on promotion and we wish him well in his new post. During this reporting period Tim has been very ably replaced by Patricia Stringer, Acting Secretary. We would like to express our gratitude to her and Anne-Marie O'Kane, Acting Senior Case Manager for their unstinting work for the Court and the way in which they further developed systems and processes, in order to meet our statutory remit and provide a professional service to the Chairmen, Panel Members and Parties to applications.

The statutory recognition process can be complex and, although the CAC has dealt with a greater number of applications for recognition than the Industrial Court, we have faced a range of issues and numerous challenges which have not presented themselves to the CAC. In IC-11/2002, Amicus/AEEU and Desmond Motors Limited, the Court ordered a postal ballot to be conducted. The Court encountered significant difficulties in this case which

would have been alleviated by the Parties establishing a written Access Agreement. During the balloting period the Union made a number of claims concerning the conduct of the Ballot. The Panel ordered that the Ballot be suspended and a Hearing was convened to hear submissions on whether the Employer had failed to fulfil any of the three duties concerning ballots as specified under Paragraph 26 of the Schedule. The Court decided that the Employer had not failed in any of the three duties and the Ballot re-commenced. The Union lost the Ballot, 12 votes supporting the Union's claim for recognition and 13 votes against.

In IC-13/2002 Amicus/AEEU and Ballyrobert Cars Ltd the Union submitted an application in respect of a bargaining unit covering two sites. In the Company's response to the application it came to the attention of the Court that Ballyrobert Cars Ltd may not be a legal entity and upon further investigation by the Court this indeed turned out to be the case. The Court sought information from the Company to ascertain the position and upon receipt of Articles of Association of both companies and clarification as to the relationship between them, the Court decided that the application could not be accepted.

One of the Court's main objectives is to achieve outcomes which are practicable, fair, impartial and where possible voluntary. To this end we welcomed the Semi-Voluntary Agreement arrived at in IC-12/2002 GMB and Ivex Pharmaceuticals Ltd. GMB had submitted a previous application to the Court in respect of this Company, however due to discrepancies in the Union's description of the bargaining unit in the application form and in the letter of request to the Company, the Court could not accept the application.

In conclusion, we record with satisfaction the manner in which the Court and its staff have developed our systems and processes. We are constantly endeavouring to improve the service offered by the Court and its Secretariat, and to this end we plan to develop closer links with key organisations such as the LRA, NICICTU, CBI, etc. We have developed a high degree of organisational knowledge and look forward to meeting the challenges of the coming years.

MEMBERSHIP OF THE INDUSTRIAL COURT

Chairman

Mr Richard Steele

Deputy Chairman

Professor Barry Fitzpatrick

Members with Experience as Representatives of Employers

Mr George McGrath
Retired Deputy Chief Executive
BT (NI)

Mr W F Irvine McKay
Marketing Consultant

Mr Maurice Moroney
Employment Relations Manager
Ulster Bank Ltd

Mrs Elizabeth Rutherford
Ex-Personnel Manager
Harland & Wolff

Mr Mervyn Simpson
Ex-Business Development Manager
Du Pont

Ms Caroline Whiteside
Personnel Manager
Ulster Carpet Mills Ltd

Members with Experience as Representatives of Workers

Mr Joe Bowers
Retired Regional Officer
MSF

Mr Bob Gourley
Regional Officer
USDAW

Ms Avril Hall-Callaghan
Deputy General Secretary
UTU

Mr Jim McCusker
General Secretary
NIPSA

Mr Peter Williamson
Irish Divisional Organiser
AMICUS/AEEU

Ms Fiona Marshall
Regional Industrial Organiser for Women And Equality
ATGWU



EMPLOYER REPRESENTATIVE - A PANEL MEMBER'S PERSPECTIVE



Maurice Moroney

The Industrial Court which has existed for some considerable time has largely lain dormant for most of its existence although it has come to life from time to time to deal with issues as diverse as the level of pay appropriate within an industry or locality, arbitrate in significant industrial disputes and now statutory trade union recognition. It has always been the tradition to have legally qualified individuals to act as Chairman or Deputy Chairman of the Court with lists of Panel Members drawn from both sides of industry. In relation to the latter the basis for their selection has always been the experience of industry and commerce which is brought to the arbitral table, which in turn is then linked to the legal expertise of the Chair. It has been to the advantage of Panel Members that our current Chairman and Deputy Chairman have had considerable experience of employment law and practice which has proved valuable to the work of the Court.

One important aspect of the Industrial Court has been the key emphasis on working as a team. This was reflected at our initial training sessions where all the members of the Court were trained together. Also we have gradually been building, as a collective, what might be called a Code of Conduct based on the experience gained by all the Members from involvement in actual cases.

