



**INDUSTRIAL
COURT**

ANNUAL REPORT

2012/13

Industrial Court Annual Report 2012/13

This report on the activities of the Industrial Court for the period 1 April 2012 to 31 March 2013 was presented by the Acting Chairman of the Industrial Court to the Department for Employment and Learning on 2nd April 2014.

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Acting Chairman's Review of the Year

Caseload

The Court received four new recognition applications during the reporting period, all from the same union, Unite the Union. Two of these applications were ongoing at the end of the reporting period.

In the case of *Unite the Union and Qualitrol Instruments*, the union's description of its proposed bargaining unit in its application did not match that given in the originating letter to the employer. As a result the panel felt that it could not apply the admissibility and validity tests and so the application was not accepted.

The Court received two applications in November from Unite the Union for recognition by the same employer, Quinn Glass, in respect of two different bargaining units. In *Unite the Union and Quinn Glass*, the application was accepted by the Court and was ongoing at the end of the reporting period, whilst in *Unite the Union and Quinn Glass (Drivers)*, recognition was granted during the reporting period.

Unite the Union also submitted an application for recognition at O'Kane Foodservice Brakesgroup Ltd. However, the union subsequently withdrew the application before the Court reached a determination on acceptance.

For further details of these cases, see the review starting on **page 13**

Membership of the Court

During the year one of the Court's panel members, Maurice Moroney, resigned, whilst another panel member, Joe Bowers, completed his term of office and retired. Both members were greatly experienced, having been with the Court since its reconstitution in 2001 and will be missed by their colleagues.

A further three long-standing panel members, Avril Hall-Callaghan, Peter Williamson and George McGrath, were reappointed by the Department for Employment and Learning for a period of three years.

Annual Members' Day

The Court held its annual Members' Day at the Ramada Encore Hotel on 16th January 2013. As in previous years, this was a welcome opportunity for members to discuss issues and developments relevant to their work within the Court.

More information on the event can be found starting on [page 7](#).

Staffing

There was one change to the staffing of the Secretariat during the reporting period. Alan Finlay, a member of the Court's support staff, left and was replaced by Stephen Topping. I would like to thank the officers of the Secretariat for their continuing work to support the smooth running of the Court over the course of the year.

Full details of the Secretariat are set out on [page 18](#).

Links with partner organisations

I am pleased to report that during the year the Court reached agreement with our colleagues at the Labour Relations Agency on a Memorandum of Understanding and associated Protocol. This sets out the respective roles of each of our organisations, explaining how we will work together on matters of mutual interest.

The Court has continued to benefit from its close association with our sister body in Great Britain, the Central Arbitration Committee (CAC). During the year members of the Court's Secretariat attended the CAC Deputies' meeting to inform themselves about the latest developments in that organisation's work. The well established working relationship between the Court and the CAC continues to be of real value and I very much appreciate the continuing assistance and cooperation of the CAC and its staff.

Your views

The Court is committed to maintaining a professional, efficient and user focused service. The feedback gathered through satisfaction surveys during the course of the year has continued to be positive. We strive to maintain high standards, and welcome any and all comments on the operation of the Court. For more information on how to contact us, please see [page 19](#).

Roles, objectives, targets and results

The Court's role and corporate objectives are set out below. The following page sets out performance targets and measures and the degree to which these have been achieved.

Role

- Deal with statutory applications for recognition and derecognition of trade unions.
- Deal with statutory applications for disclosure of information for collective bargaining.
- Resolve disputes about the establishment and operation of employee information and consultation arrangements.
- Resolve disputes over the constitution of European Works Councils.
- Resolve disputes under European Company statute.
- Provide voluntary arbitration.

Objectives

- Manage the statutory adjudication process dealing with applications to the Industrial Court in an efficient, professional, fair and cost effective manner.
- Achieve outcomes which are practicable, fair, impartial and, where possible, voluntary.
- Provide a professional, courteous and helpful service to all who approach us.
- Publish clear, accessible and up to date guidance and other information on our procedures and requirements.

- Answer enquiries concerning our work (not including the provision of legal advice).
- 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.
- Maintain an Industrial Court Secretariat with the skills, knowledge and experience that are appropriate to meet operational objectives.