Whenever it comes to dealing with an actual case the most impressive outcome has been the ability of Panel Members not to approach an issue from a particular or narrow viewpoint. Instead they have brought to bear the considerable experience which has been gained over many years working in this area, to assist the Court in reaching reasonable and sensible decisions. To date there has never been the need to take a vote or secure a majority vote to decide the point at issue.

It would be remiss of me not to single out the Departmental staff who have consistently provided tremendous support to the Court. In dealing with any case there is a lot of preparatory work and checking of data that must be undertaken within tight timescales. This role has been carried out in an extremely effective manner by these staff. It is much appreciated by Court Members both in terms of the quality of initial reports and the good humour displayed by them in what can be quite difficult situations. This has been true not only of the staff acting as Officers of the Court but also there has been clear support from the Minister and the Senior Civil Servants.

In joining the Court the first major learning point was the highly legalistic formulation of our processes along with a very detailed and what would normally be considered very tight statutory timescale within which certain actions had to be taken. All those involved with the Court have worked hard to meet these deadlines. As cases have been dealt with there is now general agreement that these deadlines bring a discipline to the process which on reflection is a very positive development. The reservoir of employee

relations experience has brought with it an orderly approach to our business whilst an attempt has been made to allow for a certain degree of informality. Other learning points have included the position of Human Rights Legislation within our process, how to approach and handle ballots and jurisdictional issues where companies may have workers in more than one jurisdiction.

There has been a steady flow of cases which has given me the opportunity to develop my understanding and examine my approach to the work of the Court through discussion of actual cases. We can also draw on the experience of the Central Arbitration Committee (CAC) in Great Britain but the Court members have clearly taken the decision that we should be a Northern Ireland body seeking solutions to Northern Ireland issues.

I have found the work of the Court challenging and worthwhile. Everyone works well together and to date there has not been any major criticism of the Court which is a tribute to all involved.

EMPLOYEE REPRESENTATIVE - A PANEL MEMBER'S PERSPECTIVE



Avril Hall-Callaghan

Following nomination by the Northern Committee of the Irish Congress of Trade Unions (NICICTU) I was appointed to the Industrial Court in March 2001. I wasn't quite sure what I was letting myself in for. I felt, however, that having been a full-time union official for some 20 years at that stage and also having been recently elected to the ICTU Northern Committee, I had the relevant experience of industrial relations to be able to do the job. I was also studying part-time for a Diploma in Law at Queens University and subsequently based my dissertation on a study of the equivalent body across the water - the Central Arbitration Committee (CAC). This helped to further my knowledge of the type of issues they were tackling as well as giving me a deeper understanding of the "grey areas" in the legislation!

At the outset the twelve Panel Members - six nominated by the CBI and six nominated by NICICTU - were invited to an initial training seminar, an exercise that proved to be invaluable. We were able to get to know the other Panel Members in a social setting and this certainly helped us to work better together when appointed to the various cases. The training process was facilitated by the staff of the Industrial Court who were friendly, well informed and unstinting in their efforts at all times.

Our Chairman and Deputy Chairman have to be congratulated for the roles they have played in ensuring the success of the Industrial Court. They have briefed us on the legislation, the procedures and the wider ramifications of the Human Rights Legislation and have guided us successfully through our first two years of casework. I have participated in Panels chaired by both Richard and Barry and have found it reassuring to have such highly skilled individuals leading us through the procedures in such a supportive manner. The amount of professional commitment they have both put into their work for the Court is very obvious and their leadership and input has ensured that I as a Panel Member am confident that the decisions we make as a Panel can be defended if challenged externally.

The workload involved in being a Member of the Industrial Court is variable. At the outset of a case it is impossible to predict whether it will involve many meetings over many months or whether it will be resolved speedily without the need for much input from the Panel. Where a case requires a hearing it is run on very similar lines to any arbitration hearing, with the Panel questioning both parties, if required, at the end of their presentations and then spending some time coming to an agreed decision on whatever aspect of the process is under consideration.

One of the most interesting aspects of Industrial Court casework is the number of different stages the case must progress through, as prescribed by the legislation. Many cases are resolved early on and the parties go on to make voluntary agreements which means that we as Panel Members have had less experience of resolving issues related to the latter stages of the process. Different Panel Members will also have had different types of experience, depending on the cases they have been involved in, although we meet regularly to learn as much as possible about all the ongoing casework and Richard and Barry have an overview of the entirety of the work.

I would anticipate that following the very steep learning curve at the outset of the life of the Industrial Court there will continue to be challenges as each new set of circumstances is examined and adjudicated upon. Each new case that I am involved in brings its own special circumstances and in Northern Ireland we have encountered very different matters over which to deliberate than our counterparts in Great Britain. I feel a growing confidence, however, that many issues have now been clarified and as time goes on we will build upon the knowledge thus gained.

I have found my membership of the Industrial Court to be enjoyable, challenging and rewarding. Enjoyable because of the genuinely nice people I have encountered through the Court. Challenging because of the issues that have to be resolved by interpretation of the legislation in situations where the answers are not crystal clear and rewarding in terms of the feeling of being part of a body that can assist in progressing industrial relations within workplaces.

VIEW FROM THE OUTGOING SECRETARY



Tim Devine

My involvement with the Industrial Court began when I was nominated as the lead Department for Employment and Learning official responsible for the reconstitution of the Industrial Court. As part of the planning and preparation for the Court to take on its new responsibilities, I was appointed as Secretary to the Industrial Court and have managed the Secretariat function for the first two years of Court operations. The Court needed to be reconstituted to enable it to meet its adjudication role in relation to the, at the time, new statutory right to trade union recognition. This statutory provision is based on the premise that voluntary agreements are preferable to imposed recognition and therefore

Court processes would need to reflect this premise. There is now, after two years of the legislation being in place, evidence that there are more voluntary agreements being reached simply as a result of the existence of the legislation. Also, many semi-voluntary agreements are being reached while the parties are going through the formal, statutory recognition procedure.

When the Department was in the process of planning the reconstitution of the Industrial Court no one really knew what to expect in terms of caseload, nor indeed if the systems and procedures that we designed and put in place would be effective. While Northern Ireland did have the experience of the Central Arbitration Committee (CAC) to learn from we also knew that Northern Ireland has a tendency to produce its own unique issues and problems. We had no idea what issues the Industrial Court might have to address without relevant CAC experience to guide us. In practice nearly every case deepened our understanding of the legislation and its boundaries as well as testing that our systems and processes were effectively servicing the needs of the Court. We continually amend and update our systems and processes to take account of new learning as well as increasingly more detailed and tightly specified Court requirements.

Our initial best projections of potential workload were that we could expect some 4 - 6 cases per year. We have recently received the 21st application to the Industrial Court with the Court receiving 10 applications in its first year and 11 in year two, so workload has been significantly higher than we originally anticipated. Each application to the Court provokes an immense amount of work on the part of the Secretariat and in particular the Case Manager. However, there is now some initial indication that the demand is stabilising, which mirrors the situation being experienced by the CAC.

While the Court can mediate between the parties it could be confusing to the parties if the Court were to switch from a mediation role to making an adjudication. The Labour Relations Agency (LRA) which is fully conversant with legislation has met this need and has now assisted parties at various stages of the recognition process. I feel that this is an appropriate time to express our appreciation to the LRA and I am confident that we

can build upon our relationship. Also, this year the Court has revised its guidance material for the parties and Panel Members and has recently (29 January 2003) held a successful seminar to share the key learning of nearly two years of experience with a range of interested parties. The seminar was very well attended and the feedback provided by attendees was excellent.

While building on a successful first year of work it has nevertheless been a difficult second year for the part-time Secretariat staff. Caseload has generally been high as has staff turnover and the staff have, as a result, been stretched to meet the stringent statutory deadlines laid down by the recognition process. Much of the work of the Secretariat goes on in the background and is not seen by parties, nor does it appear on any statistical return, but this support work is vital to the smooth running of the Court. However, both our Chairmen have observed this work personally and on a regular basis and place a high value on the professional service provided by Secretariat staff. This is a sentiment I heartily endorse.

As the outgoing Secretary I wish the Chairmen, Panellists and all the Secretariat staff continued success in dealing with what is a difficult jurisdiction. I would like to formally record my gratitude for the hard work and dedication shown by the Secretariat and my appreciation of the excellent relationships that have been developed between them and the Court. If, as I believe, past performance is an accurate predictor of future performance then the adjudication of trade union recognition issues is in safe hands.

ROLE, OBJECTIVES, TARGETS AND RESULTS

OUR MAIN ROLE IS DEALING WITH:

- Statutory applications for recognition and de-recognition of trade unions;
- Statutory applications for disclosure of information for collective bargaining;
- Disputes over the constitution of European Works Councils; and
- Voluntary arbitration.

OUR OBJECTIVES ARE:

- To manage the statutory adjudication process dealing with trade union applications to the Industrial Court in an effective, professional and fair manner;
- To achieve outcomes which are practicable, fair, impartial, and where possible, voluntary;
- To give a courteous and helpful service to all who approach us. We aim to publish clear, accessible and up to date guidance and other information on our procedures and requirements, and will answer enquiries concerning our work, although we do not offer legal advice;
- To provide an efficient service, and to supply assistance and decisions as rapidly as is consistent with good standards of accuracy and thoroughness, taking account of the wishes of the parties and the statutory timetables; and
- To develop our staff so that they are fully equipped to do their work and contribute to the aims of the Industrial Court.