Performance measures and targets (based on objectives)

Performance measure	Target	Achievement
Proportion of applications for which notice of receipt is given and responses sought within one working day	95%	100%
Proportion of written enquiries and complaints responded to within three working days.	90%	100%
Delivery to the Department for Employment and Learning of an Annual Report on the work of the Industrial Court in 2011/12 .	30/09/12	22/10/12

Membership of the Industrial Court 2012/13

Membership of the Court during the period 1 April 2011 to 31 March 2012 is recorded below.

Acting Chairman

Barry Fitzpatrick

Semi-retired Consultant

Members with experience as representatives of employers

George McGrath

*Retired Deputy Chief Executive,
BT (NI)*

Maurice Moroney¹

*Retired Employment Relations
Manager, Ulster Bank Ltd*

Patrick Masterson

*Retired European ER Director,
Nortel*

Members with experience as representatives of workers

Robin Bell

*Executive Committee Member,
IBOA Finance Union; Pensions
Board Trustee, AIB UK*

Joe Bowers²

*Retired Regional Officer,
Manufacturing, Science and
Finance*

Avril Hall-Callaghan

*General Secretary, Ulster
Teachers Union*

¹ Retired 30 September 2012

² Retired 31 March 2013

Members with experience as representatives of employers

Patricia O’Callaghan

Retired Director of Head and Skeletal Services, Belfast Health and Social Care Trust

Pauline Shepherd

Interim Chief Executive for Extern and Extern Ireland

Neal Willis

Retired Director of Corporate Services, Newtownabbey Borough Council.

Members with experience as representatives of workers

Barbara Martin

Chair of Health and Safety Committee, Irish Congress of Trade Unions

Peter Williamson

Retired Irish Regional Secretary, Amicus

Annual members' day



recognition process, followed by another on information and consultation provisions.

The workshops generated lively debate amongst members and case managers.

Various administrative issues were also discussed, including the use of a secure, members' only area on the Court's website.

By general agreement the event was a success, allowing members to exchange knowledge, renew working relationships and participate in essential learning with a view to maintaining the high standards of service that the work of the Court requires.

The Industrial Court held its annual members' day on 16 January 2013 in the Ramada Encore Hotel, Belfast. The event gave members the opportunity to share their experiences of the cases dealt with throughout the year and discuss a range of other matters of interest.

The day commenced with a useful workshop on the Court's statutory



Applications and case outcomes

The Industrial Court received the following applications in the named jurisdictions during the period 1 April 2012 to 31 March 2013.

Applications for recognition for collective bargaining purposes

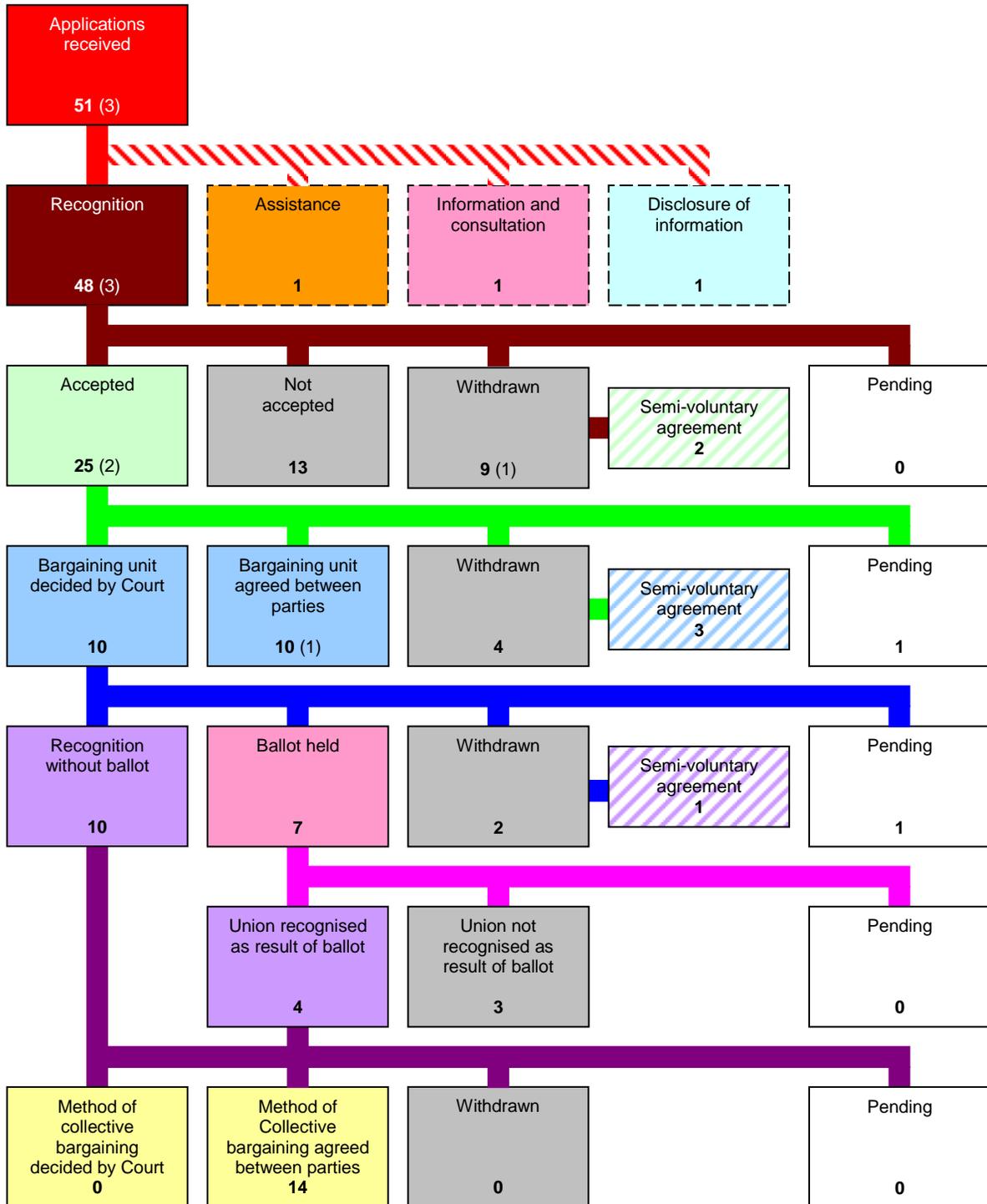
PARTIES	CASE REF NO
Unite the Union and Qualitrol Instruments	IC48/2012
Unite the Union and Quinn Glass	IC49/2012
Unite the Union and Quinn Glass (Drivers)	IC50/2012
O’Kane Foodservice Brakesgroup	IC51/2013

The text of decisions to date relating to each application can be found on the Industrial Court’s website, www.industrialcourt.gov.uk. Note that a decision may not necessarily be reached in the reporting year during which the corresponding application was received.

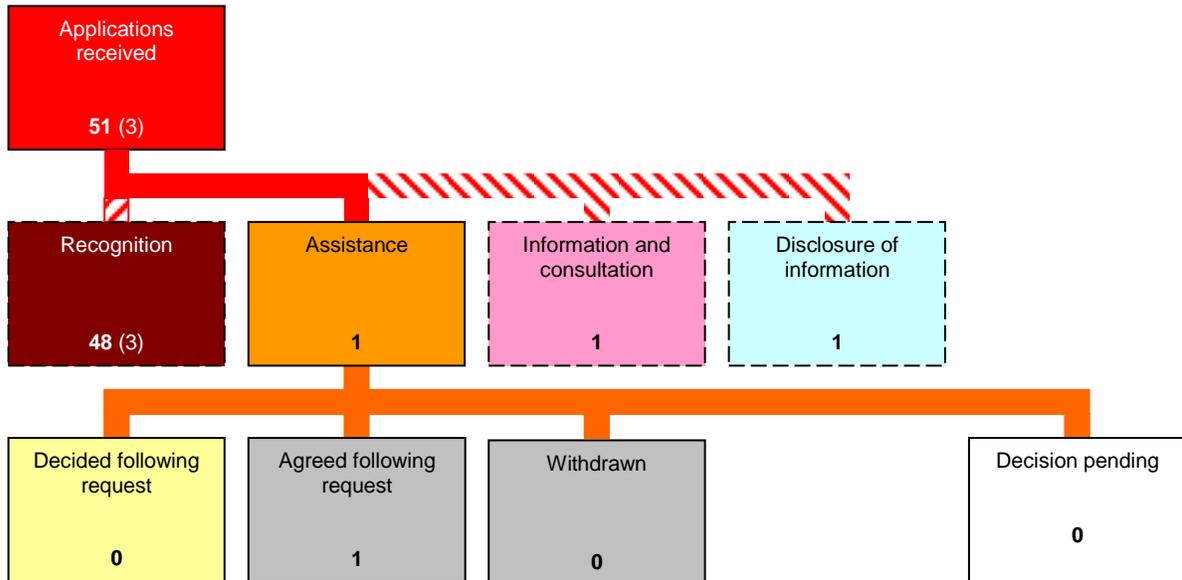
Accounts of each case may be found starting on **page 13**.