OUR PERFORMANCE MEASURES AND TARGETS BASED ON THESE OBJECTIVES ARE -

- Proportion of applications for which notice of receipt is given and responses sought within one working day (target: 95%)

The Industrial Court achieved 100% on applications received

- Proportion of users (parties) expressing satisfaction with administration, procedures during the case and guidance provided to them (target: 85%)

***87.5% of users responding expressed satisfaction. User's views are requested via questionnaire after Industrial Court action is completed.
47% of users responded***

- Proportion of written enquiries and complaints acknowledged and replied to within 3 working days (target: 90%)

100% of enquiries and complaints were dealt with within timescales

- To initiate the drafting of an Annual Report on the work of the Industrial Court in its second year by 31 March 2003

Draft report prepared 24 March 2003

- Organise a range of Seminars to inform interested parties of Industrial Court procedures, legislation, etc

Six Seminars have been conducted throughout the period of this Report

- To revise Guidance Notes for Panel Members and Parties by July 2002 and revise Guidance Notes for Balloting Organisations by August 2002

All Guidance Notes revised and sent to Chairman for approval July 2002

USER SATISFACTION

If you are asked for your views on any aspect of our service, we would appreciate your co-operation. However, if you have any comments, whether of satisfaction, complaint or suggestion, please do not hesitate to contact us. If you are dissatisfied with any aspect of our service, please let us know so that we can rectify the matter/s. If you cannot resolve your problem/s with the person who dealt with you originally, please ask to speak to their manager or, if necessary, the Acting Secretary of the Industrial Court who will investigate your complaint.

If you wish to complain in writing, please write to:

Patricia Stringer
Acting Secretary
Industrial Court
Adelaide House
39-49 Adelaide Street
Belfast
BT2 8FD

In the event of any complaint, we hope that you will let us try to put things right but if necessary you can write to your MLA, who can tell you how to have your complaint referred to the Parliamentary Commissioner for Administration (the Ombudsman).

THE INDUSTRIAL COURT'S CASELOAD IN 2002-2003

The Industrial Court has dealt with the following applications during the period 1 April 2002 to 31 March 2003.

Amicus/AEEU and Desmond Motors Ltd

GMB and Ivex Pharmaceuticals Ltd

Amicus/AEEU and Ballyrobert Cars Ltd

Amicus/AEEU and Ballyrobert Ltd

Amicus/AEEU and Ballyrobert Service Station Ltd

Amicus/AEEU and Ballyrobert Limited

ATGWU and Polypipe (Ulster) Limited

ATGWU and Polypipe (Ulster) Limited

ATGWU and Limavady Building Suppliers

ATGWU and McAllister (Bros) Limited

UNISON and Maybin Property Support Services Ltd

Specific decisions relating to each application can be found on the Industrial Court's Website: www.industrialcourt.gov.uk

APPLICATIONS TO THE INDUSTRIAL COURT

1 APRIL 2002 TO 31 MARCH 2003

Trade Union and Labour Relations (Northern Ireland) Order 1995:
Schedule 1A Part One

Case Number	Parties	Position at 31 March 2003
IC-11/2002	Amicus/AEEU and Desmond Motors Ltd	Not Entitled to be Recognised Following a Ballot
IC-12/2002	GMB and Ivex Pharmaceuticals Ltd	Recognition Declared without a Ballot
IC-13/2002	Amicus/AEEU and Ballyrobert Cars Ltd	Application not Accepted
IC-14/2002	Amicus/AEEU and Ballyrobert Ltd	Application not Accepted
IC-15/2002	Amicus/AEEU and Ballyrobert Service Station Ltd	Recognition Granted
IC-16/2002	Amicus/AEEU and Ballyrobert Ltd	Recognition Granted
IC-17/2002	ATGWU and Polypipe (Ulster) Ltd	Application withdrawn before decision on Acceptability made
IC-18/2003	ATGWU and Polypipe (Ulster) Ltd	Application Accepted
IC-19/2003	ATGWU and Limavady Building Suppliers	Application withdrawn
IC-20/2003	ATGWU and McAllister (Bros) Limited	Application withdrawn before decision on Acceptability made
IC-21/2003	UNISON and Maybin Property Support Services Ltd	Application Received

RESOURCES AND FINANCIAL INFORMATION

INDUSTRIAL COURT

Number of Members		14
Of which:	Chairman and Deputy Chairman	2
	Panel Members	12
Members fees and expenses		£33,836.51

STAFFING

Number of Staff		4
Of which:	Management	1
	Operations	1
	Administration	2

OTHER EXPENDITURE

Accommodation		£1,797.15
Other Costs		£8,063.81

STAFF AND CONTACT DETAILS

STAFF

Acting Secretary	Mrs Patricia Stringer
Acting Senior Case Manager	Ms Anne-Marie O’Kane
Case Manager	Mrs Patricia McIlroy
Head of Administration	Mr Harry Kirk
Administrative Support	Miss Aine Magee

CONTACT DETAILS

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