On the following pages are process maps setting out the outcomes of all cases dealt with by the Industrial Court. Figures in brackets represent changes to total figures during the reporting year and do not reflect subsequent developments.

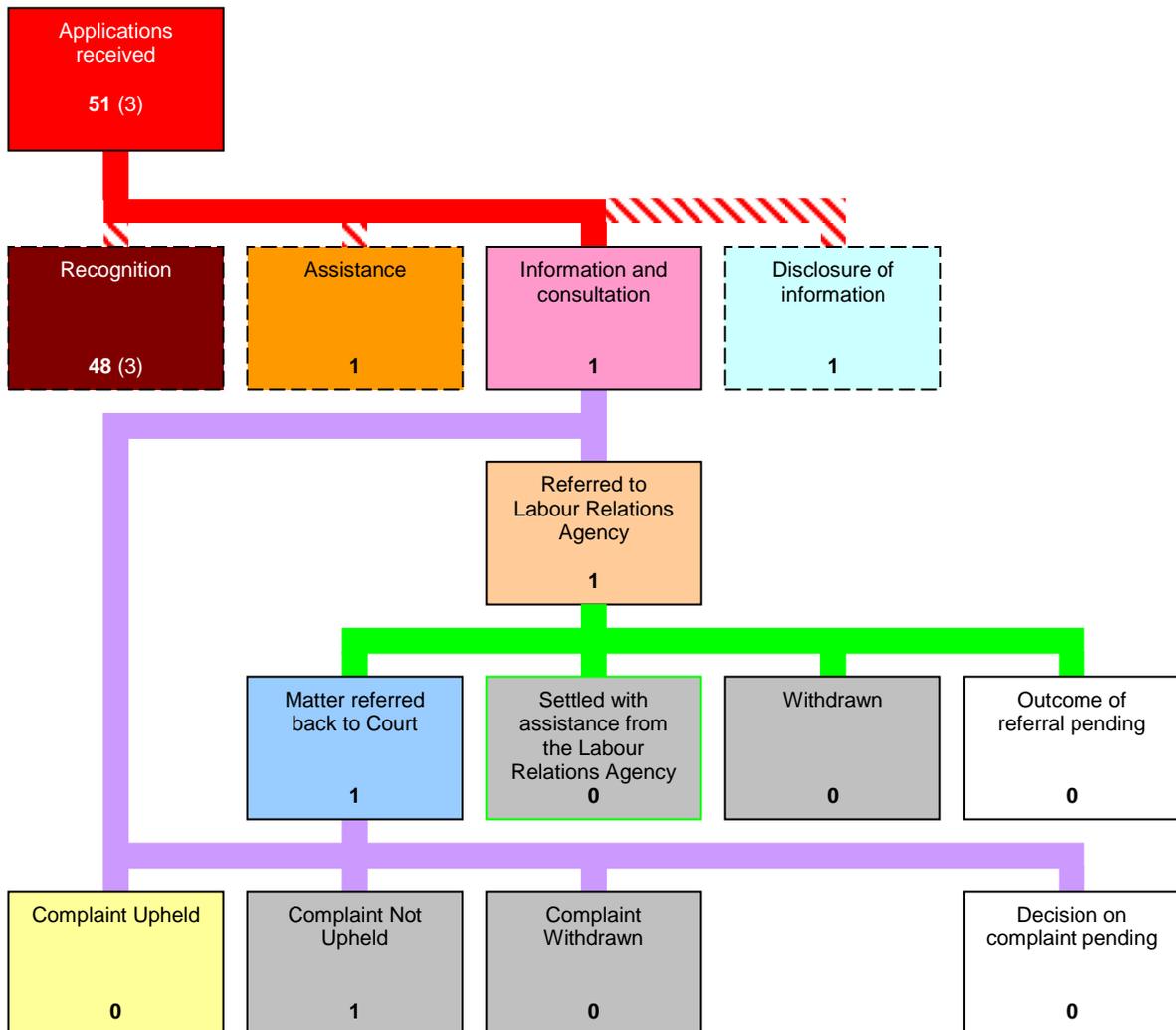
Applications for recognition



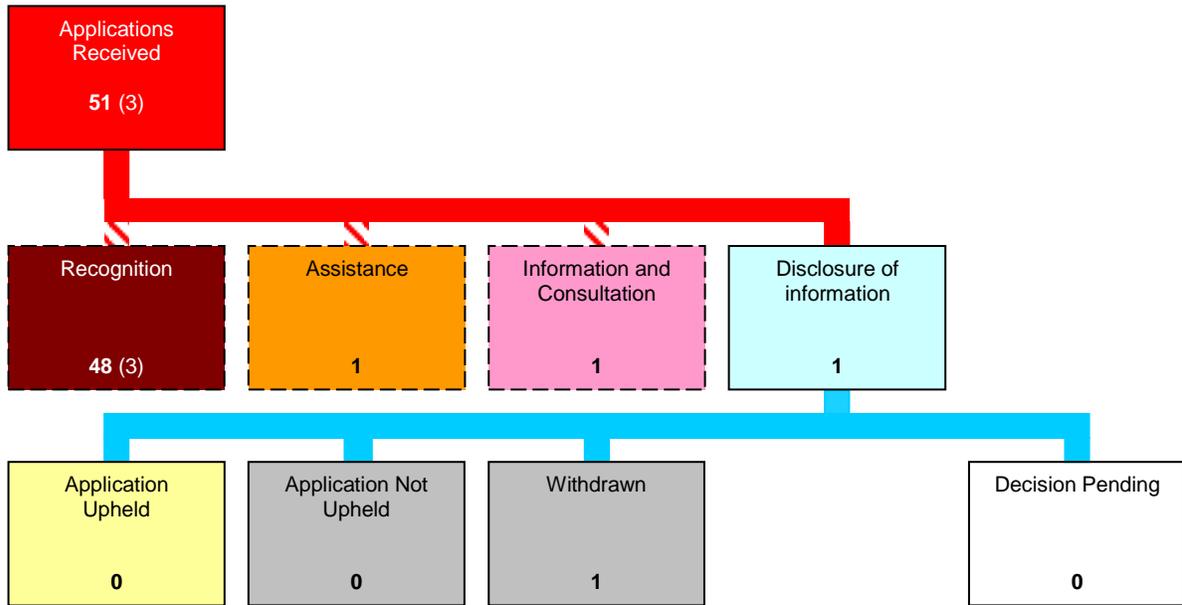
Applications for assistance



Information and consultation applications



Disclosure of information applications



Review of cases 2012/13

IC48/2012 – Unite the Union and Qualitrol Instruments

The Court received an application on 2 April 2012 from Unite the Union for recognition at Qualitrol Instruments, 15 Wildflower Way, Belfast, BT12 6TA. The bargaining unit description was “AKM Assembly Line” and the location was given as “Production Operatives”. The application was copied to the employer on 3 April 2012 and a completed response questionnaire was received on 12 April 2012.

The panel met on 23 April 2013 to consider this application and noted that, in its originating letter of request to the employer, the union had described the proposed bargaining unit as “Production Operatives”. Paragraph 2(3) of Schedule 1A states, “References to the proposed bargaining unit are to the bargaining unit proposed in the request for recognition”. Paragraph 8(b) further states that a request is not valid unless it “*identifies the union or unions and the bargaining unit*”.

The panel felt that the union’s description of the proposed bargaining unit in the application did not accurately reflect the description previously used by the union in its originating letter of request to the employer. Subsequently the panel felt that it could not apply the validity and admissibility tests in the Schedule in light of the differences between the description of the proposed bargaining unit in the letter of request and the description in the application form. The panel therefore concluded that the application could not be accepted and that it could proceed no further.

IC49/2012 – Unite the Union and Quinn Glass

Unite the Union submitted an application to the Industrial Court on 8 November 2012, for recognition at Quinn Glass, Derrylin, Co Fermanagh, BT92 9AQ. The bargaining unit description was: “*IS Operators, Charge Hands, Line Controllers, Palletise Operators, Warehouse, Resort Teams, DePauls, IS maintenance, Hot End Job Change, Cold End Job Change, Shift-Setters, Control Room Operators, General Maintenance Training, Stores and Quality Control – Not including: Electricians, Gen Engineers, Supervisors, Management Middle/Senior, Temporary and Agency workers*”, and the location was given as “*Derrylin Glass Plant*”.

The Court gave both parties notice of the application on 9 November 2012 and the employer submitted its response 20 November 2012.

In order to assist in the determination of the admissibility criteria specified in the Schedule, the panel instructed the case manager to carry out a membership and

petition check. The check showed that there was a large discrepancy between the figures provided by both parties for the number of workers in the proposed bargaining unit and also in the total number of workers employed. However, using the figures supplied by the employer, the membership check showed that 29.18% of the workers in the proposed bargaining unit were members of Unite the Union, satisfying the 10% membership check. In addition, a further 22.77% of the workers in the proposed bargaining unit had signed the union's petition in support of recognition, giving a combined total of 51.95%, thus satisfying the "majority likely to support" check. The application met all other admissibility and validity tests and so was accepted by the Court.

The panel did consider holding a hearing to clarify the considerable discrepancy between the figures provided by the parties on the number of workers in the proposed bargaining unit. However, it decided that this discrepancy would be resolved at the next stage of the process, where either the parties would agree an appropriate bargaining unit or the panel would determine whether the proposed bargaining unit was an appropriate one.

At the next stage of the application process the parties agreed that the union's proposed bargaining unit was an appropriate bargaining unit. The union accepted that the large discrepancy was due to an error on its part and that the employer's figures were correct. Since the membership and petition check carried out by the case manager at the acceptance stage was based on the employer's figures, the panel concluded, at a meeting on 6 February 2013, that the bargaining unit had not changed and so no further admissibility and validity tests were required.

Now that the application had been accepted and the bargaining unit settled, the Court had to decide whether to call a ballot on union recognition. The membership check of December 2012 showed that the union had a level of membership in the bargaining unit of 29.18%. The panel was satisfied that the union did not have a majority in the bargaining unit and, as per paragraph 23(2) of Schedule 1A, the Court gave notice to the parties that a secret ballot would be held. Both parties were invited to make submissions to the Court on the nature of the ballot and to agree, in writing, access arrangements for the union.

In order to help the panel determine the suitability of facilities at Quinn Glass that would allow a workplace ballot to take place, the Court's two case managers carried out a site visit on 21 February 2013. As well as viewing on-site facilities the case managers also enquired about employee shift patterns at the company, to help identify the most appropriate times that a ballot could be held which would give all workers the opportunity to vote.

At a meeting on 28 February 2013 the panel considered correspondence between the parties and the case manager, with specific regard to access arrangements. The panel noted that, whilst the parties had much in common in respect of access offered by the employer and access requested by the union, the correspondence did not amount to a written agreement on union access. The panel subsequently

set a deadline of 4 March 2013 for the parties to reach an agreement that would allow the appointment of a Qualified Independent Person (QIP) to conduct a secret ballot.

The panel agreed, at a meeting on 8 March 2013, that the parties had now reached agreement on union access and determined, after considering submissions from both parties, that a workplace ballot, with some provision for postal ballots, would be held, on certain hours on a Thursday and Friday after the Easter break, in Quinn Glass. The panel also determined that the Industrial Court's workplace notice and the ballot papers should be translated into three languages (as well as being produced in English). The Case Manager invited quotes from QIPs and a successful tender, from Electoral Reform Services, was selected.

This application was ongoing at the end of the reporting period.

IC50/2012 – Unite the Union and Quinn Glass (Drivers)

Unite the Union submitted an application to the Industrial Court on 8 November 2012 for recognition at Quinn Glass (Drivers), Derrylin, Co Fermanagh, N Ireland, BT92 9AU. The bargaining unit description was: *“Quinn Glass Lorry Drivers attached to Quinn Group however working as delivery drivers Quinn Glass plant. No of which is 32. Not including temporary or casual including Quinn Group drivers brought in from the Group to cover holidays and casual absence”*. The location was given as *“Lorry drivers based in Quinn Glass Derrylin Site”*.

The union's application stated that the date of request to the employer was 10 August 2012 and that there were 32 workers in the proposed bargaining unit, of which 26 were union members. It did not state the total number of workers.

In its response, received by the Court on 20 November 2012, the employer stated that it employed a total of 430 workers. The employer did not agree with the union's proposed bargaining unit, adding that there were 37 Quinn Glass Drivers at the Derrylin site.

To assist the panel in determining whether the application should be accepted, the panel instructed the case manager to conduct a confidential membership check. This check showed that there were 23 union members on the employer's list, or 63.89% of the proposed bargaining unit. There were also 14 signatures on the union's petition, of which two were not members of the union, a further 5.56%.

The panel considered the outcome of the membership check, which established that 69.44% of the workers in the proposed bargaining unit were union members, and was satisfied that the union's application met all the statutory criteria. The panel accepted the application on 20 December 2012.

Paragraph 22(2) of Schedule 1A of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (as amended) requires the Court to issue a declaration that the union is recognised as entitled to conduct collective bargaining on behalf of a group of workers constituting the bargaining unit if it is satisfied that a majority of the workers constituting the bargaining unit are members of the applicant union, unless any of the three qualifying conditions set out in paragraph 22(4) apply. If any of these conditions apply, the Court must give notice to the parties that it intends to arrange for a secret ballot to be held.

As the membership check had shown that 69.44% of the workers in the proposed bargaining unit were union members, the panel was satisfied that a majority of workers in the bargaining unit were members of the union, that none of the qualifying conditions in paragraph 22(4) of the schedule applied, and that a secret ballot was not required.

On 6 February 2013 the panel wrote to the parties and declared that, subject to the provision of credible evidence to the contrary from the employer, it would grant recognition to the union. No response was received from the employer and, as a result, the Court declared the union as recognised to conduct collective bargaining on behalf of the workers in the bargaining unit.

This application was ongoing at the end of the reporting period, as the parties had entered a period of negotiation to agree a method of bargaining.

IC51/2013 – Unite the Union and O’Kane Foodservice Brakesgroup

The Court received an application on 11 March 2013 from Unite the Union for recognition at O’Kane Foodservice Brakesgroup. The application was copied to the employer and a response was received on 21 March 2013. However, the application was withdrawn by the union on 22 March 2013, before the Court had reached a decision on acceptance.

Resources

Membership of the Court

ROLE	NUMBER
Acting Chairman	1
Panel Members	11 ³

Secretariat to the Court (part-time staff)

PRIMARY ROLE	NUMBER
Management	1
Operations	2
Administration	1

Expenditure

COST TYPE	AMOUNT
Fees and expenses of Chairmen and Members	£13,787.13
Staff	£35,794.68
Other (including training, travel and accommodation)	£ 1,378.79
TOTAL	£50,960.60

³ One panel member retired 30 September 2012; another retired 31 March 2013.

Staff and contact details

Staff

Role	Name
Secretary	Dr Alan Scott
Senior Case Manager	Mr Paul Lyons
Case Manager / Head of Administration	Mr Paul Cassidy
Administrative Support	Mr Stephen Topping

Contact Details

The Industrial Court
Room 203
Adelaide House
39-49 Adelaide Street
BELFAST
BT2 8FD

Telephone: 028 9025 7599
Fax: 028 9025 7555
E Mail: enquiries@industrialcourt.gov.uk
Website: www.industrialcourt.gov.uk

User satisfaction

The Industrial Court is committed to providing a professional, effective and courteous service to all of its users. If you are asked for your views on any aspect of the Court's service, we would appreciate your co-operation as this will help us to improve it in future. However, there is no need to wait until you are asked before getting in touch. All comments, complaints and suggestions are welcome; in particular, if you are dissatisfied with any aspect of our service, we would be very keen to hear from you so that we can rectify the matter. Contact details for the Court are provided on the previous page.

If you cannot resolve your problem with the person who dealt with you originally, please ask to speak to the Secretary (contact details below) who will investigate your complaint.

Dr Alan Scott
Secretary
The Industrial Court
Room 202
Adelaide House
39-49 Adelaide Street
BELFAST
BT2 8FD

Telephone: 028 9025 7531

E Mail: Alan.Scott@delni.gov.uk

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).